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COURT OF APPEALS  
DIVISION ONE

JUN - 3 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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SUPPLEMENTAL APPENDIX TO THE OPENING BRIEF IN  
SUPPORT PERSONAL RESTRAINT PETITION

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**COPY**

Steven D. Swenson, by and through his attorney of record,  
hereby submits, for this Court's convenience, the transcript of the  
Sentencing Hearing held before the Hon. Nicole MacInnes on May  
30, 2008, as a Supplemental Appendix to the Opening Brief

DATED this 2<sup>nd</sup> day of June, 2009.

Respectfully submitted,



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Sheryl Gordon McCloud,  
WSBA No. 16709  
Attorney for Petitioner,  
Steven D. Swenson

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**CERTIFICATE OF SERVICE**

I certify that on the 2<sup>nd</sup> day of June, 2009, a true and correct copy of the foregoing Supplemental Appendix to the Opening Brief in Support of Personal Restraint Petition was served upon the following individual 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

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON, )

Plaintiff, )

) 07-1-08484-0 SEA

v. )

STEVEN SWENSON, )

Defendant. )

**ORIGINAL**

SENTENCING HEARING

Held before

THE HONORABLE NICOLE MACINNES

May 30, 2008

DATE TRANSCRIBED: April 9, 2009  
TRANSCRIBED BY: Bonnie Reed  
Reed Jackson Watkins  
206-624-3005

A P P E A R A N C E S

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May 30, 2008

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MR. MOHANDESON: Good afternoon, Your Honor.

This is the State of Washington v. Steven Swenson, Cause No. 07-1-08484-0 Seattle. Mike Mohandeson for the State. Mr. Swenson is present in custody with his attorneys, John Henry Browne and Emma Scanlon.

We're here this afternoon for sentencing. And if Your Honor recalls, was previously scheduled for sentencing a few weeks ago, but held over because of some potential competency concerns.

And I'll let Mr. Browne address the competency issue first before we proceed any further.

MR. BROWNE: Good afternoon, Your Honor.

THE COURT: Good afternoon.

MR. BROWNE: My understanding is that you've been provided a copy of the most recent letter from Dr. Wise?

THE COURT: I did. I read that.

MR. BROWNE: I'm very happy that he was able to do this as quickly as he has. I certainly would defer to Dr. Wise's conclusions in this case. It's just one of those -- mental illness seems to be a hot topic in the courthouse these days. But this is one of those

1 situations where a person who is clearly very mentally  
2 ill is -- is competent in my opinion. And I'm going to  
3 talk more about that issue later. But I just wanted to  
4 make that one -- to represent that to the Court in  
5 advance. And I don't have any reason to dispute what  
6 Dr. Wise said, nor does Ms. Scanlon.

7 THE COURT: Okay. And I did read it and  
8 Dr. Wise seemed to be quite confident that he'd made the  
9 correct assessment.

10 MR. MOHANDESON: All right, Your Honor. Now  
11 that competency has been established, Your Honor, the  
12 State's recommendation is contained in its presentencing  
13 report. It is going to be an agreed recommendation  
14 between the parties. Mr. Swenson has a standard range  
15 of 162 to 216 months on Counts 1 and 2; that's a  
16 minimum, with a maximum of life, as both are  
17 indeterminate sentences.

18 He has a standard range, which is determinate,  
19 of 77 to 102 months on Count 5.

20 Counts 4 and 6 are gross misdemeanors and have  
21 a standard range of 0 to 365 days.

22 The State is recommending, jointly with the  
23 defense, for a high-end minimum sentence of 216 months  
24 on Counts 1 and 2 to life on each of those.

25 A high-end recommendation of 102 months on

1 Count 5.

2 And 0 days on Counts 4 and 6.

3 Community custody will be for a period of life  
4 in this case because Counts 1 and 2 are derived in the  
5 range.

6 All counts to run concurrently with one another  
7 including the gross misdemeanor counts.

8 Community custody on, I guess, Count 5 will be  
9 36 to 48 months. Though practically speaking, that  
10 doesn't really make any difference.

11 And then 24 months probation on Counts 4 and 6.  
12 Again, practically speaking, I'm not sure that makes a  
13 difference. But technically, that's the period of time.

