

COPY

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

In re Personal Restraint	)	
Petition of	)	
	)	
	)	No. 63565-4-1
	)	
	)	STATE'S RESPONSE TO
	)	PERSONAL RESTRAINT
STEVEN SWENSON,	)	PETITION
Petitioner.	)	
_____	)	

A. AUTHORITY FOR RESTRAINT OF PETITIONER.

Steven Swenson is restrained pursuant to Judgment and Sentence in King County Superior Court No. 07-1-08484-0 SEA. Appendix A and B.

B. ISSUES PRESENTED.

Whether this personal restraint petition should be dismissed where petitioner has failed to establish prejudicial constitutional error.

C. STATEMENT OF THE CASE.

Steven Swenson was charged by information with two counts of rape of a child in the first degree, one count of child

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DIVISION ONE

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molestation in the first degree, two counts of communication with a minor for immoral purposes and one count of sexual exploitation of a minor. Appendix C. The charges involved three different victims, between the ages of 10 and 4, and spanned the period of time between January 1, 2006 and September 15, 2007. Appendix C. Swenson was 33 years old when the crimes began.

Pursuant to a plea agreement, Swenson pled guilty to two counts of rape in the first degree, one count of sexual exploitation of a minor, and two counts of communication with a minor for immoral purposes. Appendix C. The State agreed to dismiss the charge of child molestation in the first degree. Appendix C. The parties agreed to recommend a sentence of 102 months of confinement as to sexual exploitation of a minor, and an indeterminate sentence with a minimum term of 216 months and a maximum term of life as to the two counts of rape of a child in the first degree. Appendix C. As to the two remaining counts of communication with a minor for immoral purposes, a misdemeanor, the parties agreed to recommend a 12-month suspended sentence. Appendix C. The plea hearing occurred before the Honorable Jim Rogers. Appendix C.

At sentencing before the Honorable Nicole MacInnes, the court imposed the sentence that was recommended by the parties. Appendix A. Swenson made no objection to being before Judge MacInnes for sentencing. See Supplemental Appendix to PRP. The judgment and sentence was filed with the clerk of the trial court on June 6, 2008. Swenson did not appeal. This petition was timely filed in May of 2009.

When Swenson was 13 years old he was charged in juvenile court with the crimes of unlawful imprisonment and assault. The initial information was filed by Deputy Prosecutor David Vogel. See Appendix F attached to PRP. Senior Deputy Prosecuting Attorney Nicole MacInnes signed two subsequent amended informations for other deputing prosecuting attorneys. Swenson pled guilty and was sentenced to nine months of community supervision and 24 months of community service. The Order of Disposition reflects that the prosecutor at the plea and disposition hearing had the last name of Willie. Appendix F attached to PRP.

D. ARGUMENT.

SWENSON HAS FAILED TO ESTABLISH  
CONSTITUTIONAL ERROR THAT RESULTED IN ACTUAL  
AND SUBSTANTIAL PREJUDICE.

An appellate court will grant substantive review of a personal restraint petition only when the petitioner makes a threshold showing of constitutional error from which he has suffered actual prejudice or nonconstitutional error which constitutes a fundamental defect that inherently resulted in a complete miscarriage of justice. In re Personal Restraint of Cook, 114 Wn. 2d 802, 813, 792 P.2d 506 (1990). In a personal restraint petition, petitioner bears the burden of showing prejudicial error. State v. Brune, 45 Wn. App. 354, 363, 725 P.2d 454 (1986). A petitioner alleging constitutional error must show by a preponderance of evidence that the error caused actual prejudice. In re Personal Restraint of Lord, 152 Wn.2d 182, 188, 94 P.3d 952 (2004).

Swenson contends that Judge MacInnes was required to recuse herself because she had signed two amended information 20 years earlier in a juvenile prosecution of Swenson when he was 13 years old. This issue was not raised at sentencing: apparently Swenson and Judge MacInnes did not recognize each other from any prior contact. It is possible, since the documents from the 1986

juvenile prosecution reflect that Judge MacInnes only signed the two documents for other attorneys, that she and Swenson had no prior contact.

