599755 599755

# STATE OF WASHINGTON COURT OF APPEALS
## DIVISION I

| | | |
|---|---|---|
| In Re Personal Restraint of GARTH D. SNIVELY, Petitioner. | ) | NO. 599755 |
| | ) | PERSONAL RESTRAINT PETITION |

*If there is not enough room on this form, attach other sheets of paper. Fill out all of this form and other papers you are attaching before you sign this in front of a notary.*

A. STATUS OF PETITIONER

I, Garth D. Snively, Special Commitment Center, McNeil Island Corr. Facility, Steilacoom, WA
(full name and address)

apply for relief from confinement. I am X am not___ now in custody serving a sentence upon conviction of a crime. (If not serving a sentence upon conviction of a crime) I am now in custody because of the following type of court order: Judgment and Sentences, Snohomish Cty. Sup. Nos. 93-1-01790-6 & 93-1-01420-6

I am now also in custody pursuant to an Order of Commitment entered following sexually violent predator (SVP) trial, Snohomish County Superior Court No. 03-2-07258-1
(identify type of order)

The court which entered the Order of Commitment: Snohomish County Superior Court

1. The court in which I was sentenced is Snohomish County Superior Court

2. I was convicted of the crime (s) of
Case 1: Indecent Liberties, No. 93-1-01790-6
Case 2: Child Molestation First Degree (2 counts), No. 93-1-01420-6

3. I was sentenced after trial ____, after plea of guilty X on 1-25-1994 (2 cases)
(date of sentence)
I was sentenced after SVP trial on July 17, 2006
___. The judge who imposed sentence was Cases 1/2: Judge Joseph Thibodeau SVP: Judge Richard Thorpe
(name of trial court judge)

4. My Lawyer at trial court was John Tario, 413 S. 1st St. Mount Vernon, WA
(name and address if known; if none, write none)

My lawyer at the SVP proceeding was Royce Ferguson, 2931 Rockefeller Ave. Everett, WA



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5. I did ____ did not X appeal from the decision of the ~~trial~~ in Cases 1/2, court. ( If the answer is I did appeal from the decision of the trial court in the SVP proceeding that I did), I appealed to Wash. Court of Appeals No. 58574-6-I
(name of court or court's to which appeal was taken)

My lawyer on appeal was Tom P. Conom / Derek T. Conom, 20016 Cedar Valley Rd.
(name and address if known; if none write "none")

Lynnwood, WA 98036

The decision of the appellate court was ____ was not ____ published. (If the answer is that it was published, and I have this information), the decision is ~~published in~~ pending

(volume number, Washington Appellate Reports or Washington Reports, and page number)

6. Since my conviction I have X have not ___ asked the court for some relief from my sentence other than I have written above. (If the answer is that I have asked, the court I asked was
Motions for New Trial in Snohomish County Superior Court (transferred to Court of Appeals and consolidated at No. 47918-1 as PRP)
(name of court or courts in which relief was sought)

7. (If I have answered in question 6 that I did ask for relief), the name of my lawyer in the proceeding mentioned in my answer to question 6 was

N/A

(name and address if known, if none, write "none")

8. If the answer to the above questions do not really tell about the proceedings and the courts, judges and attorneys involved in your case tell about it here

PRP dismissed as time-barred without decision on the merits by Order dated May 8, 2002

B. GROUNDS FOR RELIEF

*(If I claim more than one reason for relief from confinement, I attached sheets for each reason separately, in the same way as the first one. The attached sheets should be numbered "First Ground", "Second Ground", ect.)*

I claim that I have _____ (number) reason(s) for this court to grant me relief from the conviction and sentence described in Part A.

1st Ground Case 1 (Snohomish County No. 93-1-01790-6)

1. I should be given a new trial or released from confinement because ( here state legal reasons why you think there was some error made in your case which gives you the right to a new trial or release from confinement):

On January 25, 1994 I was sentenced to 2 years of community placement. However, at the time of the alleged offense (1984-1987), the law did not authorize imposition of any community placement. My sentence therefore was unlawful.

2. The following facts are important when considering my case (After each fact statement, put the name of the person or persons who know the fact and will support your statement of fact. If the fact is already in the record of your case, indicate that, also.):

I was misinformed by the trial judge, the prosecutor and my defense counsel that the law permitted 2 years community placement. I was never told by the judge, prosecutor or my lawyer that the law did not permit any community placement at all; yet the judge imposed an illegal sentence of 2 years community placement.

3. The following reported court decision (include the citations if possible) in cases similar to mine show the error I believe happened in my case (If none are known, state "none known".)

In re Lund, 57 Wn.App. 668, 789 P.2d 325 (1990)

State v. Ross, 129 Wn.2d 279, 916 P.2d 405 (1996)

Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969)

4. The following statutes and constitutional provisions should be considered by the court (If none known, state "None known".)

Due Process, U.S. Const. 5th Am., 14th Am.

Wash. Const. Art. I, sec. 3

Former R.C.W. 9.94A.120(8) (Laws 1984, ch. 209, sec. 6)

B. GROUNDS FOR RELIEF

*(If I claim more than one reason for relief from confinement, I attached sheets for each reason separately, in the same way as the first one. The attached sheets should be numbered "First Ground", "Second Ground", ect.)*

I claim that I have _____ (number) reason(s) for this court to grant me relief from the conviction and sentence described in Part A.

2nd Ground Case 2 (Snohomish County No. 93-1-01420-6)

1. I should be given a new trial or released from confinement because ( here state legal reasons why you think there was some error made in your case which gives you the right to a new trial or release from confinement):

On January 25, 1994 I was sentenced to 2 years of community placement. While the law at the time of my alleged offenses (July 1, 1990 - May 30, 1993) did mandate 2 years community placement, I was misinformed about the actual length of community placement, a direct consequence of my guilty plea.

2. The following facts are important when considering my case (After each fact statement, put the name of the person or persons who know the fact and will support your statement of fact. If the fact is already in the record of your case, indicate that, also.):

I was misinformed by the judge, prosecutor and my lawyer that I would only have to serve "one year" [State's written recommendation] or "at least 1 year" [Statement of Defendant on Plea of Guilty]. Prior to acceptance of my plea, I was not informed that the court had to sentence me to 2 years of community placement.

3. The following reported court decision (include the citations if possible) in cases similar to mine show the error I believe happened in my case (If none are known, state "none known".)

State v. Hurt, 107 Wn.App. 816, 27 P.3d 1276, overruled on other grounds, In re Carlstad, 150 Wn.2d 583 (2003)

State v. Ross, 129 Wn.2d 279, 916 P.2d 405 (1996)

Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969)

4. The following statutes and constitutional provisions should be considered by the court (If none known, state "None known".)

Due Process, U.S. Const. 5th Am., 14th Am.

Wash. Const. Art. I, sec. 3

Former R.C.W. 9.94A.120(8)(b) (Laws of 1990, ch. 3, sec. 705)

5. This petition is the best way I know to get the relief I want, and no other way will work as well because:

Both of my criminal convictions are illegal and were entered without my knowledge of the direct consequences of my plea and involuntary. Despite this, the State used both illegal convictions as predicates to the Petition to commit me as a SVP. Because the illegal convictions were used against me in the current SVP proceeding, this PRP is the appropriate way to obtain relief.

In re Paschke, 80 Wn.App. 439, 445 fn. 2, 909 P.2d 1328 (1996)
State v. O'Connell, __ Wn.App. __, 152 P.3d 349 (2/6/2007)
Brock v. Weston, 31 F.3d 887 (9th Cir. 1994)
Young v. Vaughn, 83 F.3d 72 (3d Cir. 1996)

D. REQUEST FOR RELIEF

I want this Court to:

[X] allow me to withdraw my guilty pleas and to vacate my convictionsand give me a new trial.

[ ] vacate my conviction and dismiss the criminal charges against me without a new trial.

[X] other: vacate the SVP Order of Commitment
(Specify)

E. OATH OF PETITIONER

STATE OF WASHINGTON )
) ss:
COUNTY OF Pierce )

JERRY L. DIXON
COMMISSION EXPIRES
NOTARY PUBLIC
4-28-08
STATE OF WASHINGTON

After being first duly sworn, on oath, I depose and say: That I am the petitioner, that I have read the petition, know its contents, and I believe the petition is true.

(Sign here)
GARTH D. SNIVELY

SUBSCRIBED AND SWORN to before me this 27 day of April, 2007.

Notary Public in and for the State of Washington, residing at Lakewood

If a notary is not available, explain why none is available and indicate who can be contacted to help you find a Notary:

Then sign below:

I declare that I have examined this petition and to the best of my knowledge and belief it is true and correct.

DATED this 27 day of April, 2007.

(Sign here)

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

| | | |
|---|---|---|
| In re the Personal Restraint of GARTH D. SNIVELY,<br><br>Petitioner. | ) | No.<br><br>DECLARATION OF GARTH D. SNIVELY IN SUPPORT OF PERSONAL RESTRAINT PETITION |

I, GARTH D. SNIVELY, hereby certify under penalty of perjury under the laws of the State of Washington that the following is true and correct:

1. I am the Petitioner in the attached Personal Restraint Petition.

2. I am the Appellant in State v. Garth D. Snively, Court of Appeals No. 58574-6-I, a pending appeal of the Order of Commitment as a Sexually Violent Predator entered July 17, 2006 in the Snohomish County Superior Court No. 03-2-07258-1.

3. The Petition for involuntary commitment filed in the SVP proceeding relies on two criminal Judgments and Sentences as predicate sexually violent offenses. A true copy of the Petition is attached as Appendix I.

**Case 1: Indecent Liberties (Sno. Co. No. 93-1-01790-6)**

4. By Information I was charged with one count of Indecent Liberties alleged to have occurred July 2, 1984 through 1987. A true copy of the Information is attached as Appendix II.

5. On December 21, 1993, the Snohomish County Superior Court, the Honorable Thomas Wynne, Judge, accepted my guilty plea. A true copy of my Statement of Defendant on Plea of Guilty



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is attached as Appendix III. A true copy of the transcript of the plea colloquy is attached as Appendix IV.

6. On January 25, 1994 I was sentenced by the Honorable Joseph Thibodeau, Judge, on my plea. A true copy of the Judgment and Sentence is attached as Appendix V.