14 We're also requesting a state-certified sexual  
15 deviancy evaluation and that he follow all  
16 recommendations of the evaluator, treatment provider and  
17 community corrections officer, that once enrolled in  
18 that treatment he not change providers without prior  
19 court or CCO approval, that he submit to polygraph exams  
20 at his CCO's request to monitor compliance with his  
21 conditions of community custody, that he not possess or  
22 view any child pornography including any over the  
23 Internet.

24 Further, we're asking for no contact with any  
25 of the victims in this case designated by initials A.M.,

1 K.M., N.M., as well as Devonna McKay and Nick Novota,  
2 who are all present here in court. At least Devonna and  
3 Nick are both present here, the children are not.

4 There are a number of other friends and family  
5 present here on behalf of the victims, including the  
6 biological father.

7 We're asking that he also have no contact --  
8 unsupervised contact with any minors, absent a  
9 responsible adult who has knowledge of this conviction  
10 and order.

11 We're asking for sexual assault protection  
12 orders with respect to each of the three victims.

13 Restitution. We have a preliminary amount  
14 that's been established to date of \$719.60. And that  
15 order has been signed by all parties and I'll hand that  
16 forward. However, we'd ask that the remaining  
17 restitution amount be held open for a period of six  
18 months from today's date in case any additional  
19 information comes in.

20 The HIV blood testing, DNA testing, sex  
21 offender registration, loss of rights to possess a  
22 firearm and loss of right to vote.

23 And other than that, Your Honor, I don't have  
24 anything more to add.

25 If the Court is in any way not inclined to

1 grant the high end of the standard range, then I  
2 certainly would have additional remarks to make to the  
3 Court to convince you of the propriety of that joint  
4 recommendation as this case was fairly serious and there  
5 was sexual abuse of multiple victims over a period of  
6 time. And Mr. Swenson, in fact, videotaped and  
7 photographed this activity and so -- which obviously  
8 constituted some pretty strong proof, which is one of  
9 the reasons, of course, that he entered his plea.

10 And I know that a couple of the members of the  
11 family would like to address the Court if the Court is  
12 willing to hear them at this time.

13 THE COURT: Sure.

14 MS. MCKAY: Good afternoon.

15 THE COURT: If you could state your name,  
16 please. And then say anything you want to say.

17 MS. MCKAY: Good afternoon, Your Honor. My  
18 name is Devonna McKay. I'm the mother of the three  
19 victims.

20 I will be honest with the Court. In my  
21 personal opinion, I wish that the sentence was  
22 applicable with the variety of proof that there is here.  
23 I know that it is not and I am terribly frightened for  
24 my children.

25 My oldest daughter is the only one with a real

1 understanding of what has happened to her and it affects  
2 her in every portion of daily life. It affects her  
3 school, her ability to deal with her family, her ability  
4 to deal with strangers, and her ability to deal with her  
5 friends. And she is in counseling and her counselor is  
6 afraid that she is attempting to withdraw into a  
7 fictionary (sic) world so as not to have to deal with  
8 what has happened to her.

9 My younger two daughters are currently not  
10 completely old enough to understand. My daughter, Neko,  
11 who is 6, is highly embarrassed of anything that deals  
12 with it, but still can't understand what it was. And we  
13 are about to go into family counseling.

14 And my two younger ones are going to have to go  
15 through most of this again so that they can understand  
16 what is not okay and allowed with other people, because  
17 they don't know yet. And they are going to be forced to  
18 deal with and slowly understand and bit-by-bit have to  
19 figure out what it is that happened to them.

20 I am worried mostly for my children and I --  
21 from the words of my eldest daughter, the one thing she  
22 wants to make sure of is that he can never set his face  
23 anywhere near her or her family so long as he lives.

24 I am willing to and I've put myself to the  
25 point that so long as he can remain in jail until each

1 one of my children is well into adulthood that hopefully  
2 they will have had time to be able to deal with the fact  
3 that he will be on the streets again. But I beg that  
4 the Court not allow him to come out before then. Thank  
5 you.

6 THE COURT: Thank you.

7 Say your name, please.

8 MR. MCKAY: Robert Bruce McKay. I'm the  
9 biological father.

10 I realize that this Court isn't here to  
11 establish evil as grounds for punishment. This is only  
12 a matter of law. But what he did and the way he did it,  
13 he violated our trust. He was a friend of our family  
14 for years. We had no idea, no knowledge, no ability to  
15 understand that he was capable of something like this.