Swenson claims that the appearance of fairness doctrine was violated. The appearance of fairness doctrine is not constitutional and is deemed waived if not raised in the trial court. State v. Tolias, 135 Wn.2d 133, 140-41, 954 P.2d 207 (1998).<sup>1</sup> See also State v. Morgenson, 148 Wn. App. 81, 91, 197 P.2d 715 (2008). Swenson's appearance of fairness claim was waived when he did not raise it at sentencing.

Due process requires a judge to disqualify himself if he is biased against a party. State v. Madry, 8 Wn. App. 61, 68-70, 504 P.2d 1156 (1972). Evidence of a judge's actual or potential bias is required in order to establish a due process violation. State v. Dominguez, 81 Wn. App. 325, 329, 914 P.2d 141 (1996). The fact that a judge acted either for or against a defendant as an attorney in the past does not establish potential bias. Id. Disqualification is required when a judge has participated as a lawyer in the case

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<sup>1</sup> As the Supreme Court has observed, "most questions concerning a judge's qualifications to hear a case are not constitutional ones, because the Due Process Clause of the Fourteenth Amendment establishes a constitutional floor, not a uniform standard." Bracy v. Grimley, 520 U.S. 899, 904, 117 S.Ct. 1793, 138 L.Ed.2d 97 (1997).

being adjudicated. Id. A judge is not disqualified because she worked as a lawyer for or against a party in a previous, unrelated case. Id.

In State v. Dominguez, supra, the defendant claimed that the trial judge should have recused himself because he had both represented and prosecuted the defendant in the past. Id. at 326. The judge recalled having represented the defendant but had no recollection of prosecuting him, although records indicated that the judge had prosecuted him in a burglary case three years earlier. Id. at 327. Division III held that these facts were insufficient to establish potential bias. Id. See also Jenkins v. Bordenkircher, 611 F.2d 162, 166 (6<sup>th</sup> Cir. 1979) (stating, "[a]bsent some showing of hostility or prejudgment we will not assume that a state court judge would not be able to give a defendant a fair trial solely because of his earlier contacts with the defendant in prosecuting totally unrelated charges.') As in Dominguez, due process did not require Judge MacInnes to sua sponte recuse herself because she had been briefly involved in a prosecution of Swenson twenty years earlier in a juvenile case.

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Nor can Swenson establish actual bias. In order to establish a claim of actual bias, the record must reveal a deep-seated extreme favoritism or antagonism toward one of the parties. Liteky v. United States, 510 U.S. 540, 555, 114 S.Ct. 1147, 127 L.Ed.2d 474 (1994). The record in this case reveals no favoritism or antagonism. Judge MacInnes simply imposed the sentence that both parties recommended.

Swenson has failed to establish a due process violation that resulted in actual and substantial prejudice. His petition should be dismissed.

E. CONCLUSION.

This petition should be dismissed.

DATED this 12th day of August, 2009.

Respectfully Submitted,

DAN SATTERBERG  
King County Prosecuting  
Attorney

by   
ANN SUMMERS, #21509  
Senior Deputy Prosecuting  
Attorney  
Attorneys for Respondent  
Office ID #91002

W554 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104  
(206) 296-9650

## APPENDIX A

FILED

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**FIV**

KING COUNTY  
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JUN - 6 2008

COMMITMENT ISSUED

SENTENCING STATEMENT & INFORMATION ATTACHED

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

Vs.

STEVEN DANIEL SWENSON

Defendant,

No. 07-1-08484-0 SEA

JUDGMENT AND SENTENCE

FELONY — Counts I, II, + V

(See <sup>gross</sup> misd J+S for counts IV and VI)

I. HEARING

I.1 The defendant, the defendant's lawyer, JOHN H. BROWNE, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: and Emma Scanlan, Devone McKay, Nicholas Navota, and various other members of the victims' family and friends; defendant's father.

II. FINDINGS

There being no reason why judgment should not be pronounced, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 04/01/2008 by plea of:

Count No.: I Crime: RAPE OF A CHILD IN THE FIRST DEGREE  
RCW 9A.44.073 Crime Code: 01064  
Date of Crime: 01/01/2006-09/15/2007 Incident No. \_\_\_\_\_

Count No.: II Crime: RAPE OF A CHILD IN THE FIRST DEGREE  
RCW 9A.44.073 Crime Code: 01064  
Date of Crime: 01/01/2006-09/15/2007 Incident No. \_\_\_\_\_