7. At the time of the underlying charged offense, July 2, 1984 through 1987, there was no provision in Washington sentencing law for the imposition of any community placement. Despite this, Judge Thibodeau sentenced me to two years of community placement. App. V.

8. I was never informed at any relevant time by Judge Wynne, Judge Thibodeau, the prosecutor or my lawyer that the law did not authorize any community placement for my conviction based on offense date of July 2, 1984 through 1987. I was misinformed in the prosecutor's sentence recommendation (attached to App. III) that the court had authority to, and would, impose "a one year term of community placement." I was misinformed in paragraph 6(j) of the Statement of Defendant on Plea of Guilty that I was subject to "at least 1 year" community placement. App. III. The Statement of Defendant on Plea of Guilty form used at the time of my plea in 1993 and at my sentencing in 1994 was incorrect and as to community placement included invalid information on community placement not applicable to offenses arising in 1984-1987.

9. Had I been correctly informed that the court had no legal authority to impose any community placement in my sentence I would not have agreed to plead guilty.

**Case 2: Child Molestation (Sno. Co. No. 93-1-01420-6)**

10. By Information I was charged with two counts of Child Molestation in the First Degree alleged to have occurred July 1, 1990 through May 30, 1993. A true copy of the Information is attached as Appendix VI.

11. On October 25, 1993 the Snohomish County Superior Court, the Honorable Gerald Knight, Judge, accepted my guilty plea. A true copy of my Statement of Defendant on Plea of Guilty is attached as Appendix VII. A true copy of the transcript of the plea colloquy is attached as Appendix VIII.

12. On January 25, 1994 I was sentenced by Judge Thibodeau on my plea. A true copy of the Judgment and Sentence is attached as Appendix IX.

13. At the time of the underlying charged offenses, July 1, 1990 through May 30, 1993, the law in Washington mandated two years of community placement instead of the one year I was actually informed of. Judge Thibodeau sentenced me to two years of community placement. App. IX.

14. I was never informed at any relevant time by Judge Knight, Judge Thibodeau, the prosecutor or my lawyer that the law mandated two years community placement for my convictions for July 1, 1990 through May 30, 1993. I was misinformed in the prosecutor's sentence recommendation (attached to App. VII) that the court had authority to, and would, impose only "a one year term of community placement." The Statement of Defendant on Plea of Guilty form used at the time of my plea in 1993 inaccurately stated that I was subject to "at least 1 year" of community placement rather than correctly stating that it was a mandatory two year community placement. App. VII.

15. Had I been correctly informed that my guilty plea would result in a sentence that included a term of two years community placement, I would not have agreed to plead guilty.

DATED THIS 27 DAY OF April, 2007 at STEILACOOM, WA.

GARTH D. SNIVELY

FILED

APR 23 2003

PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.

**STATE OF WASHINGTON**
**SNOHOMISH COUNTY SUPERIOR COURT**

| | |
|---|---|
| In re the Detention of:<br>GARTH D. SNIVELY,<br><br>Respondent. | NO. 03 2 07258 1<br>PETITION |

COMES NOW the Petitioner, State of Washington, by and through Christine O. Gregoire, Attorney General, and SARAH B. SAPPINGTON, Assistant Attorney General, and submits this petition seeking the involuntary civil commitment of the Respondent, GARTH D. SNIVELY, as a sexually violent predator pursuant to RCW 71.09 et seq. Specifically, the Petitioner alleges the Respondent is a sexually violent predator, as that term is defined in RCW 71.09.020(16), given the following:

1. Respondent has been convicted of the following sexually violent offense(s), as that term is defined in RCW 71.09.020(15):

a) On or about October 25, 1993, in Snohomish County, Washington, the Respondent was convicted of Child Molestation in the 1st Degree, 2 counts;

b). On or about December 21, 1993, in Snohomish County, Washington, the Respondent was convicted of Indecent Liberties against a Child Under the Age of 14.

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ATTORNEY GENERAL'S OFFICE
Criminal Justice Division
900 Fourth Avenue, Suite 2000
Seattle, WA 98164
(206) 464-6430

APPENDIX I

2. Respondent currently suffers from:

a) A mental abnormality, as that term is defined in RCW 71.09.020(8), specifically: Pedophilia, Sexually Attracted to Males, Exclusive Type (302.2), Fetishism (302.81), and Paraphilia, Not Otherwise Specified (urophilia)(302.9);

3. Respondent's Pedophilia, Sexually Attracted to Males, Exclusive Type (302.2), Fetishism (302.81), and Paraphilia, Not Otherwise Specified (urophilia)(302.9) cause him to have serious difficulty in controlling his dangerous behavior and make him likely to engage in predatory acts of sexual violence unless confined to a secure facility.

Based upon the foregoing, the Respondent should be committed to the custody of the Department of Social and Health Services for placement in a secure facility for control, care, and treatment until such time as the Respondent's condition has so changed that he no longer meets the definition of a sexually violent predator, or conditional release to a less restrictive alternative is in the best interest of the Respondent and conditions can be imposed that would adequately protect the community.

DATED this 23 day of April, 2003.

CHRISTINE O. GREGOIRE
Attorney General

SARAH B. SAPPINGTON, WSBA #14514
Assistant Attorney General
Attorneys for Petitioner



ATTORNEY GENERAL'S OFFICE
Criminal Justice Division
900 Fourth Avenue, Suite 2000
Seattle, WA 98164
(206) 464-6430

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF SNOHOMISH

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| | | |
|---|---|---|
| THE STATE OF WASHINGTON, Plaintiff, | ) | No. 93-1-01790-6 |
| vs. | ) | INFORMATION |
| SNIVELY, Garth David Defendant(s). | ) | |

Comes now Seth R. Dawson, Prosecuting Attorney for the County of Snohomish, State of Washington, and by this, his Information, charges and accuses the above-named defendant(s) with the following crime(s) committed in Snohomish County, Washington:

INDECENT LIBERTIES, committed as follows: That the defendant, on or about the 2nd day of July, 1984 through 1987, did knowingly cause Jason LeMay and Jessie LeMay, not the spouse of the defendant and less than 14 years of age, to have sexual contact with the defendant or another; proscribed by RCW 9A.44.100(1)(b), a felony.

SETH R. DAWSON
PROSECUTING ATTORNEY

CRAIG MATHESON - WSB #18556
Deputy Prosecuting Attorney

ST...E'S WITNESSES:

Jason LeMay
Jessie LeMay
Karla LeMay
Daniel LeMay
509 Circle Drive
Monroe, WA 98272

**********
Defendant Information:
Address: (SCJ) 5112 Wilmington, Everett, WA 98203
Sex: M Race: W DOB: 11/3/49 DOL: SNIVEGD516QC1996 STATE: WA
SID#: Height: 5'9" Weight: 200 DOC#:
Hair: Brown Eyes: Hazel
**********

Information
State v. Garth David Snively
PA# 93F03104

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APPENDIX II

CERTIFIED COPY

SUPERIOR COURT OF THE STATE OF WASHINGTON - COUNTY OF SNOHOMISH

| | | |
|---|---|---|
| THE STATE OF WASHINGTON, Plaintiff, | ) | No. 93-1-01790-6 |
| vs. | ) | STATEMENT OF DEFENDANT ON PLEA OF GUILTY |
| SNIVELY, Garth David Defendant | ) | |

1. My true name is Garth David Snively.

2. My age is 43. 3. I went through the 12th grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is John Tario.

(b) I am charged with the crime(s) of INDECENT LIBERTIES The elements of the crime(s) are: That the defendant, (1) on or about the 2nd day of July, 1984 through 1987, (2) did knowingly cause Jason LeMay and Jessie LeMay, not the spouse of the defendant and less than 14 years of age, (3) to have sexual contact, for the purpose of sexual gratification, with the defendant or another; proscribed by RCW 9A.44.100(1)(b), a felony.

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

(a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed.
(b) The right to remain silent before and during trial, and I need not testify against myself.
(c) The right at trial to hear and question witnesses who testify against me.
(d) The right at trial to testify on my own behalf nd to have other witnesses testify for me. These witnesses can be made to appear at no expense to me.
(e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty.
(f) The right to appeal a determination of guilty after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

(a) The crime with which I am charged carries a maximum sentence: Count I: 10 Years imprisonment and a $ 20,000 fine. Count II: _____ imprisonment and a $ _____ fine. Count III: _____ imprisonment and a $ _____ fine. The standard sentence range is/are: 21 to 27 months as to Count I; _____ to _____ months as to



APPENDIX III

Count II; _____ to _____ months as to Count III, based on the prosecuting attorney's understanding of my criminal history.

(b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also always includes convictions in juvenile court for sex offenses, whatever my age was when the sex offense was committed, or is now. Criminal history also includes convictions in juvenile court for other felonies or serious traffic offenses that were committed when I was 15 years of age or older. However, if I was 23 years of age or older when I committed the crime to which I am now pleading guilty, the juvenile conviction only counts if it was for a class A felony, or a sex offense.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence and the prosecuting attorney's recommendations may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendations increase.

(e) In addition to sentencing me to confinement for the standard range, the judge will order me to pay $_____as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and attorney fees. Furthermore, the judge may place me on community supervision, impose restrictions on my activities, and order me to perform community service.

(f) The prosecuting attorney will make the recommendation to the judge as stated on the attached plea agreement form.

(g) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

(h) ~~The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)~~

(i) The sentence imposed on Counts_____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(j) In addition to confinement, the judge will sentence me to community placement for at least 1 year. During the period of community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

SDS (k) The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030(20). This sentence could include as much as 90 days confinement plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

SDS (l) This plea of guilty will result in revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(m) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(n) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

(o) If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(p) Because this crime involves a sex offense, I will be required to register with the sheriff of the county of the State of Washington where I reside. I must register immediately upon being sentenced unless I am in custody, in which case I must register within 24 hours of my release.

If I leave this state following my sentencing or release from custody but later move back to Washington, I must register within 30 days after moving to this state or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections.

If I change my residence within a county, I must send written notice of my change of residence to the sheriff within 10 days of establishing my new residence. If I change my residence to a new county within this state, I must register with the sheriff of the new county and I must give written notice of my change of address to the sheriff of the county where last registered, both within 10 days of establishing my new residence. (If not applicable, these three paragraphs should be stricken and initialed by the defendant and the judge.)