16 He used -- twisted their love for their mother  
17 so that they wouldn't tell anyone. He twisted their  
18 relationship with each other so that Aria was scared to  
19 be with them and couldn't have anything to do with them.  
20 She would refuse to head back to Seattle to go visit  
21 family or anything else. She would refuse to be  
22 involved in that. And he used that to perpetuate with  
23 Neko, and then later with Kiaran because -- "well, you  
24 love them, you'll want to -- you don't want them to  
25 hurt, right?"

1           The scope of evil involved in this that I  
2 understand we can't process here, but I sure wish we  
3 could.

4           I agree with my daughter's sentiment. This  
5 person should never be allowed around children. And I  
6 definitely don't think that he should ever be allowed  
7 out before my children have had enough time to try and  
8 deal with something that they should never have ever had  
9 to deal with.

10           They're 4, 6 and 11. How do you help them with  
11 this? How do you recover your family from this? I  
12 mean, I just -- I don't think any sentence less than  
13 death is appropriate. But I understand that I may be  
14 emotionally involved.

15           I definitely hope that he receives whatever  
16 help and treatment is necessary so that this never has  
17 to happen to another family. And I only hope that there  
18 are no other victims that he managed to perfect his  
19 methods with. I hope he gets the help he needs. Thank  
20 you.

21           THE COURT: Thank you.

22           MR. MOHANDESON: I think that concludes the  
23 presentation from the State's speakers, Your Honor.

24           Again, if there's any question about whether  
25 the Court's going to follow the agreed recommendation, I

1 could add additional comments.

2 THE COURT: Mr. Browne, good afternoon.

3 MR. BROWNE: Good afternoon, Your Honor.

4 Ms. Scanlon, actually, who should speak. We both spent  
5 a lot of time with Mr. Swenson. She spoke a couple of  
6 hours ago at a sentencing, so I thought I would go this  
7 time.

8 We both spent a lot of time with Steven. You  
9 know, I guess you and I know and everyone in this  
10 courtroom knows, because of what we've done for a  
11 living, that as the gentleman just spoke, sometimes evil  
12 gets into things. We also know that people -- all  
13 people are fallen angels in one way or another. And you  
14 know, I've just seen that happen in this 30-year career  
15 over and over and over again. Demonstrating that people  
16 -- we all are fallen angels in one way or another.

17 Steven has fallen a lot further than others.  
18 But without giving any excuse -- you've been spared some  
19 details here, which I think we've all agreed to. This  
20 is a high-end recommendation. But we have developed,  
21 over the last few months particularly, some empathy for  
22 Steven that we probably did not have to begin with. His  
23 upbringing was really extremely difficult. His father  
24 is here today along with his long-time partner -- his  
25 father's partner.

1 Steven was pretty much abandoned as a child.  
2 And he has indicated because of the inheritance, one of  
3 these unusual people who kind of fell through the cracks  
4 because of money. Social services didn't get their  
5 hands on him; which if they had, we probably wouldn't be  
6 here today. And he was able to kind of skate through  
7 because he had resources to live. He didn't have to go  
8 to homeless shelters, didn't have to get therapy, didn't  
9 have to do anything.

10 And has, according to Dr. Wise -- you read  
11 this -- the only thing in writing we have from him, by  
12 the way, otherwise you'd have it -- has come to the  
13 conclusion -- frankly, I'm surprised -- Dr. Wise, you --  
14 as you know, I think, is well respected by everybody and  
15 one of the reasons is because he doesn't do what anybody  
16 wants. He does what he thinks is appropriate. And  
17 Dr. Wise has felt for some time that Mr. Swenson was  
18 legally competent. But he also has felt that  
19 Mr. Swenson is extremely mentally ill. Not legally,  
20 unfortunately. As we now know from being in the  
21 courthouse for the last six months, there is very little  
22 correlation between legal insanity and mentally ill  
23 people. And Steve has a deep psychosis with all kinds  
24 of delusions and illusions. But it does not rise to the  
25 level of a legal defense; otherwise, we would have been

1 doing something else. Of course, in a strict liability  
2 crime, that's also difficult.

