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63565-4

RECEIVED  
COURT OF APPEALS  
DIVISION ONE

MAY 28 2009

No. 63565.4

COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION I

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IN RE THE PERSONAL RESTRAINT

OF

STEVEN DANIEL SWENSON,

Petitioner.

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PERSONAL RESTRAINT PETITION

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Sheryl Gordon McCloud #16709  
710 Cherry St.  
Seattle, WA 98104-1925  
(206) 224-8777  
Attorney for Petitioner  
Steven Swenson

**COPY**

## **A. STATUS OF PETITIONER**

I, Steven Daniel Swenson, DOC #317190, Clallam Bay Corrections Center, 1830 Eagle Crest Way, Clallam Bay, WA 98326, apply for relief from my conviction and sentence. I was convicted of two felony counts of rape of a child in the first degree (Counts 1 and 2) in violation of RCW 9A.44.073 and one felony count of sexual exploitation of a minor (Count 5) in violation of RCW 9.68A.040(1)(A)(B), (2), in King County Superior Court. I received a standard range sentence of a minimum term of 216 months to a maximum term of life on Counts 1 and 2, concurrent; and a standard range sentence of 102 months on Count 5, concurrent, for a total sentence of 216 months to life.

In addition, I was convicted of two non-felony counts of communication with a minor for immoral purposes (Counts 4 and 6), in violation of RCW 9.68A.090. I received a suspended sentence of 12 months on each count, to run concurrently with each other and with the three felonies listed above.

I am incarcerated at the Clallam Bay Corrections Center pursuant to that sentence.

1. The court in which I was sentenced is King County Superior Court, No. 07-1-08484-0 SEA.

2. On June 1, 2008, I was convicted of two felony counts of rape of a child in the first degree (Counts 1 and 2) in violation of RCW 9A.44.073 and one felony count of sexual exploitation of a minor (Count 5) in violation of RCW 9.68A.040(1)(A)(B), (2), and two non-felony counts of communication with a minor for immoral purposes (Counts 4 and 6), in violation of RCW 9.68A.090, pursuant to certain guilty pleas.

3. The Judgment was entered on June 6, 2008. The judge who imposed the sentence was King County Superior Court Judge Nicole MacInnes.

4. My lawyers in the King County Superior Court were John Henry Browne, WSBA No. 4677, and Emma Scanlan, WSBA No. 37835, 821 Second Ave, 2100 Exchange Bldg., Seattle, WA 98104; (206) 388-0777.

5. I did not appeal the decision of the trial court.

6. This is the first time I have filed a personal restraint petition.

**B. GROUNDS FOR RELIEF**

I have the following reasons for this Court to grant me relief from the sentence described in Part A.

### **First Ground**

The deputy who prosecuted Mr. Swenson for a prior felony conviction was the judge who sentenced him in this case. This violates the due process clauses of the state and U.S. Constitutions, Canon 3(D) of the CJC, and the appearance of fairness doctrine.

**C. OATH OF PETITIONER**

THE STATE OF WASHINGTON, )  
 ) ss.  
COUNTY OF KING )

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

Dated this 27<sup>th</sup> day of May, 2009.

  
\_\_\_\_\_  
Sheryl Gordon McCloud

SUBSCRIBED AND SWORN TO before me this 27<sup>th</sup> day of May, 2009.



  
\_\_\_\_\_  
Christina Alburas

Print Name: CHRISTINA ALBURAS

NOTARY PUBLIC in and for the State of Washington, residing at:

SEATTLE, WA.

My commission expires: 11/09/12

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CERTIFICATE OF SERVICE

I certify that on the 28<sup>th</sup> day of May, 2009, a true and correct copy of the foregoing Personal Restraint Petition was served upon the following individuals by depositing same in the U.S. Mail, first-class, postage prepaid:

Michael Mohandeson, DPA  
King County Prosecuting Attorney  
W554 King County Courthouse  
516 Third Ave.  
Seattle, WA 98104

  
\_\_\_\_\_  
Sheryl Gordon McCloud