7. I plead guilty to the crime of INDECENT LIBERTIES as charged in the Information. I have received a copy of that information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement:

I DID KNOWINGLY CAUSE JASON J. JESSIE LAMAY TO HAVE SEXUAL CONTACT WITH MYSELF. THEY ARE NOT MY SPOUSE AND WERE UNDER 14 YEARS OF AGE. THIS WAS IN STANDISH COUNTY, MICHIGAN FOR THE PURPOSE OF SEXUAL GRATIFICATION.

12. I am aware that an Affidavit of Probable Cause has been filed in this case. The court may consider this Affidavit in deciding whether there is a factual basis for my plea.

13. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

GARTH DAVID SNIVELY
DEFENDANT

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

CRAIG MATHESON - WSB #18556
PROSECUTING ATTORNEY

JOHN TARIO
DEFENDANT'S LAWYER 16712

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that (check appropriate box):

_____(a) The defendant had previously read; or
_____(b) The defendant's lawyer had previously read to him or her;
*_____(c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this 21st day of Dec, 1993.

JUDGE

*I am fluent in the _____ language and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this _____ day of _____. 19___.

INTERPRETER

5

APPENDIX D TO PLEA AGREEMENT
NOTIFICATION OF REGISTRATION REQUIREMENT
RCW 9A.44.130,140

I have been informed and fully understand that: 93-1-01790-6

1. If I am convicted of any sex offense, I will be required to register with the County Sheriff in the county of my residence.
2. If I am convicted of any sex offense, I must report to register immediately after sentencing. If I am in custody, I must register within 24 hours of my release from custody.
3. If I am not a Washington resident but I become one, I must register within 24 hours of moving to Washington.
4. When registering, I must provide the County Sheriff with the following information:
(a) Name; (b) Address; (c) Date and place of birth; (d) Place of employment; (e) Crime for which convicted; (f) Date and place of conviction; (g) Aliases used; and (h) Social Security number.
5. If I am required to register pursuant to the above obligations and I change my residence address within the same county, I must send written notice of the change of address to the County Sheriff within ten days of establishing the new residence. If I am required to register pursuant to the above obligations and I move to a new county, I must register with the County Sheriff in the new county within ten days of establishing the new residence, and must also send written notice within ten days of the change of address to the County Sheriff with whom I last registered.
6. If I have been convicted of any sex offense, the County Sheriff will obtain a photograph of me and will obtain a copy of my fingerprints.
7. If I am required to register pursuant to the above obligations and if I knowingly fail to do so, I may be charged and convicted of a crime.
8. The crime(s) for which I am pleading guilty is/are a:

COUNT#

_____ ( ) a. Class A felony. My obligation to register continues until I am specifically relieved of it by court order.

I (X) b. Class B felony. My obligation to register continues for 15 years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction or entry of the judgment and sentence, if I have spent fifteen consecutive years in the community without being convicted of any new offenses.

_____ ( ) c. Class C felony. My obligation to register continues for 10 years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if I have spent ten consecutive years in the community without being convicted of any new offenses.

Dated this 21st day of December, 1993.

DEFENDANT - GARTH DAVID SNIVELY

6

# PLEA AGREEMENT
(SENTENCING REFORM ACT)

Date: December 21, 1993

Defendant: GARTH DAVID SNIVELY Cause No. 93-1-01790-6

On Plea To: [X] As charged [ ]

Special Finding/Verdict of possession of deadly weapon on Count(s) _____
RCW 9.94A.125

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea. The PLEA AGREEMENT is indicated above and as follows:

1. [ ] DISMISS: Upon disposition of Count(s) _____, the State moves to dismiss Count(s) _____

2. [ ] REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.370, the parties have stipulated that the court, in sentencing, may consider as real and material facts information as follows:
   [ ] as set forth in the affidavit(s) of probable cause filed herein
   [ ] as set forth in the attached Appendix C.

3. [✓] RESTITUTION: Pursuant to statute, the defendant agrees to pay restitution as follows:
   [✓] in full to victim(s) on charged counts
   [ ] as set forth in attached Appendix C.

4. [✓] OTHER: Parties agree to have sentencing this cause on January 25, 1994, same date that 93-1-01420-6 is being sentenced.
   [ ] The defendant agrees to undergo an evaluation by Treatment Alternatives to Street Crime and allow the results of that evaluation to be submitted to the court and the Prosecuting Attorney, prior to sentencing.

5. [✓] SENTENCE RECOMMENDATION:
   a. [✓] The defendant **agrees** to the foregoing Plea Agreement and that the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix A), and the attached Sentencing Guidelines scoring form(s)(Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). The State makes the sentencing recommendation set forth in State's Sentence Recommendation.
   b. [ ] The defendant **disputes** the Prosecutor's Statement of the Defendant's Criminal History, and the State makes **no** agreement with regards to a sentencing recommendation and may make a sentencing recommendation for the full penalty allowed by law.

Mandatory Minimum Term (RCW 9.94A.120(4) only): _____

[ ] Mandatory license revocation RCW 46.20.285.

Ten years jurisdiction and supervision for monetary payments. RCW 9.94A.120(9).

The State's recommendation will increase in severity if additional criminal convictions are found or if the defendant commits any new crimes, fails to appear for sentencing or violates the conditions of release.

GARTH DAVID SNIVELY
Defendant

CRAIG MATHESON - WSB #18556
Deputy Prosecuting Attorney

JOHN TARIO 16712
Attorney for Defendant

Judge, Snohomish County Superior Court

SNOHOMISH COUNTY PROSECUTING ATTORNEY

PA-140

White Copy: Court
Canary Copy: Defense
Pink Copy: Prosecutor

7

## STATE'S SENTENCE I OMMENDATION (CONFINEME OF OVER ONE YEAR)
(SENTENCING REFORM ACT)

Date: December 21, 1993

Defendant: GARTH DAVID SNIVELY Cause No. 93-1-01790-6

State recommends that the sentence of this defendant be as follows:

✓ TOTAL CONFINEMENT: State recommends that the defendant be sentenced to a term of total confinement in the custody of the Department of Corrections as follows:

Count I 27 months/~~years~~ Count IV ____ months/years

Count II ____ months/years Count V ____ months/years

Count III ____ months/years Count VI ____ months/years

Terms on each count to run concurrently/consecutively. Concurrent with 93-1-01420-6

✓ MONETARY PAYMENTS: The defendant shall make the following monetary payments under the supervision of the Secretary of the Department within 10 years:

✓ Restitution as set forth on attached page entitled "Plea Agreement" and [ ] Appendix C

✓ Mandatory $100 Victim Penalty Assessment

[ ] Pay a fine of $____.

[ ] Pay costs of extradition.

✓ COMMUNITY PLACEMENT: The defendant shall serve a one-year term of community placement subject to the conditions set forth in RCW9.94A.120(8)(b) and the following conditions. The defendant shall:

✓ Have no direct contact with Jason & Jessie LeMay

[ ] Not consume alcohol.

[ ] Participate in crime-related treatment and counseling.

[ ] Shall remain (within) (outside of) the following geographical area: ____

✓ Shall comply with the following crime-related prohibitions: ① No contact with minor children ② Holding no positions that would put him in contact with children/adolescents i.e. Boy Scouts, Big Brothers, Church Groups

PROBATION REVOCATION/MODIFICATION: State recommends revocation/modification of probation or community supervision on Snohomish County Cause Number(s)____ and recommends that terms be run concurrently/consecutively.

EXCEPTIONAL SENTENCE: This is an exceptional sentence, and the substantial and compelling reasons for departing from the presumptive sentence range are set forth on the attached form.

✓ OTHER: ① By pleading to this cause number and being sentenced 1/25/94, the defendant realizes that his standard range on #93-1-01420-6 will increase to 98 to 130 months. The defendant realizes that this leaves him ineligible to ask for a SSOSA. The defendant further realizes that the State is recommending high end 130 months. on #93-1-01420-6.

Craig Matheson
Deputy Prosecuting Attorney
CRAIG MATHESON - WSB #18556

SNOHOMISH COUNTY PROSECUTING ATTORNEY

8

White Copy: Court
Canary Copy: Defense
Pink Copy: Prosecutor

INDECENT LIBERTIES (WITHOUT FORCIBLE COMPULSION)
(RCW 9A.44.100 (1)(b) and (c))
NONVIOLENT

## I. OFFENDER SCORING (RCW 9.94A.360 (8))

**ADULT HISTORY:** (If the prior offense was committed **BEFORE** 7/1/86, count prior adult offenses served concurrently as **ONE** offense; those served consecutively are counted separately. If both current and prior offenses were committed **AFTER** 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

Enter number of felony convictions . . . . . _____ x 1 = _____

**JUVENILE HISTORY:** (All adjudications entered on the same date count as **ONE** offense)

Enter number of Serious Violent and Violent felony adjudications . . . . . _____ x 1 = _____

Enter number of Nonviolent felony adjudications . . . . . _____ x 1/2 = _____

**OTHER CURRENT OFFENSES:** (Other current offenses which do not encompass the same criminal conduct count in offender score)

Enter number of other felony convictions . . . . . 2 x 1 = 2

**STATUS:** Was the offender on community placement on the date the current offense was committed? (if yes), + 1 = _____

Total the last column to get the TOTAL OFFENDER SCORE . . . . . 2
(round down to the nearest whole number)

## II. SENTENCE RANGE

A.

| OFFENDER SCORE: | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 or more |
|---|---|---|---|---|---|---|---|---|---|---|
| STANDARD RANGE: (Seriousness Level VI) | 12+ - 14 months | 15 - 20 months | 21 - 27 months | 26 - 34 months | 31 - 41 months | 36 - 48 months | 46 - 61 months | 57 - 75 months | 67 - 89 months | 77 - 102 months |

B. The range for attempt, solicitation, and conspiracy is 75% of the standard sentence range for the completed crime (RCW 9.94A.410)

C. One year of community placement must be served following release from state prison (RCW 9.94A.120(8))

## III. SENTENCING OPTIONS FOR INDECENT LIBERTIES (WITHOUT FORCIBLE COMPULSION)

A. If no prior sex offense conviction and sentence is less than six years: special sexual offender sentencing alternative (RCW 9.94A.120 (7)(a))