3 But he is very sad that he's here. To try to  
4 explain to those here who may not know -- and you may  
5 say to the audience and you probably will, but there's  
6 an indeterminate sentence here. And one of the reasons  
7 why we entered this plea bargain is, one, because there  
8 was a potential of real "life" in this case. And right  
9 now for everybody's understanding who is in the  
10 courtroom and who can hear me, I think if the Court  
11 imposes the agreed sentence, we're talking about  
12 Mr. Swenson being in custody at least 18 years.

13 And I also know from experience and from  
14 knowing members of the Indeterminate Sentencing Review  
15 Board that it will be difficult for Mr. Swenson to be  
16 released. And that Mr. Swenson is going to have to  
17 partake in programs in the institution and he has a real  
18 uphill battle with the ISRB. He knows all that.

19 At the same time, the other side of that is we  
20 have tremendous empathy for the victims in this case and  
21 for Mr. Swenson, who is very, very disturbed and in some  
22 ways really has not had a chance. You know, you hear  
23 that a lot probably. But it's very unusual, for someone  
24 who has resources and things, for me to say that. But  
25 given the lack of support as a child and things of the

1 like, he didn't really have much of a chance. He's  
2 extremely disabled but is able to follow these  
3 proceedings.

4 His father would like to address the Court, I  
5 believe. Dan Swenson.

6 And you need to go this way, Mr. Swenson.

7 And then I don't know whether Steve would like  
8 to talk to the Court or not.

9 THE COURT: Sir, just come right up there next  
10 to the prosecutor. And your name is Dan Swenson?

11 DAN SWENSON: Yeah. Thank you, Your Honor.

12 THE COURT: What would you like to say?

13 DAN SWENSON: Well, I'm Steven's father. I,  
14 first of all, want you and him to know that I am -- you  
15 know, I did care very much for my son. I love him very  
16 much.

17 MR. BROWNE: Excuse me one moment.

18 Steve, I think it's really important you listen  
19 to your dad right now. Thank you.

20 DAN SWENSON: You know, it's -- I -- you know,  
21 I have -- hearing this was quite a surprise to me as  
22 well. But I do want him to know that I will support him  
23 in whatever is decided here. And really, I don't have  
24 too much more to say than that. I just -- I want him to  
25 know that I love him very much and you know, there

1 isn't -- you know, I guess that's about all I should  
2 say.

3 THE COURT: Thank you.

4 MR. BROWNE: This is it. One more person.

5 You need to state your name and spell your  
6 name, please.

7 MS. FOY: My name is Rhonda Foy.

8 MR. BROWNE: Last name?

9 MS. FOY: F-O-Y.

10 THE COURT: What would you like to say?

11 MS. FOY: Good afternoon, Your Honor. I just  
12 wanted to say that I have been a long time friend of the  
13 Swenson family. And it really breaks my heart and I  
14 really feel bad for the victims in this case.

15 And I love you, Steven. I will be there for  
16 you. And I really, really hope that you get the help  
17 that you desperately need. And stay strong. We love  
18 you.

19 THE COURT: Thank you.

20 MR. BROWNE: Thank you, Ms. Foy.

21 THE COURT: Did you want to say something,  
22 Ms. Scanlon?

23 MS. SCANLON: Only briefly.

24 All I want to -- all of these cases are, of  
25 course, always difficult for everyone. But I will

1 reiterate what Mr. Browne had said, which is stated in  
2 our sentencing materials which is that I do believe that  
3 Steve unfortunately is an example of somebody who,  
4 through a process of isolation and regression and an  
5 inability to adapt and cope, has ended up in a state of  
6 mental and emotional life to which none of us can  
7 relate, and a state to which our hope for Steve,  
8 whatever he may believe -- our hope for Steve is that  
9 this time in custody is a time for him to get the  
10 psychiatric care that he requires and to learn through  
11 the sexual deviancy process what it is that he needs to  
12 learn about himself to have some time in this life with  
13 clarity. And I think that that's all that I would like  
14 to add.

15 I'm not sure if Mr. Swenson would like to  
16 address the Court.

17 THE COURT: Mr. Swenson, do you want to say  
18 anything?

19 STEVE SWENSON: I'd love to. Unfortunately,  
20 I'm a bit afraid to because I'm afraid of pissing off  
21 the Court.

22 THE COURT: Well, it's your decision. If you  
23 want to say something, go right ahead.

24 STEVE SWENSON: Everybody's sitting here  
25 talking about how sick I am and how much help I need and

1 all of this. And you know, I just -- I find it so hard  
2 for people to just not even consider the possibility,  
3 you know, that things aren't so cut and dried. He talks  
4 about all this evidence and everything, right. Okay.  
5 But it's all circumstantial. Nothing shows me. Nothing  
6 specific, you know.