Count No.: V Crime: SEXUAL EXPLOITATION OF A MINOR  
RCW 9.68A.040(1)(A)(B),(2) Crime Code: 00974  
Date of Crime: 01/01/2006-09/15/2007 Incident No. \_\_\_\_\_

Count No.: \_\_\_\_\_ Crime: \_\_\_\_\_  
RCW \_\_\_\_\_ Crime Code: \_\_\_\_\_  
Date of Crime: \_\_\_\_\_ Incident No. \_\_\_\_\_

[ ] Additional current offenses are attached in Appendix A

**SPECIAL VERDICT or FINDING(S):**

- (a)  While armed with a firearm in count(s) \_\_\_\_\_ RCW 9.94A.510(3).
- (b)  While armed with a deadly weapon other than a firearm in count(s) \_\_\_\_\_ RCW 9.94A.510(4).
- (c)  With a sexual motivation in count(s) \_\_\_\_\_ RCW 9.94A.835.
- (d)  A V.U.C.S.A. offense committed in a protected zone in count(s) \_\_\_\_\_ RCW 69.50.435.
- (e)  Vehicular homicide  Violent traffic offense  DUI  Reckless  Disregard.
- (f)  Vehicular homicide by DUI with \_\_\_\_\_ prior conviction(s) for offense(s) defined in RCW 41.61.5055, RCW 9.94A.510(7).
- (g)  Non-parental kidnapping or unlawful imprisonment with a minor victim. RCW 9A.44.130.
- (h)  Domestic violence offense as defined in RCW 10.99.020 for count(s) \_\_\_\_\_.
- (i)  Current offenses encompassing the same criminal conduct in this cause are count(s) \_\_\_\_\_ RCW 9.94A.589(1)(a).

2.2 **OTHER CURRENT CONVICTION(S):** Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): \_\_\_\_\_

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

- Criminal history is attached in Appendix B.
- One point added for offense(s) committed while under community placement for count(s) \_\_\_\_\_

**2.4 SENTENCING DATA:**

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count I *	6	XII	162 TO 216 to Life		162 TO 216 MONTHS OR LIFE	LIFE AND/OR \$50,000
Count II *	6	XII	162 TO 216 to Life		162 TO 216 MONTHS OR LIFE	LIFE AND/OR \$50,000
Count V	6	IX	77 TO 102		77 TO 102 MONTHS	10 YEARS AND/OR \$20,000
Count						

Additional current offense sentencing data is attached in Appendix C.

*\* indeterminate sentence*

2.5 **EXCEPTIONAL SENTENCE (RCW 9.94A.535):**

Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) \_\_\_\_\_. Findings of Fact and Conclusions of Law are attached in Appendix D. The State  did  did not recommend a similar sentence.

**III. JUDGMENT**

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

The Court DISMISSES Count(s) III

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
- Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(2), sets forth those circumstances in attached Appendix E.
- Restitution to be determined at future restitution hearing on (Date) \_\_\_\_\_ at \_\_\_\_\_ m.
- Date to be set.
- Defendant waives presence at future restitution hearing(s).
- Restitution is not ordered.

for any additional restitution →

Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of \$500. - concurrent with VPA on counts IV + VI

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a)  \$ 0, Court costs;  Court costs are waived; (RCW 9.94A.030, 10.01.160)
- (b)  \$100 DNA collection fee;  DNA fee waived (RCW 43.43.754)(crimes committed after 7/1/02);
- (c)  \$ 0, Recoupment for attorney's fees to King County Public Defense Programs;  Recoupment is waived (RCW 9.94A.030);
- (d)  \$ 0, Fine;  \$1,000, Fine for VUCSA;  \$2,000, Fine for subsequent VUCSA;  VUCSA fine waived (RCW 69.50.430);
- (e)  \$ 0, King County Interlocal Drug Fund;  Drug Fund payment is waived; (RCW 9.94A.030)
- (f)  \$ 0, State Crime Laboratory Fee;  Laboratory fee waived (RCW 43.43.690);
- (g)  \$ 0, Incarceration costs;  Incarceration costs waived (RCW 9.94A.760(2));
- (h)  \$ 0, Other costs for: \_\_\_\_\_

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 1219. <sup>60 + additional restitution</sup> The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:  Not less than \$ \_\_\_\_\_ per month;  On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied. Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

- Court Clerk's trust fees are waived.
- Interest is waived except with respect to restitution.