B. If sentence is less than six years: sexual offender treatment program (RCW 9.94A.120 (7)(b),(c))

SGC 1989

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF SNOHOMISH

| | | |
|---|---|---|
| STATE OF WASHINGTON, | ) | |
| Plaintiff, | ) | |
| vs. | ) | No. 93-1-01790-6 |
| GARTH D. SNIVELY, | ) | |
| Defendant. | ) | |

REPORT OF PROCEEDINGS

Honorable Thomas J. Wynne
Department 3
Snohomish County Superior Court
Everett, Washington
December 21, 1993

On behalf of the Plaintiff: Mark Roe
Deputy Prosecuting Attorney
Snohomish County
Everett, Washington

On behalf of the Defendant: John Tario
Attorney at Law
Everett, Washington

REPORTED BY: Judie Nicholas, Official Court Reporter
MS 502 3000 Rockefeller
Everett, Washington 98201
(425) 388-3037



APPENDIX IV

1 December 21, 1993

2 MR. ROE: State of Washington vs. Garth D.
3 Snively, 93-1-01790-6. John Tario for the defendant,
4 who is present, out of custody; Mark Roe for the State.
5 He's completed a statement on plea of guilty for
6 the defendant. I've reviewed his statement on paragraph
7 number 11 and believe that it's sufficient to support
8 the claim charged. I've also reviewed the plea
9 agreement and the State's sentencing recommendation.
10 They all appear to be signed in the appropriate places,
11 and I will -- I'll hand those forward.
12 MR. TARIO: Your Honor, we've received a copy of
13 the information and we waive formal reading.
14 MR. ROE: I should inform the Court that if the
15 Court accepts the plea, normally in a case of this
16 nature there would be a mandatory presentence
17 investigation. There is another related case the
18 defendant has already undergone a presentence
19 investigation on. That PSI addressed this as well, so
20 there won't be a need for a separate presentence report.
21 THE COURT: All right, Mr. Roe, thank you.
22 Mr. Snively, you received a copy of the
23 information?
24 MR. SNIVELY: I have.
25 THE COURT: Charging you with indecent liberties

1 alleging to have occurred through the 2nd day of July of
2 '84 through '87.
3 MR. SNIVELY: Yes.
4 THE COURT: You've had an opportunity to talk to
5 your attorney, Mr. Tario, regarding that charge?
6 MR. SNIVELY: I have.
7 THE COURT: I have before me a statement of
8 defendant on plea of guilty. That indicates you're 43
9 years of age, you're a high school graduate, and you've
10 had some college.
11 MR. SNIVELY: Right.
12 THE COURT: You've read the statement of
13 defendant on plea of guilty?
14 MR. SNIVELY: I have.
15 THE COURT: You understand you're giving up
16 certain rights upon entering a plea of guilty.
17 MR. SNIVELY: I do.
18 THE COURT: Right to remain silent and not
19 testify against yourself.
20 MR. SNIVELY: I understand.
21 THE COURT: Right to hear and question witnesses
22 called to testify against you by the prosecutor?
23 MR. SNIVELY: I understand.
24 THE COURT: The right to testify in your own
25 behalf and the right to have witnesses testify for you?

1 MR. SNIVELY: I do.

2 THE COURT: You further are presumed innocent

3 until the charge is proven beyond a reasonable doubt or

4 until the State accepts this plea of guilty.

5 MR. SNIVELY: Right.

6 THE COURT: You further are giving up the right

7 to appeal from a finding of guilt on the charge.

8 MR. SNIVELY: Yes.

9 THE COURT: The maximum sentence is ten years

10 and a $20,000 fine. The standard range of sentencing is

11 21 to 27 months.

12 MR. SNIVELY: I understand that.

13 THE COURT: The prosecutor is making a

14 sentencing recommendation in this case, and that

15 sentencing recommendation is 27 months concurrent with

16 Cause Number 93-1-01420-6. Further understanding that

17 by pleading guilty in this cause number, you understand

18 that the standard range in that cause number, that is

19 93-1-01420-6, will increase to 98 to 130 months.

20 MR. SNIVELY: I understand that.

21 THE COURT: You understand that. And this

22 leaves you ineligible to ask for SSOSA.

23 MR. SNIVELY: I understand that.

24 THE COURT: You further realize that the State

25 is recommending a high end of 130 months on the other

1 cause number.

2 MR. SNIVELY: I do.

3 THE COURT: Have any promises been made to you,

4 other than the recommendations of the prosecutor and the

5 material I've just gone over with you regarding the

6 other cause number?

7 MR. SNIVELY: None.

8 THE COURT: Have any threats been made to you or

9 any other person to cause you to enter this plea?

10 MR. SNIVELY: None.

11 THE COURT: Are you making this plea freely and

12 voluntarily?

13 MR. SNIVELY: Yes.

14 THE COURT: After consultation with counsel?

15 MR. SNIVELY: Right.

16 THE COURT: The statement you made here, "I did

17 knowingly" --

18 MR. SNIVELY: Would you like me to read it for

19 you, Your Honor?

20 THE COURT: Yes.

21 MR. SNIVELY: I did knowingly cause Jason and

22 Jesse Lamay to have sexual contact with myself. They

23 were not my spouse. They were both under the age of 14

24 years. This happened in Snohomish County, and was for

25 the purpose of sexual gratification.

1 THE COURT: Is that true and correct?
2 MR. SNIVELY: It is.
3 THE COURT: Is that your statement on this plea?
4 MR. SNIVELY: It is.
5 THE COURT: The Court will accept the plea,
6 finding it's made freely and voluntarily, and the
7 defendant has full knowledge of the potential
8 consequences.
9 MR. ROE: Current sentencing date is the 25th of
10 January in Department 7 at nine o'clock. We just ask
11 that this matter be set there as well.
12 THE COURT: This will be joined with the other
13 matter for sentencing, it appears, for both these
14 matters to be handled by the same judge.
15 MR. SNIVELY: Thank you.
16 THE COURT: You're welcome.
17 That's set in Department Number 7, Judge
18 Thibodeau, apparently.
19 MR. TARIO: Yes, Your Honor.
20 THE COURT: On January 25th.
21 MR. TARIO: Yes.
22 THE COURT: Nine a.m.
23 I show another matter set at that time with
24 Judge Thibodeau. I assume you cleared that with his
25 schedule.

1 MR. ROE: Do you have Judge Thibodeau's calendar
2 in front of you? We were a little unclear as to whether
3 this was set at nine o'clock or one o'clock.
4 THE COURT: I'm looking at the clipboard
5 material and I have another matter set at nine o'clock
6 on the 25th of January in front of Judge Thibodeau.
7 MR. ROE: You don't have anything set for him at
8 one o'clock?
9 THE COURT: No. Better double check with his
10 calendar, however, and verify the time.
11 MR. ROE: I will.
12 THE COURT: Mr. Snively, please keep in contact
13 with your attorney in case there's any change on that
14 time.
15 MR. SNIVELY: Thank you. Yes, definitely.
16 THE COURT: Defendant is free on his personal
17 recognizance currently?
18 MR. ROE: Yes, he is.
19 THE COURT: You remain on your personal
20 recognizance pending sentencing.
21 MR. SNIVELY: Thank you.
22 MR. ROE: Thank you, Your Honor.
23 (The matter was concluded.)
24
25

CERTIFIED COPY

SUPERIOR COURT OF THE STATE OF WASHINGTON - COUNTY OF SNOHOMISH

THE STATE OF WASHINGTON, )
Plaintiff, )
v. ) No. 93-1-01790-6
SNIVELY, Garth David ) JUDGMENT AND SENTENCE
Defendant. )

FILED JAN 2 1994 KAY D. ANDERSON COUNTY CLERK SNOHOMISH CO WASH

714805

I. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report and case record to date, the court finds:

1. CURRENT OFFENSE(S): The defendant was found guilty on 12/21/93 by plea of:

Count No.: I Crime: Indecent Liberties
RCW 9A.44.100(1)(b) Crime Code
Date of crime 7/2/84-1987 Incident # SCSO 9319065

Count No.: Crime:
RCW Crime code
Date of crime Incident #

Count No.: Crime:
RCW Crime code
Date of crime Incident #

( ) Additional current offenses are attached in Appendix A.
( ) With a special verdict/finding for use of deadly weapon on Count(s) _____.

The defendant is adjudged guilty of the crimes set forth above and in Appendix A.

(X) Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): Child Molestation 1°, two counts 93-1-01790-6

( ) Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are:

2. CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are:

| | Crime | Sentencing Date | Adult or Juv. Crime | Date of Crime | Crime Class |
|---|---|---|---|---|---|
| (a) | NONE KNOWN | | | | |
| (b) | | | | | |
| (c) | | | | | |
| (d) | | | | | |

( ) Additional criminal history is attached in Appendix B.
( ) Prior convictions counted as one offense in determining the offender score are:



This sex offender information is for release to Law Enforcement pursuant to RCW 4.24.550, 9.94A.152, and 9.94A. Federal and state law

714805GS-000000031

APPENDIX V

3. SENTENCING DATA:

| | Offender Score | Seriousness Level | Range | Maximum Term |
|---|---|---|---|---|
| Count No. I | 2 | VI | 21 to 27 months | 10 Years |
| Count No. ____ | ____ | ____ | ____ to ____ months | ____ |
| Count No. ____ | ____ | ____ | ____ to ____ months | ____ |

( ) Additional current offense sentencing data is attached in Appendix C.

4. EXCEPTIONAL SENTENCE:

( ) Substantial and compelling reasons exist which justify a sentence (above)(below) the standard range for Count(s)_____ _____. The reasons are set forth in Appendix D.

## II. ORDER

IT IS ORDERED that defendant serve the determinate sentence and abide by the conditions set forth below:

1. Defendant shall pay to the Clerk of this Court:

(a) (✓) $To be determined, court costs, including reimbursement for costs of extradition, if incurred; plus any costs determined after this date as established by separate order of this court;

(b) (✓) $100.00, Victim assessment;

(c) (✓) $To be determined, Total amount restitution (with credit for amounts paid by co-defendants; the amount and recipient(s) of the restitution are as established by separate order of this court;

(d) ( ) $631./$691, Recoupment for attorney's fees; waived

(e) ( ) $_____, Fine;

(f) ( ) $_____, _____Dep't, Drug enforcement fund;

(g) (✓) $_____, Other costs;

2. (✓) The above payments shall be made in the manner established by Local Rule 7.2(f) and according to the following terms: ( ) Not less than $_____per month, ( ) on a schedule established by the defendant's community corrections officer, to be paid within 120 months of ( ) this date (✓) release from confinement.