7 And you know, I could give -- you know -- I  
8 could prove reasonable doubt. But you know, time and  
9 time again I'm told, well, you know, that's not enough,  
10 that I would have to be able to prove my innocence.  
11 Well, so much for that idea. You know.

12 The law gives this man so much power. You  
13 know, he can threaten the witnesses, he can threaten my  
14 lawyer, he can threaten me, you know. And -- you know,  
15 it's just -- I find it very, very hard to accept that  
16 you guys call this a justice system.

17 You know, I mean, if it was fair, I'd be  
18 allowed to present my case; he would be allowed to  
19 present his case and you know, reasonable doubt should  
20 be enough. You know, just fighting it -- I mean, even  
21 if, you know, I fail the first time, there would be more  
22 chances; you know, appeals, that sort of thing.

23 But you know, he got me in a state of, you  
24 know, pure depression and despair. I had everything  
25 taken away from me: My family, my friends, everything

1 that meant anything to me. And he takes this time to  
2 say, you know, well, if you even think of pleading  
3 guilty, of course, we're going to make sure you go away  
4 for life, you know. And I'm gullible and stupid and I  
5 believed him, you know.

6 I mean, we wouldn't be having this issue if I  
7 hadn't pled guilty. But because I pled guilty, I'm told  
8 that I can't even fight it. Okay. I'm not even allowed  
9 to fight for me. You know. And it's like -- he was  
10 threatened the -- by him with the thing that if he even  
11 thought of questioning any of the witnesses, I would be  
12 going away for life, you know, because this deal  
13 wouldn't be, you know, even available, you know.

14 It wasn't until I spent, you know, some time in  
15 jail that I began to realize that, you know, it would  
16 have actually been better for me to fight it, that I  
17 would have had hope, because I certainly don't have that  
18 now. I mean, they said 18 years. But I have no concept  
19 of what that means. I have no concept of the space of  
20 time. It could have been five years, two years, it  
21 would mean the same thing to me. You know, it's just a  
22 number, you know.

23 They said I would have to register. But  
24 register is just a word for me. I mean, I register when  
25 I go in to -- for a doctor's appointment. I register

1 when I renew my license. I mean, you know -- and they  
2 didn't, you know, bother to say anything about all of  
3 the benefits of fighting it. You know, all of the  
4 things that I could gain by fighting it. The fact that  
5 I would have hope, the fact that all I would need to  
6 legally prove is reasonable doubt. They didn't bother  
7 to -- he didn't bother to tell me anything. He went out  
8 of his way to hide that fact.

9 I mean, I even heard, you know, albeit  
10 secondhand, that he threatened the witnesses early on in  
11 the investigation saying that if they even remotely  
12 suggested that they might be supporting me in any way,  
13 he would call CPS and have their children taken away.  
14 Okay. And the law allows him to do this. Okay.

15 It's just -- it boggles my mind. Because, I  
16 mean, I lived my entire life with a sense that -- with a  
17 trust in the law and a sense that everything should be  
18 fair and a need for anything to be fair. And I know,  
19 you know, nothing in the world is really fair. But you  
20 know, I try to keep things fair. And everything --  
21 whenever I deal with anybody, I try to keep anything  
22 fair. You know.

23 But I have spent my entire life sacrificing  
24 myself for the benefit of other people and doing things  
25 for other people, even when it hurt me to do it, okay.

1 The only reason I'm in this situation is because I was  
2 trying to help somebody, okay.

3           Somebody hurt my family and made me take the  
4 blame for it. Somebody hurt them and set me up. And I  
5 can't even do anything to -- to -- to try and prove  
6 that. I mean, even give any reasonable doubt or  
7 anything because I'm not allowed to even have my day in  
8 court now. Okay.

9           It's -- it's -- it's just -- I can't understand  
10 how they can call it a justice system. And you know,  
11 how there can be no real justice in it. I mean, because  
12 this isn't justice. Justice would be me being able to  
13 fight for my cause. Justice would be him presenting his  
14 case and me presenting mine, okay, and not stacking the  
15 law in his favor. Okay.