4.4 The defendant, having been convicted of a FELONY SEX OFFENSE, is sentenced to the following:

(a) **DETERMINATE SENTENCE** : Defendant is sentenced to a term of confinement in the custody of the  
[ ] King County Jail [ ] King County Work/Education Release (subject to conditions of conduct ordered  
this date)  Department of Corrections, as follows, commencing:  immediately;  
[ ] Date: \_\_\_\_\_ by \_\_\_\_\_ a.m. / p.m.

102 months/days on count V; \_\_\_\_\_ months/days on count \_\_\_\_\_; \_\_\_\_\_ months/days on count \_\_\_\_\_;  
\_\_\_\_\_ months/days on count \_\_\_\_\_; \_\_\_\_\_ months/days on count \_\_\_\_\_; \_\_\_\_\_ months/days on count \_\_\_\_\_;  
\_\_\_\_\_ months/days on count \_\_\_\_\_; \_\_\_\_\_ months/days on count \_\_\_\_\_; \_\_\_\_\_ months/days on count \_\_\_\_\_.

**ALTERNATIVE CONVERSION - RCW 9.94A.680 (LESS THAN ONE YEAR ONLY):**

\_\_\_\_\_ days of total confinement are hereby converted to:

[ ] \_\_\_\_\_ days of partial confinement to be served subject to the requirements of the King County Jail.

[ ] \_\_\_\_\_ days/hours community restitution under the supervision of the Department of Corrections to  
be completed as follows:

[ ] on a schedule established by the defendant's Community Corrections Officer;

[ ] \_\_\_\_\_

Alternative conversion was not used because: [ ] Defendant's criminal history, [ ] Defendant's  
failure to appear,  Other: not eligible

[ ] **COMMUNITY CUSTODY for FAILURE TO REGISTER AS A SEX OFFENDER** under RCW  
9A.44.130(11)(a) committed on or after 6-7-2006 as to Counts \_\_\_\_\_ (regardless of length of  
confinement) is ordered pursuant to RCW 9.94A.545(2) and RCW 9.94A.715 for the range of 36 to 48  
months.

[ ] **FOR CONFINEMENT LESS THAN ONE YEAR** (except for Failure to Register as a Sex  
Offender under RCW 9A.44.130(11)(a) committed on or after 6-7-06) as to Counts \_\_\_\_\_:  
**COMMUNITY** [ ] **SUPERVISION**, for crimes committed before 7-1-2000, [ ] **CUSTODY**, for  
crimes committed on or after 7-1-2000, is ordered pursuant to RCW 9.94A.545 for a period of 12 months.  
The defendant shall report to the Department of Corrections within 72 hours of this date or of his/her  
release if now in custody; shall comply with all the rules, regulations and conditions of the Department for  
supervision of offenders (RCW 9.94A.720); shall comply with all affirmative acts required to monitor  
compliance; and shall otherwise comply with terms set forth in this sentence.

[ ] **APPENDIX \_\_\_\_\_**: Additional Conditions are attached and incorporated herein.

[ ] **COMMUNITY PLACEMENT (CONFINEMENT OVER ONE YEAR)** as to Counts \_\_\_\_\_:  
pursuant to RCW 9.94A.700, for qualifying crimes committed before 6-6-1996, is ordered for  
\_\_\_\_\_ months or for the period of earned early release awarded pursuant to RCW 9.94A.728,  
whichever is longer. [24 months for any serious violent offense, vehicular homicide, vehicular assault, or  
sex offense prior to 7-6-96; 12 months for any assault 2°, assault of a child 2°, felony violation of RCW  
69.50/52, any crime against person defined in RCW 9.94A.440 not otherwise described above.]

[ ] **APPENDIX H, Community Placement conditions**, is attached and incorporated herein.

[ ] **COMMUNITY CUSTODY (CONFINEMENT OVER ONE YEAR)** as to Counts \_\_\_\_\_:  
pursuant to RCW 9.94A.710 for any **SEX OFFENSE** committed on or after 6-6-1996 but before 7-1-  
2000, is ordered for a period of 36 months or for the period of earned early release awarded under RCW  
9.94A.728 whichever is longer.

[ ] **APPENDIX H, Community Custody conditions**, is attached and incorporated herein.