3. The defendant shall remain under the Court's jurisdiction and the supervision of the State Department of Corrections for a period up to ten years to assure payment of the above monetary obligations.

4. (X) The defendant shall be prohibited from having any contact, directly or indirectly, with Jason LeMay and Jessie LeMay for a period of 10 years.

5. (X) The defendant, having been convicted of a sexual offense, a drug offense associated with the use of hypodermic needles, or a prostitution related offense, shall cooperate with the Snohomish Health District in conducting a test for the presence of human immunodeficiency virus. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 2722 Colby, Suite 333, Everett, WA 98201 within 1 hour of this order to arrange for the test.

6. The Court, upon motion of the State, DISMISSES Count(s)_____

This sex offender information is for release to Law Enforcement pursuant to RCW 4.24.550, 9.94A.152, and 9.94A.153. Further dissemination is subject to applicable federal and state law



714805GS-000000032

7. CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the State Department of Corrections as follows commencing (✓) immediately ( ) no later

27 months for Count No. I.
_____ months for Count No. _____.
_____ months for Count No. _____.

( ) The terms in Counts No._____ are (concurrent)(consecutive)

(✓) The sentence herein shall run ~~(concurrently)~~ (consecutively) with the sentence in cause number(s) 93-1-01420-6.

( ) Credit is given for Ø days served solely in regard to this offense. 6 Jail Jct

8. (✓) The defendant shall serve a 2 year term of community placement, or up to the period of earned early release, whichever is longer, during which term the mandatory conditions set forth below shall be followed:

(a) The defendant shall report to and be available for contact with the assigned community corrections officer as directed;

(b) The defendant shall work at department of corrections-approved education, employment, and/or community service;

(c) The defendant shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(d) The defendant in community custody shall not unlawfully possess controlled substances; and

(e) The defendant shall pay community placement fees as determined by the department; and, in addition, the following conditions shall also be followed:

(f) ( ) The defendant shall remain ( ) within ( ) outside of the following geographical area:_____.

(g) (X) The defendant shall not have direct or indirect contact with: Jason LeMay and Jessie LeMay.

(h) ( ) The defendant shall participate in crime-related treatment or counseling services as directed by the department.

(i) ( ) The defendant shall not consume alcohol.

(j) ( ) The defendant shall comply with the following crime-related prohibitions: _____

_____

_____

_____.



This sex offender information is for release to Law Enforcement pursuant to RCW 4 24 550, 9 94A 152, and 9 94A.153 Further dissemination is subject to applicable federal and state law

714805GS-000000033

The following Appendices are attached to this Judgment and Sentence and are incorporated by reference:

( ) Appendix A, Additional Current Offenses;

( ) Appendix B, Additional Criminal History;

( ) Appendix C, Current Offense(s) Sentencing Data; and

( ) Appendix D, Reasons for an Exceptional Sentence.

( ) Appendix E, Additional Conditions of Sentence.

(X) Appendix F, Notification of Registration Requirement.

(X) Order for Blood Testing.

(X) No Contact Order

DONE IN OPEN COURT this 25 day of January, 1994.

Judge - JOSEPH A. THIBODEAU

Presented by:

CRAIG MATHESON - WSB #18556
Deputy Prosecuting Attorney

GARTH DAVID SNIVELY
Defendant

Defendant's current address
Telephone number

Approved as to form:

JOHN TARIO
Attorney for Defendant



This sex offender information is for release to Law Enforcement pursuant to RCW 4.24.550, 9.94A.152, and 9.94A.153. Further dissemination is subject to applicable federal and state law

## FINGERPRINTS

Right Hand
Fingerprints of:

(Defendant's Signature) 1/25/94

Dated: 1-25-94

Attested by:
Kay D. Anderson, Snohomish Co. Clerk

By: K A Brown
(Deputy Clerk)

**CERTIFICATE**

I, Kay D. Anderson, Clerk of this Court, certify that the above is a true copy of the Judgment and Sentence in this action on record in my office.

Dated: 1-27-94
Kay D. Anderson, Snohomish Co. Clerk

By: [illegible]
(Deputy Clerk)

**OFFENDER IDENTIFICATION**

S.I.D. No.

Date of Birth 11/3/49

Sex Male

Race White

ORI WA0310000

OCA 102593

OIN 03931430502

DOA 10/25/93



This sex offender information is for release to Law Enforcement pursuant to RCW 4.24.550, 9.94A.152, and 9.94A.153. Further dissemination is subject to applicable federal and state law

SUPERIOR COURT OF THE STATE OF WASHINGTON - COUNTY OF SNOHOMISH

FILED
93 OCT -8 AM 10:43
KAY D. ANDERSON
COUNTY CLERK
SNOHOMISH CO. WASH.

| | | |
|---|---|---|
| THE STATE OF WASHINGTON, Plaintiff, | ) | No. 93-1-01420-6 |
| vs. | ) | INFORMATION |
| SNIVELY, Garth David<br>DOB: 11/3/49 | ) | |
| Defendant(s). | ) | |

Comes now Seth R. Dawson, Prosecuting Attorney for the County of Snohomish, State of Washington, and by this, his Information, charges and accuses the above-named defendant(s) with the following crime(s) committed in Snohomish County, Washington:

COUNT I. CHILD MOLESTATION IN THE FIRST DEGREE, committed as follows: That the defendant, on or about the 1st day of July, 1990 through the 30th day of May, 1993, but an occasion separate and distinct from that charged in Count II, did have sexual contact with Michael Gollihar, who was less than twelve years old and not married to the defendant and the defendant was at least thirty-six months older than the victim; proscribed by RCW 9A.44.083, a felony.

COUNT II. CHILD MOLESTATION IN THE FIRST DEGREE, committed as follows: That the defendant, on or about the 1st day of July, 1990 through the 30th day of May, 1993, but an occasion separate and distinct from that charged in Count I, did have sexual contact with Jerry Brogan, Matthew Cory, Thaddeus Harrison and Adam Rybacki, who were less than twelve years old and not married to the defendant and the defendant was at least thirty-six months older than the victims; proscribed by RCW 9A.44.083, a felony.

SETH R. DAWSON
PROSECUTING ATTORNEY

Craig Matheson

CRAIG MATHESON - WSB #18556
Deputy Prosecuting Attorney



G

APPENDIX VI

STATE'S WITNESSES:

Michael Gollihar
Jerry Brogan
Matthew Cory
Rebecca Capshaw
Lisa Cory
Matthew Cory, Sr.
16513 Jim Creek Road
Arlington, WA 98223

Dinah Harrison
Thaddeus "TJ" Harrison
1304 Bruskrud Road, #1206
Everett, WA 98208

Roberta Snively
5112 Wilmington
Everett, WA 98208

Sharon Waite
1304 Bruskrud Road, #3116
Everett, WA 98208

Sue Taninecz
Luther Child Center
4526 Federal
P. O. Box 2097
Everett, WA 98203

Carol DeMonbrun
Corey DeMonbrun
1304 Bruskrud Road, #5110
Everett, WA 98208

Dr. Carol Baer
The Everett Clinic
3901 Hoyt
Everett, WA 98201

Fred LaCasse
1715 100th Place S.E.
Everett, WA

Officer Innes
Elaine Metz - Interview Spec.
Everett Police Dept.

Jesse Ray Raines
1324 100th Place S.E., #4
Everett, WA 98208

**********
Defendant Information:
Address: c/o John Tario, 2918 Colby, #101, Everett, WA 98201
5112 Wilmington, Everett, WA 98201
Sex: M Race: W DOB: 11/3/49 DOL: SNIVEGD516QC STATE: WA
SID#: Height: 5'9" Weight: 200 DOC#:
Hair: Brown Eyes: Hazel
**********

SUPERIOR COURT OF THE STATE OF WASHINGTON - COUNTY OF SNOHOMISH

FILED
93 OCT 25 PM 4:55
DAVID D. ANDERSON
COUNTY CLERK
SNOHOMISH CO. WASH.

CERTIFIED COPY

THE STATE OF WASHINGTON,
Plaintiff,

vs.

SNIVELY, Garth David
Defendant

No. 93-1-01420-6

STATEMENT OF DEFENDANT ON PLEA OF GUILTY

1. My true name is Garth David Snively.

2. My age is 43. 3. I went through the 12+ grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is John Tario.

(b) I am charged with the crime(s) of Child Molestation in the First Degree (2 Counts)

The elements of the crime(s) are: Ct. I. That the defendant, (1) in Snohomish County, (2) on or about the 1st day of July, 1990 through the 30th day of May, 1993, but an occasion separate and distinct from that charged in Count II, (3) did have sexual contact, for the purpose of sexual gratification, with Michael Gollihar, who was less than twelve years old and not married to the defendant, and (4) the defendant was at least thirty-six months older than the victim; proscribed by RCW 9A.44.083, a felony. Ct. II. That the defendant, (1) in Snohomish County, (2) on or about the 1st day of July, 1990 through the 30th day of May, 1993, but an occasion separate and distinct from that charged in Count I, (3) did have sexual contact, for the purpose of sexual gratification, with Jerry Brogan, Matthew Cory, Thaddeus Harrison and Adam Rybacki, who were less than twelve years old and not married to the defendant, and (4) the defendant was at least thirty-six months older than the victims; proscribed by RCW 9A.44.083, a felony.

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

(a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed.

(b) The right to remain silent before and during trial, and I need not testify against myself.

(c) The right at trial to hear and question witnesses who testify against me.

(d) The right at trial to testify on my own behalf nd to have other witnesses testify for me. These witnesses can be made to appear at no expense to me.

(e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty.

9/10

APPENDIX VII

(f) The right to appeal a determination of guilty after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

(a) The crime with which I am charged carries a maximum sentence: Count I: Life imprisonment and a $ 50,000 fine. Count II: Life imprisonment and a $ 50,000 fine. Count III: _____ imprisonment and a $ _____ fine. The standard sentence range is/are:
67 to 89 months as to Count I; 67 to 89 months as to Count II; _____ to _____ months as to Count III, based on the prosecuting attorney's understanding of my criminal history.