16           Just all I've ever done in my entire life --  
17 I've -- I can't even conceive of hurting someone else,  
18 okay. All through my teenage life, I was getting beat  
19 up on a daily basis because I couldn't hit back, okay.  
20 I don't hurt people, period. Okay.

21           These people, these victims, okay, were my  
22 life; they're my family, okay. Trying to hurt them  
23 would be like torturing myself and I'm no masochist,  
24 okay. I couldn't -- anybody who really knew me, really  
25 knows me, would know that I'm not capable of this sort

1 of thing. But they would know that I'm also extremely  
2 trusting and extremely easy to take advantage of and  
3 that's just -- that's all that's happened here is I've  
4 been taken advantage of -- taken advantage of again.

5 I just -- I can't deal with it any more. It's  
6 just too much. I mean, I've lived my entire life for  
7 other people. And I would have given my life for them  
8 and I guess apparently now I have.

9 THE COURT: Well, Mr. Swenson, obviously  
10 there's nothing much I can say here at this point to you  
11 except that I've known Mr. Browne for many, many years  
12 and I don't -- I have great faith that he represented  
13 you as best he could.

14 Mr. Mohandeson is an honorable person and I  
15 also believe that he has acted as he should have.

16 I'm sorry that you were not, perhaps, listening  
17 to the mother and the father of the children when they  
18 were talking. It sounds as if you did not, and maybe  
19 you can't.

20 STEVE SWENSON: Yeah, I heard them when they  
21 were talking but, you know --

22 MR. BROWNE: Don't interrupt, sir.

23 THE COURT: And maybe you just can't. And I  
24 understand that there are difficulties and issues that  
25 you have that make it very hard for you to accept this.

1           But you're here in front of me now for  
2           sentencing. We are past the point of the guilty finding  
3           through the plea. That has been established and so now  
4           we proceed to the sentencing.

5           STEVE SWENSON: I've given my cross, he's  
6           provided the nails; hammer away.

7           THE COURT: So I'm going to go ahead and do  
8           that now. I'm going to follow the recommended sentence  
9           with regard to Counts 1 and 2: A minimum term of 216  
10          months, a maximum term of life.

11          With regard to count -- let's see if I can get  
12          these straight. I know there's a Count 3 here  
13          somewhere. Yeah, 3's been dismissed. Okay.

14          So with regard to Counts 4 and 5 -- let me go  
15          back, sorry.

16          Let's go to Count 5: 102 months, because that  
17          is a determinate sentence. That will be the sentence on  
18          that. Again, to run concurrent.

19          The community custody for both shall be ordered  
20          per the statutory frameworks: Life on the Counts 1 and  
21          2 and 36 to 48 months on Count 5.

22          On Counts 4 and 5, those are misdemeanors. I  
23          will impose 12 months. I'll suspend all the time on  
24          condition of 24 months of probation.

25          With regard to the conditions of both probation

1 and community custody, I will impose the recommended  
2 conditions that were, I think, said on the record by  
3 Mr. Mohandeson; specifically, sexual deviancy evaluation  
4 and follow-up treatment, that once enrolled in deviancy  
5 treatment that there be no change of providers without  
6 prior court or CCO approval, that Mr. Swenson submit to  
7 polygraph exams at the request of the CCO to monitor  
8 compliance, that there be no possession or viewing of  
9 child pornography, including any Internet viewing, that  
10 there be no contact with the victims in this case and  
11 the family, the parents of the victims, that there be no  
12 contact with minors.

13 And I'm actually saying no contacts with minors  
14 at this point. At some point in the future if there can  
15 be the addition of the provision of a responsible adult  
16 who has knowledge of this conviction and order, that  
17 adjustment can be made. But at this point, it's going  
18 to be no contact with minors, period.

19 The other conditions that are normally imposed  
20 that go with this: Blood test, DNA testing, sex  
21 offender registration.

22 Monetary payments: The \$500 victim penalty  
23 assessment, restitution in...

24 MR. BROWNE: Your Honor, we'd waive  
25 Mr. Swenson's presence at the restitution hearing.

1 THE COURT: Okay. There is an amount that's  
2 here on this restitution order.

3 MR. BROWNE: We've agreed to that amount. But  
4 there may be more.

5 THE COURT: There may be more? Okay. All  
6 right. So that amount, plus any further amount. And  
7 Mr. Swenson's presence has been waived.