**COMMUNITY CUSTODY (CONFINEMENT OVER ONE YEAR)** as to Counts IV: pursuant to RCW 9.94A.715 for qualifying crimes (non RCW 9.94A.712 offenses) committed after 6-30-2000 is ordered for the following established range:

- Sex Offense, RCW 9.94A.030(38): 36 to 48 months
- Serious Violent Offense, RCW 9.94A.030(37): 24 to 48 months
- Violent Offense, RCW 9.94A.030(45): 18 to 36 months
- Crime Against Person, RCW 9.94A.411: 9 to 18 months
- Felony Violation of RCW 69.50/52: 9 to 12 months

or for the entire period of earned early release awarded under RCW 9.94A.728, whichever is longer. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.737.

**APPENDIX H, Community Custody conditions**, is attached and incorporated herein.

**(b) INDETERMINATE SENTENCE – QUALIFYING SEX OFFENSES occurring after 9-1-2001:**

The Court having found that the defendant is subject to sentencing under RCW 9.94A.712, the defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing:  immediately;  (Date): \_\_\_\_\_ by \_\_\_\_\_ m.

Count I: Minimum Term: 216 (months) days; Maximum Term: Life years/life;

Count II: Minimum Term: 216 (months) days; Maximum Term: Life years/life;

Count \_\_\_\_: Minimum Term: \_\_\_\_\_ months/days; Maximum Term: \_\_\_\_\_ years/life;

Count \_\_\_\_: Minimum Term: \_\_\_\_\_ months/days; Maximum Term: \_\_\_\_\_ years/life.

**COMMUNITY CUSTODY**: pursuant to RCW 9.94A.712 for qualifying **SEX OFFENSES** committed on or after September 1, 2001, is ordered for any period of time the defendant is released from total confinement before the expiration of the maximum sentence as set forth above. Sanctions and punishments for non-compliance will be imposed by the Department of Corrections pursuant to RCW 9.94A.713, 9.94A.737.

**APPENDIX H: Community Custody conditions** are attached and incorporated herein.

**4.5 ADDITIONAL CONDITIONS OF SENTENCE**

The above terms for counts I, II, IV and IV + II (gross misd) are consecutive (concurrent).

The above terms shall run  CONSECUTIVE  CONCURRENT to cause No.(s) \_\_\_\_\_

The above terms shall run  CONSECUTIVE  CONCURRENT to any previously imposed sentence not referred to in this order.

In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special **WEAPON** finding(s) in section 2.1: \_\_\_\_\_

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (For crimes committed after 6-10-1998.)

The enhancement term(s) for any special **WEAPON** findings in section 2.1 is/are included within the term(s) imposed above. (For crimes before 6-11-1998 only, per In Re Charles)

The **TOTAL** of all terms imposed in this cause is 216 months. to life

Credit is given for  63 days served [ ] days as determined by the King County Jail, solely for confinement under this cause number pursuant to RCW 9.94A.505(6). [ ] Jail term is satisfied and defendant shall be released under this cause.

4.6 NO CONTACT: For the maximum term of Life years, defendant shall have no contact, direct or indirect, in person, in writing, by telephone, or through third parties with: A.M., K.M., N.M., Devona McKay, Nick Navata

Any minors without supervision of a responsible adult who has knowledge of this conviction. period.

4.7 DNA TESTING: The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing, as ordered in APPENDIX G.

HIV TESTING: For sexual offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in APPENDIX G.

4.8 SEX OFFENDER REGISTRATION:  
The defendant shall register as a sex offender as ordered in APPENDIX J.

4.9 [ ] ARMED CRIME COMPLIANCE, RCW 9.94A.475, 480. The State's plea/sentencing agreement is [ ] attached [ ] as follows:

The defendant shall report to an assigned Community Corrections Officer within 72 hours of release from confinement for monitoring of the remaining terms of this sentence.