(b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also always includes convictions in juvenile court for sex offenses, whatever my age was when the sex offense was committed, or is now. Criminal history also includes convictions in juvenile court for other felonies or serious traffic offenses that were committed when I was 15 years of age or older. However, if I was 23 years of age or older when I committed the crime to which I am now pleading guilty, the juvenile conviction only counts if it was for a class A felony, or a sex offense.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence and the prosecuting attorney's recommendations may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendations increase.

(e) In addition to sentencing me to confinement for the standard range, the judge will order me to pay $_____ as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and attorney fees. Furthermore, the judge may place me on community supervision, impose restrictions on my activities, and order me to perform community service.

(f) The prosecuting attorney will make the recommendation to the judge as stated on the attached plea agreement form.

(g) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the

standard range, no one can appeal the sentence.

(h) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(i) The sentence imposed on Counts_____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(j) In addition to confinement, the judge will sentence me to community placement for at least 1 year. During the period of community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(k) The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030(20). This sentence could include as much as 90 days confinement plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(l) This plea of guilty will result in revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(m) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(n) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

(o) If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(p) Because this crime involves a sex offense, I will be required to register with the sheriff of the county of the State of Washington where I reside. I must register immediately upon being sentenced unless I am in custody, in which case I must register within 24 hours of my release.

If I leave this state following my sentencing or release from custody but later move back to Washington, I must register within 30 days after moving to this state or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections.

If I change my residence within a county, I must send written

notice of my change of residence to the sheriff within 10 days of establishing my new residence. If I change my residence to a new county within this state, I must register with the sheriff of the new county and I must give written notice of my change of address to the sheriff of the county where last registered, both within 10 days of establishing my new residence. (If not applicable, these three paragraphs should be stricken and initialed by the defendant and the judge.)

7. I plead guilty to the crime of Child Molestation in the First Degree (2 Counts) as charged in the Information. I have received a copy of that information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement:

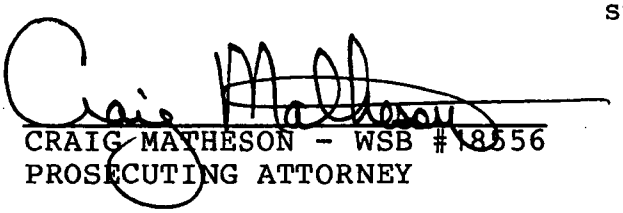
During the period of 7-1-90 Thru 5-30-93 I did have sexual contact for the purpose of sexual gratification with Michael Gallagher, Jerry Grogan, Matthew Cox, Thaddeus Herrigan and Adam Rybacki. This contact occurred in Snohomish Co. All individuals were ~~more than 36 months older~~ less than 12 and I am more than 36 months older than then, and none were ~~[illegible]~~ are married to me as to count one Michael Gallagher as to count 2 Jerry Grogan, Matthew Cox, Thaddeus Herrigan and Adam Rybacki

12. I am aware that an Affidavit of Probable Cause has been filed in this case. The court may consider this Affidavit in deciding whether there is a factual basis for my plea.

13. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

GARTH DAVID SNIVELY
DEFENDANT

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.



CRAIG MATHESON - WSB #18556
PROSECUTING ATTORNEY

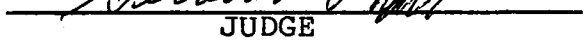
JOHN TARIO - WSB # 16712
DEFENDANT'S LAWYER

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that (check appropriate box):

_____(a) The defendant had previously read; or
_____(b) The defendant's lawyer had previously read to him or her;
*_____(c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this 25th day of October, 1993.



JUDGE

*I am fluent in the _____ language and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this _____ day of _____. 19___.

_____
INTERPRETER

APPENDIX D TO PLEA AGREEMENT
NOTIFICATION OF REGISTRATION REQUIREMENT
RCW 9A.44.130,140

I have been informed and fully understand that: 93-1-01420-6

1. If I am convicted of any sex offense, I will be required to register with the County Sheriff in the county of my residence.

2. If I am convicted of any sex offense, I must report to register immediately after sentencing. If I am in custody, I must register within 24 hours of my release from custody.

3. If I am not a Washington resident but I become one, I must register within 24 hours of moving to Washington.

4. When registering, I must provide the County Sheriff with the following information:

(a) Name; (b) Address; (c) Date and place of birth; (d) Place of employment; (e) Crime for which convicted; (f) Date and place of conviction; (g) Aliases used; and (h) Social Security number.

5. If I am required to register pursuant to the above obligations and I change my residence address within the same county, I must send written notice of the change of address to the County Sheriff within ten days of establishing the new residence. If I am required to register pursuant to the above obligations and I move to a new county, I must register with the County Sheriff in the new county within ten days of establishing the new residence, and must also send written notice within ten days of the change of address to the County Sheriff with whom I last registered.

6. If I have been convicted of any sex offense, the County Sheriff will obtain a photograph of me and will obtain a copy of my fingerprints.

7. If I am required to register pursuant to the above obligations and if I knowingly fail to do so, I may be charged and convicted of a crime.

8. The crime(s) for which I am pleading guilty is/are a:

COUNT#

I & II (X) a. Class A felony. My obligation to register continues until I am specifically relieved of it by court order.

_____ ( ) b. Class B felony. My obligation to register continues for 15 years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction or entry of the judgment and sentence, if I have spent fifteen consecutive years in the community without being convicted of any new offenses.

_____ ( ) c. Class C felony. My obligation to register continues for 10 years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if I have spent ten consecutive years in the community without being convicted of any new offenses.

Dated this 25 day of October, 1993.

DEFENDANT - GARTH DAVID SNIVELY

10/25/93 (da)

SNIVELY, Garth David

**CHILD MOLESTATION, FIRST DEGREE**

**(RCW 9A.44.083)**

**VIOLENT SEX**

## I. OFFENDER SCORING (RCW 9.94A.360 (17))

**ADULT HISTORY:** (If the prior offense was committed *before* 7/1/86, count prior adult offenses served concurrently as one offense; those served consecutively are counted separately. If both current and prior offenses were committed *after* 7/1/86, count all convictions separately, except (a) priors found to encompass the same criminal conduct under RCW 9.94A.400(1)(a), and (b) priors sentenced concurrently that the current court determines to count as one offense.)

| | | | |
|---|---|---|---|
| Enter number of sex offense convictions | 0 | x 3 = | 0 |
| Enter number of other serious violent and violent felony convictions | 0 | x 2 = | 0 |
| Enter number of other nonviolent felony convictions | 0 | x 1 = | 0 |

**JUVENILE HISTORY:** (Adjudications entered on the same date count as one offense except for violent offenses with separate victims)

| | | | |
|---|---|---|---|
| Enter number of sex offense adjudications | 0 | x 3 = | 0 |
| Enter number of other serious violent and violent felony adjudications | 0 | x 2 = | 0 |
| Enter number of other nonviolent felony adjudications | 0 | x 1/2 = | 0 |

**OTHER CURRENT OFFENSES:** (Other current offenses which do not encompass the same conduct count in offender score)

| | | | |
|---|---|---|---|
| Enter number of other sex offense convictions | 1 | x 3 = | 3 |
| Enter number of other serious violent and violent felony convictions | 0 | x 2 = | 0 |
| Enter number of other nonviolent felony convictions | 0 | x 1 = | 0 |

**STATUS:** Was the offender on community placement on the date the current offense was committed? (if yes), + 1 = 0

**Total the last column to get the Offender Score (Round down to the nearest whole number)** 3

## II. SENTENCE RANGE

| A. OFFENDER SCORE: | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 or more |
|---|---|---|---|---|---|---|---|---|---|---|
| STANDARD RANGE (LEVEL X) | 51 - 68 months | 57 - 75 months | 62 - 82 months | 67 - 89 months | 72 - 96 months | 77 - 102 months | 98 - 130 months | 108 - 144 months | 129 - 171 months | 149 - 198 months |

B. The range for attempt, solicitation, and conspiracy is 75% of the range for the completed crime (RCW 9.94A.410).

C. Community placement must be served following release from state prison (RCW 9.94A.120 (8)).

## III. SENTENCING OPTIONS

A. If no prior sex offense conviction and sentence is less than eight years: Special Sex Offender Sentencing Alternative (RCW 9.94A.120 (7)(a)).

**APPENDIX A TO PLEA AGREEMENT**

PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY
(SENTENCING REFORM ACT)

DATE: **October 25, 1993**
DEFENDANT: **SNIVELY, Garth David**
DOB: 11/03/49
SID: WA1

| DATE OF CRIME | PLACE OF CONVICTION | DISPOSITION (Probation and/or Incarceration and length) CONVICTION | DISPOSITION |
|---|---|---|---|
| **ADULT FELONIES:** | | | |
| NONE | | | |
| **ADULT MISDEMEANORS:** | | | |
| NONE | | | |
| **JUVENILE FELONIES:** | | | |
| NONE | | | |
| **JUVENILE SERIOUS TRAFFIC:** | | | |
| NONE | | | |

October 25, 1993
DATE

Deputy Prosecuting Attorney/WSBA #
CRAIG MATHESON - WSB #18556

Snohomish County Prosecuting Attorney
White: Court
Canary: Defense
Pink: Prosecutor

# PLEA AGREEMENT
(SENTENCING REFORM ACT)

Date: October 25, 1993

Defendant: GARTH DAVID SNIVELY Cause No. 93-1-01420-6

On Plea To: XX As charged ☐

Special Finding/Verdict of possession of deadly weapon on Count(s) _____
RCW 9.94A.125

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea. The PLEA AGREEMENT is indicated above and as follows:

1. ☐ DISMISS: Upon disposition of Count(s) _____, the State moves to dismiss Count(s) _____

2. ☐ REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.370, the parties have stipulated that the court, in sentencing, may consider as real and material facts information as follows:
   ☑ as set forth in the affidavit(s) of probable cause filed herein
   ☐ as set forth in the attached Appendix C.

3. ☑ RESTITUTION: Pursuant to statute, the defendant agrees to pay restitution as follows:
   ☑ in full to victim(s) on charged counts
   ☐ as set forth in attached Appendix C.