8 I will waive other fees or costs. I'll waive  
9 trust fees and interest on the \$500. Obviously, the  
10 restitution cannot be -- the interest on restitution  
11 cannot be waived.

12 Additional conditions on the misdemeanor are,  
13 again, somewhat obvious. No new law violations and I  
14 think otherwise the recommended conditions were the  
15 same.

16 I would say to the victims' family that because  
17 the -- and I'm sure Mr. Mohandeson has explained this.  
18 That because the term for Counts 1 and 2 is a minimum  
19 term with a maximum of life, that it will be up to the  
20 officials and the sentencing board to determine at what  
21 point Mr. Swenson is appropriate to be returned to the  
22 community and that will be no less than 216 months and  
23 no more than life. So anywhere in that range.

24 So with regard to the concern about both his  
25 release and treatment, I hope that that sentencing range

1 provides some assurance to the family in that regard.

2 Anything else that I left out that I should  
3 address on the sentencing?

4 MR. MOHANDESON: I just think that the record  
5 should reflect officially Count 3 is dismissed.

6 And Your Honor, Mr. Swenson, among his other  
7 problems, is diagnosed as OCD, so signing papers is  
8 really a difficult thing for him. So what I would  
9 suggest, because we're going to have to go over this in  
10 detail with him, that perhaps we sit over there and do  
11 that, if the officers don't mind. I don't know if we  
12 can go upstairs and do it because the judgment and  
13 sentence needs to be signed here. Because you have  
14 another sentencing to go.

15 THE COURT: We have one more, yeah. It's up  
16 to -- whatever the officers want to do.

17 MR. BROWNE: Okay. And we'll do it as quickly  
18 as --

19 OFFICER: (Inaudible).

20 MR. BROWNE: Here? Okay.

21 THE COURT: All right. And let me say on the  
22 record, then, Mr. Swenson, as part of the sentencing,  
23 you are precluded from having any firearms, guns in your  
24 possession or under your control; that is permanent as  
25 is the your loss of your right to vote. And those both

1 have to be restored by a court upon your appearance.

2 STEVE SWENSON: I'm not comfortable with  
3 politics and I hate firearms.

4 THE COURT: Okay, then that won't be a problem.

5 MR. BROWNE: Let's go over here, Mr. Swenson,  
6 and we'll go over this.

7 MR. MOHANDESON: And well, Your Honor, did you  
8 want to look at the J and S's first?

9 MR. BROWNE: Would you take these, Ms. Scanlon,  
10 and I'll take a look at this?

11 Go over there with Emma and sit in that jury  
12 box, please, Steve.

13 Your Honor, the judgment and sentence is  
14 accurate and it reflects the sentence you imposed. I've  
15 signed that and I would also sign it for the non-felony  
16 conviction.

17 THE COURT: And I have signed both judgment and  
18 sentence forms.

19 MR. MOHANDESON: And Your Honor, I'll just  
20 stick around in the hallway. Once they get these other  
21 forms signed, I'll get my copies.

22 THE COURT: Okay. Thank you.

23 (Hearing concluded.)

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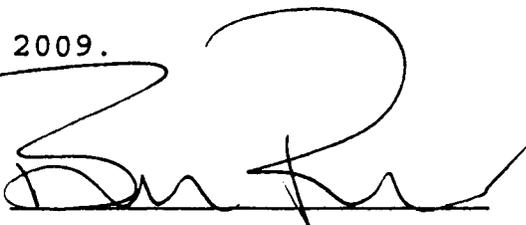
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COUNTY OF KING )

I, the undersigned, under my commission as a Notary Public in and for the State of Washington, do hereby certify that the foregoing recorded deposition and/or hearing was transcribed under my direction as a transcriptionist; and that the transcript is true and accurate to the best of my knowledge and ability; that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 10<sup>th</sup> day of April, 2009.



NOTARY PUBLIC in and for the State of Washington, residing at Seattle. My commission expires 12-28-10

BONNIE REED  
STATE OF WASHINGTON  
NOTARY PUBLIC  
MY COMMISSION EXPIRES  
12-28-10