Date: 05/30/08

Nicole MacInnes  
JUDGE

Print Name: Nicole MacInnes

Presented by:

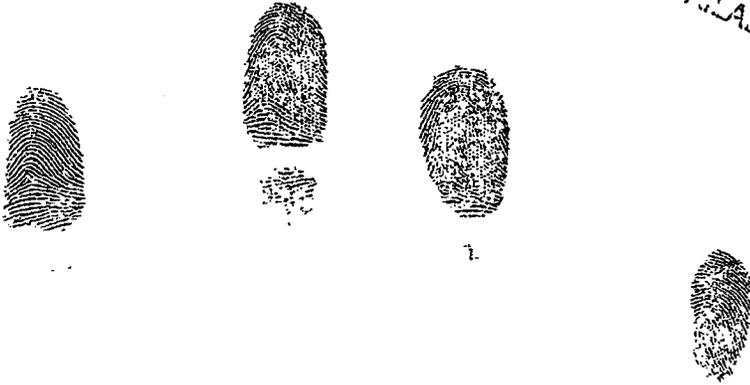
Michael Mohanderson 30389

Deputy Prosecuting Attorney, WSBA#  
Print Name: Michael Mohanderson

Approved as to form:  
[Signature] 4677

Attorney for Defendant, WSBA#  
Print Name: BROWN

FINGERPRINTS



UNAVAILABLE IMAGE POSSIBLE

RIGHT HAND  
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE:  
DEFENDANT'S ADDRESS:

*[Handwritten Signature]*  
POC

STEVEN DANIEL SWENSON

DATED: 5-30-08

ATTESTED BY: BARBARA MINER,  
SUPERIOR COURT CLERK

*[Handwritten Signature]*  
JUDGE, KING COUNTY SUPERIOR COURT  
**NICOLE MacINNES**

BY: *[Handwritten Signature]*  
DEPUTY CLERK

CERTIFICATE

OFFENDER IDENTIFICATION

I, \_\_\_\_\_,  
CLERK OF THIS COURT, CERTIFY THAT  
THE ABOVE IS A TRUE COPY OF THE  
JUDGEMENT AND SENTENCE IN THIS  
ACTION ON RECORD IN MY OFFICE.  
DATED: \_\_\_\_\_

S.I.D. NO.  
DOB: AUGUST 4, 1972  
SEX: M  
RACE: W

CLERK

BY: \_\_\_\_\_  
DEPUTY CLERK

**SUPERIOR COURT OF WASHINGTON FOR KING COUNTY**

STATE OF WASHINGTON,

Plaintiff,

vs.

STEVEN DANIEL SWENSON

Defendant,

No. 07-1-08484-0 SEA

JUDGMENT AND SENTENCE,  
(FELONY) - APPENDIX B,  
CRIMINAL HISTORY

2.2 The defendant has the following criminal history used in calculating the offender score (RCW 9.94A.525):

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
UNLAWFUL IMPRISONMENT	02/11/1987	JUVENILE	868022751	KING CO

[ ] The following prior convictions were counted as one offense in determining the offender score (RCW 9.94A.525(5)):

Date: 05/30/08

  
JUDGE, KING COUNTY SUPERIOR COURT

NICOLE MacINNES

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IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,	)	SGA
	)	
Plaintiff,	)	No. 07-1-08484-0
	)	
vs.	)	APPENDIX E
STEVEN D. SWENSON	)	ORDER SETTING RESTITUTION
	)	
Defendant,	)	

The court ordered payment of restitution as a condition of sentencing. The Court has determined that the following person(s) is/are entitled to restitution in the following amounts; IT IS ORDERED that defendant make payments through the registry of the clerk of the court as follows:

CRIME VICTIMS COMPENSATION  
P.O. Box 44520  
OLYMPIA WA 98504-4520  
Amount \$ 719.60  
(FOR VR 71151 & VR 71155)

(ADDITIONAL RESTITUTION WILL BE ORDERED AS FURTHER COSTS RELATED TO THIS CRIME ONLY ARE RECEIVED)



SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

STEVEN DANIEL SWENSON

Defendant,

No. 07-1-08484-0 SEA

APPENDIX G  
ORDER FOR BIOLOGICAL TESTING  
AND COUNSELING

FAX COPY TO COUNTY JAIL JUN 6 2008

(1) DNA IDENTIFICATION (RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangements for the test to be conducted within 15 days.

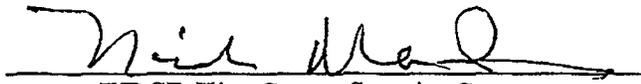
(2)  HIV TESTING AND COUNSELING (RCW 70.24.340):

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense.)

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 205-7837 to make arrangements for the test to be conducted within 30 days.

If (2) is checked, two independent biological samples shall be taken.