4. ☐ OTHER: _____

   ☐ The defendant agrees to undergo an evaluation by Treatment Alternatives to Street Crime and allow the results of that evaluation to be submitted to the court and the Prosecuting Attorney, prior to sentencing.

5. ☑ SENTENCE RECOMMENDATION:
   a. ☑ The defendant **agrees** to the foregoing Plea Agreement and that the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix A), and the attached Sentencing Guidelines scoring form(s)(Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). The State makes the sentencing recommendation set forth in State's Sentence Recommendation.
   b. ☐ The defendant **disputes** the Prosecutor's Statement of the Defendant's Criminal History, and the State makes **no** agreement with regards to a sentencing recommendation and may make a sentencing recommendation for the full penalty allowed by law.

Mandatory Minimum Term (RCW 9.94A.120(4) only): _____

☐ Mandatory license revocation RCW 46.20.285.

Ten years jurisdiction and supervision for monetary payments. RCW 9.94A.120(9).

The State's recommendation will increase in severity if additional criminal convictions are found or if the defendant commits any new crimes, fails to appear for sentencing or violates the conditions of release.

GARTH DAVID SNIVELY
Defendant

CRAIG MATHESON - WSB #18556
Deputy Prosecuting Attorney

JOHN TARIO - WSB # 16712
Attorney for Defendant

Judge, Snohomish County Superior Court

SNOHOMISH COUNTY PROSECUTING ATTORNEY

White Copy: Court
Canary Copy: Defense
Pink Copy: Prosecutor

PA-140

# STATE'S SENTENCE ' OMMENDATION (CONFINEMI OF OVER ONE YEAR)
(SENTENCING REFORM ACT)

Date: October 25, 1993

Defendant: GARTH DAVID SNIVELY Cause No. 93-1-01420-6

State recommends that the sentence of this defendant be as follows:

☐ TOTAL CONFINEMENT: State recommends that the defendant be sentenced to a term of total confinement in the custody of the Department of Corrections as follows:

Count 1 79 months/years Count IV _____ months/years

Count II 89 months/years Count V _____ months/years

Count III _____ months/years Count VI _____ months/years

Terms on each count to run concurrently/consecutively.

☑ MONETARY PAYMENTS: The defendant shall make the following monetary payments under the supervision of the Secretary of the Department within 10 years:

- ☑ Restitution as set forth on attached page entitled "Plea Agreement" and ☐ Appendix C.
- ☑ Mandatory $100 Victim Penalty Assessment
- ☐ Pay a fine of $_____.
- ☐ Pay costs of extradition.

☑ COMMUNITY PLACEMENT: The defendant shall serve a one-year term of community placement subject to the conditions set forth in RCW9.94A.120(8)(b) and the following conditions. The defendant shall:

- ☑ Have no direct contact with Michael Gollihar, Jerry Brogan, Mathew Cory, Thaddeus Harrison, Adam Rybacki, Corey DeMonbrun
- ☐ Not consume alcohol.
- ☐ Participate in crime-related treatment and counseling.
- ☐ Shall remain (within) (outside of) the following geographical area: _____
- ☑ Shall comply with the following crime-related prohibitions: No contact with children under 18 years of age

☐ PROBATION REVOCATION/MODIFICATION: State recommends revocation/modification of probation or community supervision on Snohomish County Cause Number(s)_____ and recommends that terms be run concurrently/consecutively.

☐ EXCEPTIONAL SENTENCE: This is an exceptional sentence, and the substantial and compelling reasons for departing from the presumptive sentence range are set forth on the attached form.

☑ OTHER: The defendant will be seeking a SSOSA, the State is not recommending a SSOSA

Craig Matheson
Deputy Prosecuting Attorney
CRAIG MATHESON - WSB #18556

SNOHOMISH COUNTY PROSECUTING ATTORNEY

White Copy: Court

FILED

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PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF SNOHOMISH

| | | |
|---|---|---|
| THE STATE OF WASHINGTON, Plaintiff, | ) | |
| vs. | ) | NO. 93-1-01420-6 |
| GARTH DAVID SNIVELY, Defendant. | ) | |

TRANSCRIPT OF PROCEEDINGS

THE HONORABLE GERALD L. KNIGHT, JUDGE
Snohomish County Courthouse
Everett, Washington
October 25, 1993

APPEARANCES:

FOR THE PLAINTIFF: CRAIG MATHESON
Deputy Prosecuting Attorney

FOR THE DEFENDANT: JOHN TARIO
Attorney at Law

SHARON L. WESTLING, RMR
OFFICIAL COURT REPORTER
CSR No. WE-ST-LS-L452Q5
425 388 3571

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APPENDIX VIII

1 MS. VANDERLEE: Next matter is the Snivley
2 matter, and Mr. Matheson will be handling that.
3 THE COURT: All right.
4 MR. MATHESON: That's going to be a plea of
5 guilty. Does the Court want to take that now or foot
6 it?
7 THE COURT: That is going to be a plea?
8 MR. MATHESON: Yes.
9 THE COURT: Let's go ahead and do it.
10 MR. MATHESON: The State of Washington vs. Garth
11 David Snivley, cause number 93-1-01420-6. Craig
12 Matheson for the State, John Tario for Mr. Snivley.
13 Mr. Snivley is present, out of custody. This comes
14 on for arraignment this afternoon, anticipated pleas
15 of guilty to a two-count information alleging two
16 counts of child molestation in the first degree. I
17 have reviewed paragraph eleven which does set forth
18 the necessary language for the Court to accept the
19 plea, and I hand that forward for the court At this
20 time.
21 MR. TARIO: We've received a copy of the
22 Information, we waive formal reading. Mr. Snivley is
23 prepared to enter a guilty plea today on both counts.
24 THE COURT: Did you go over this Statement of
25 Defendant on Plea of Guilty with him?

1 MR. TARIO: Yes, Your Honor.
2 THE COURT: Fully?
3 MR. TARIO: Yes, Your Honor.
4 THE COURT: Do you feel confident that he
5 understands what's contained in those documents?
6 MR. TARIO: I do, Your Honor.
7 THE COURT: And that he's entering these pleas
8 freely and voluntarily so?
9 MR. TARIO: Yes, Your Honor.
10 THE COURT: Let's find out.
11 Sir, did you read this document entitled
12 statement of defendant on plea of guilty?
13 MR. SNIVLEY: I did, Your Honor.
14 THE COURT: Did you read it all?
15 MR. SNIVLEY: Yes, sir.
16 THE COURT: Did you understand what you read?
17 MR. SNIVLEY: Yes, sir.
18 THE COURT: Has anybody made any threats or
19 promises to you to enter pleas of guilty?
20 MR. SNIVLEY: No, sir.
21 THE COURT: Do you do this of your own free will
22 and choosing?
23 MR. SNIVLEY: I do.
24 THE COURT: Are you aware that the maximum
25 sentence for each offense is life imprisonment and a

1 $50,000 fine?
2 MR. SNIVLEY: I am.
3 THE COURT: That the standard sentencing range
4 as calculated now based upon these offenses and any
5 prior criminal history or lack thereof in regards to
6 Count I and Count II, they're the same, and it's 67
7 to 89 months in prison?
8 MR. SNIVLEY: I do.
9 THE COURT: Are you aware that should I accept
10 your pleas of guilty, the sentencing judge doesn't
11 have to follow any recommendation made by your
12 attorney or the State but could impose a maximum
13 sentence under the law?
14 MR. SNIVLEY: I do.
15 THE COURT: Are you aware that you could only
16 appeal if the judge gave you an exceptional sentence
17 up over and above the rest?
18 MR. SNIVLEY: I am.
19 THE COURT: I'm trying to read the statement
20 and I'm having a difficult time. I'm going to go
21 through it and see.
22 During the period of July 1st, 1990 through May
23 30th, 1993, I did have sexual contact for the purpose
24 of sexual gratification with Michael Gallagher?
25 MR. TARIO: Gollihar.

1 THE COURT: Jerry Brogan?
2 MR. TARIO: Matthew Corey. Would you like me to
3 read that?
4 THE COURT; Yes, please.
5 MR. TARIO: Thaddeus Harrison and Adam Rybacki.
6 This contact occurred in Snohomish County. All
7 individuals were less than 12 years of age. I am
8 more than 36 months older than them and none of them
9 were married to me.
10 THE COURT: Can you read the rest.
11 MR. TARIO: As to count one, Michael Gollihar.
12 And as to the second count, Jerry Brogan, Matthew
13 Cory, Thaddeus Harrison and Adam Rybacki.
14 THE COURT: Is that a true and accurate
15 statement?
16 MR. SNIVLEY: Yes, sir.
17 THE COURT: Do you have any questions of your
18 attorney before I ask you what your plea is?
19 MR. SNIVLEY: None.
20 THE COURT: Do you have any questions of me
21 before I ask you what your plea is?
22 MR. SNIVLEY: None.
23 THE COURT: What is your plea to Count I?
24 MR. SNIVLEY: Guilty as charged.
25 THE COURT: What is your plea to Count II?

1 MR. SNIVLEY: Guilty as charged.
2 THE COURT: Pleas of guilty will be accepted.
3 The law mandates a PSI; right?
4 MR. MATHESON: Yes, Your Honor. The State's not
5 opposed to Mr. Snivley being out on his PR pending
6 the sentencing.
7 THE COURT: With usual conditions?
8 MR. MATHESON: Usual conditions. With the
9 additional condition that Mr. Snivley have no contact
10 with children under the age of 18.
11 THE COURT: As I understand it, sir, do you
12 understand that the State will be making a
13 recommendation that you serve 89 months in prison per
14 count to run concurrently?
15 MR. SNIVLEY: I do.
16 THE COURT: That you -- furthermore, that
17 apparently you will be seeking a SSOSA, but the State
18 is not recommending a SSOSA?
19 MR. SNIVLEY: I do understand that.
20 THE COURT: And we already went through, you do
21 understand that the sentencing judge doesn't have to
22 pay any attention to what your counsel may recommend
23 or what the State may recommend?
24 MR. SNIVLEY: Yes, I understand that.
25 THE COURT: I have accepted the pleas. I'm

1 going to sign an order allowing you to remain
2 released on your personal recognizance with all the
3 conditions contained in that order, which clearly is
4 no contact with the victims and the other young boys
5 mentioned, that you have no contact, unsupervised
6 contact with minors, et cetera. They will all be in
7 the order. If you violate any of those conditions, I
8 can almost assure you that you will make it easy for
9 the sentencing judge to throw the book at you.
10 MR. SNIVLEY: I understand that, Your Honor.
11 THE COURT: Any particular sentencing date in
12 mind, counsel?
13 MR. MATHESON: Mr. Snivley is going to be
14 seeking a SSOSA. It's my understanding that they
15 have not got the evaluation process under way yet, so
16 we probably need six to eight weeks.
17 THE COURT: Counsel?
18 MR. TARIO: At least, Your Honor, my experience
19 has been that it takes at least that long for the
20 evaluation process to be completed. My client's
21 willing to waive his right to be sentenced within 45
22 days. We're just asking for sufficient time to have
23 that evaluation put together.
24 THE COURT: Sir, you have the right to be
25 sentenced within 40 judicial days from today. You

1 may also waive that right. What is your pleasure?
2 MR. SNIVLEY: I would waive.
3 THE COURT: Treat that as a valid waiver.
4 Sentencing will be December 27th, Department 7,
5 nine a.m., Judge Thibodeau. PSI to be returned ten
6 days prior to that date.
7 MR. MATHESON: Is the Court ordering Mr. Snivley
8 to report to the Department of Corrections by 4:30
9 tomorrow afternoon?
10 THE COURT: Yes. Okay. I believe that
11 concludes this matter for now.
12 MR. MATHESON: Thank you, Your Honor.
13 MR. TARIO: Thank you.
14 MR. SNIVLEY: Thank you.
15 (End of the hearing.)
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CERTIFIED COPY

SUPERIOR COURT OF THE STATE OF WASHINGTON - COUNTY OF SNOHOMISH

THE STATE OF WASHINGTON, )
Plaintiff, )
v. ) No. 93-1-01420-6
) JUDGMENT AND SENTENCE
SNIVELY, Garth David )
Defendant. )

FILED JAN 21 1994 MARILYN ANDERSON COUNT. CLERK SNOHOMISH CO. WASH.

A

7/1/90-5
3-1-94

I. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report and case record to date, the court finds:

1. CURRENT OFFENSE(S): The defendant was found guilty on 10/25/93 by (plea) of:

Count No.: I Crime: Child Molestation in the First Degree
RCW 9A.44.083 Crime Code _____
Date of crime 7/1/90-5/30/93 Incident # EVE 314305

Count No.: II Crime: Child Molestation in the First Degree
RCW 9A.44.083 Crime code _____
Date of crime 7/1/90-5/30/93 Incident # EVE 314305

Count No.: _____ Crime: _____
RCW _____ Crime Code _____
Date of crime _____ Incident # _____

( ) Additional current offenses are attached in Appendix A.
( ) With a special verdict/finding for use of deadly weapon on Count(s) _____.

The defendant is adjudged guilty of the crimes set forth above and in Appendix A.

(✓) Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): Indecent Liberties 93-1-01790-6

( ) Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are:

2. CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are:

| | Crime | Sentencing Date | Adult or Juv. Crime | Date of Crime | Crime Class |
|---|---|---|---|---|---|
| (a) | None | | | | |
| (b) | | | | | |
| (c) | | | | | |

( ) Additional criminal history is attached in Appendix B.
( ) Prior convictions counted as one offense in determining the offender score are: _____

This sex offender information is for purposes of Law Enforcement pursuant to RCW 4.24.550, 9.94A.152 and 9.94A.153. Further dissemination is subject to applicable federal and state laws.



APPENDIX IX

3. SENTENCING DATA:

| | Offender Score | Seriousness Level | Range | Maximum Term |
|---|---|---|---|---|
| Count No. I | 6 | X | 98 to 130 months | Life |
| Count No. II | 6 | X | 98 to 130 months | Life |
| Count No. ____ | ____ | ____ | ____ to ____ months | ____ |

( ) Additional current offense sentencing data is attached in Appendix C.

4. EXCEPTIONAL SENTENCE:

( ) Substantial and compelling reasons exist which justify a sentence (above)(below) the standard range for Count(s)_____ _____. The reasons are set forth in Appendix D.

## II. ORDER

IT IS ORDERED that defendant serve the determinate sentence and abide by the conditions set forth below:

1. Defendant shall pay to the Clerk of this Court:

(a) (✓) $To be determined Court costs, including reimbursement for costs of extradition, if incurred; plus any costs determined after this date as established by separate order of this court;

(b) (✓) $100.00, Victim assessment;

(c) (✓) $To be determined, Total amount restitution (with credit for amounts paid by co-defendants; the amount and recipient(s) of the restitution are as established by separate order of this court;

(d) ( ) $631./$691, Recoupment for attorney's fees; waived

(e) ( ) $_____, Fine;

(f) ( ) $_____,_____Dep't, Drug enforcement fund;

(g) ( ) $_____, Other costs;

2. (✓) The above payments shall be made in the manner established by Local Rule 7.2(f) and according to the following terms: ( ) Not less than $_____per month,( ) on a schedule established by the defendant's community corrections officer, to be paid within 120 months of ( ) this date (✓) release from confinement.

3. The defendant shall remain under the Court's jurisdiction and the supervision of the State Department of Corrections for a period up to ten years to assure payment of the above monetary obligations.

4. (X) The defendant shall be prohibited from having any contact, directly or indirectly, with Michael Gollihar, Jerry Brogan, Matthew Cory, Thaddeus Harrison, and Adam Rybacki for a period of life years.

5. (X) The defendant, having been convicted of a sexual offense, a drug offense associated with the use of hypodermic needles, or a prostitution related offense, shall cooperate with the Snohomish Health District in conducting a test for the presence of human immunodeficiency virus. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 2722 Colby, Suite 333, Everett, WA 98201 within 1 hour of this order to arrange for the test.

6. The Court, upon motion of the State, DISMISSES Count(s)_____

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714805GS-000000015

5. SEXUAL OFFENDER SENTENCE OVER ONE YEAR - CRIMES COMMITTED ON OR AFTER JULY 1, 1987: The court, having found that the defendant is convicted of a felony sexual offense which will require a term of confinement of more than one year but less than six years, imposes the following sentence:

(a) CONFINEMENT: A term of total confinement in the custody of the State Department of Corrections as follows commencing (✓ immediately; ( ) no later than the _____ day of _____ _____,19___ at _____ .M.

130 months on Count No. I .
130 months on Count No. II .
_____ months on Count No. _____ .

(✓) The terms in Counts No. I & II are (concurrent) (consecutive).
(✓) The sentence herein shall run (concurrently) (consecutively) with the sentence in cause number(s) 93-1-01790-6 .
( ) Credit is given for Ø days served.

(b) SEXUAL OFFENDER TREATMENT PROGRAM: The court requests that the State Department of Corrections evaluate whether the defendant is amenable to treatment and if appropriate, that department may place the defendant in a treatment program within a correctional facility operated by that department.

6. (X) The defendant shall serve a two year term of community placement during which term the mandatory conditions set forth below shall be followed:

(a) The defendant shall report to and be available for contact with the assigned community corrections officer as directed;

(b) The defendant shall work at department of corrections-approved education, employment, and/or community service;

(c) The defendant shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(d) The defendant in community custody shall not unlawfully possess controlled substances; and

(e) The defendant shall pay community placement fees as determined by the department; and, in addition, the following conditions shall also be followed:

(f) ( ) The defendant shall remain ( ) within ( ) outside of the following geographical area: _____ .

(g) (X) The defendant shall not have direct or indirect contact with: Michael Golihar, Jerry Brogan, Matthew Cory, Thaddeus Harrison, and Adam Rybacki.

(h) ( ) The defendant shall participate in crime-related treatment or counseling services as directed by the department.

(i) ( ) The defendant shall not consume alcohol.

(j) ( ) The residence location and living arrangements of the defendant shall be subject to the prior approval of the department.

(k) ( ) The defendant shall comply with the following crime-related prohibitions: _____ _____ .

This sex offender information is for release to Law Enforcement pursuant to RCW 4.24.550, 9.94A.152, and 9.94A.153. Further dissemination is subject to applicable federal and state law



714805GS-000000016

The following Appendices are attached to this Judgment and Sentence and are incorporated by reference:

( ) Appendix A, Additional Current Offenses;

( ) Appendix B, Additional Criminal History;

( ) Appendix C, Current Offense(s) Sentencing Data; and

( ) Appendix D, Reasons for an Exceptional Sentence.

( ) Appendix E, Additional Conditions of Sentence.

(X) Appendix F, Notification of Registration Requirement.

(X) Order for Blood Testing.

(X) No Contact Order

DONE IN OPEN COURT this 25 day of ~~December~~ January, ~~1995~~ 94

Judge - JOSEPH A. THIBODEAU

Presented by:

CRAIG MATHESON - WSB #18894
Deputy Prosecuting Attorney

GARTH DAVID SNIVELY
Defendant

Approved as to form:

JOHN TARIO - WSB #16712
Attorney for Defendant

Defendant's current address
Telephone number _____

This sex offender information is for release to Law Enforcement pursuant to RCW 4.24.550, 9.94A.152, and 9.94A.153. Further dissemination is subject to applicable federal and state law



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+20-6

FINGERPRINTS

This sex offender information is for release to Law Enforcement pursuant to RCW 4 24 550, 9 94A 152, and 9 94A.153 Further dissemination is subject to applicable federal and state law

Right Hand
Fingerprints of:

[signature] 1/25/94
(Defendant's Signature)

Dated: 1-25-94

Attested by:
Kay D. Anderson, Snohomish Co. Clerk

By: [signature]
(Deputy Clerk)

CERTIFICATE

I, Kay D. Anderson, Clerk of this Court, certify that the above is a true copy of the Judgment and Sentence in this action on record in my office.

Dated: 1-27-94
Kay D. Anderson, Snohomish Co. Clerk

By: [signature]
(Deputy Clerk)

JUDGMENT AND SENTENCE (Felony)
FINGERPRINTS

OFFENDER IDENTIFICATION

S.I.D. No. WA

Date of Birth 11/3/49

Sex Male

Race White

ORI WA0310000

OCA

OIN

DOA



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