Date: 05/30/08

  
JUDGE, King County Superior Court

NICOLE MacINNES

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

STEVEN DANIEL SWENSON

Defendant,

No. 07-1-08484-0 SEA

JUDGMENT AND SENTENCE

APPENDIX H

COMMUNITY PLACEMENT OR

COMMUNITY CUSTODY

The Defendant shall comply with the following conditions of community placement or community custody pursuant to RCW 9.94A.700(4), (5):

- 1) Report to and be available for contact with the assigned community corrections officer as directed;
2) Work at Department of Corrections-approved education, employment, and/or community service;
3) Not possess or consume controlled substances except pursuant to lawfully issued prescriptions;
4) Pay supervision fees as determined by the Department of Corrections;
5) Receive prior approval for living arrangements and residence location;
6) Not own, use, or possess a firearm or ammunition. (RCW 9.94A.720(2));
7) Notify community corrections officer of any change in address or employment; and
8) Remain within geographic boundary, as set forth in writing by the Department of Corrections Officer or as set forth with SODA order.

OTHER SPECIAL CONDITIONS:

- [ ] The defendant shall not consume any alcohol.
[X] Defendant shall have no contact with: A.M., K.M., N.M., Devona McKay; Nick Navota and no unsupervised contact with minors except by a responsible adult with knowledge of these conditions.
[ ] Defendant shall remain [ ] within [ ] outside of a specified geographical boundary, to wit:
[X] The defendant shall participate in the following crime-related treatment or counseling services: Obtain a state certified sexual deviancy evaluation and follow all rec of evaluator, treatment provider, and CCO. Once enrolled in treatment, do not change providers without prior court or CCO approval.
[ ] The defendant shall comply with the following crime-related prohibitions:

[X] Submit to polygraph exams at CCO request to monitor compliance with conditions of community custody; No possession or viewing of child pornography. (including over the internet)

Community Placement or Community Custody shall begin upon completion of the term(s) of confinement imposed herein or when the defendant is transferred to Community Custody in lieu of earned early release. The defendant shall remain under the supervision of the Department of Corrections and follow explicitly the instructions and conditions established by that agency. The Department may require the defendant to perform affirmative acts deemed appropriate to monitor compliance with the conditions [RCW 9.94A.720] and may issue warrants and/or detain defendants who violate a condition [RCW 9.94A.740].

Date: 05/30/08

JUDGE NICOLE MacINNES

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, )  
Plaintiff, )  
vs. )  
Steven D. Swenson )  
Defendant, )

No. 07-1-08484-0 SEA  
APPENDIX J  
JUDGMENT AND SENTENCE  
SEX/ KIDNAPPING OFFENDER NOTICE OF  
REGISTRATION REQUIREMENTS

**SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. You are required to register your complete residential address with the sheriff of the county where you reside, because you have been convicted of one of the following sex or kidnapping offenses: *Rape 1, 2, or 3; Rape of a Child 1, 2, or 3; Child Molestation 1, 2 or 3; Sexual Misconduct With A Minor 1 or 2; Indecent Liberties; Incest 1 or 2; Voyeurism; Kidnapping 1 or 2 (if victim is a minor and offender is not the minor's parent); Unlawful Imprisonment (if victim is a minor and offender is not the minor's parent); Sexual Exploitation of a Minor; Custodial Sexual Misconduct 1; Criminal Trespass against Children; Dealing in Depictions of a Minor Engaged in Sexually Explicit Conduct; Sending, Bringing Into State Depictions of a Minor Engaged in Sexually Explicit Conduct; Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct; Communication with a Minor for Immoral Purposes; Patronizing a Juvenile Prostitute; Failure to Register as a Sex Offender; any gross misdemeanor that is under RCW 9A.28, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or RCW 9A.44.130 or a kidnapping offense under 9A.44.130; or any felony with a finding of sexual motivation (RCW 9.94A.835 or RCW 13.40.135).*

If you are out of custody, you must register immediately upon being sentenced.

If you are in custody, you must register within 24 hours of your release.

If you change your residence within a county, you must send signed written notice of your change of residence to the county sheriff within 72 hours of moving.

If you change your residence to a new county within this state, you must send signed written notice of your change of residence to the sheriff of the county of your new residence at least 14 days before moving and register with the county sheriff of your new residence within 24 hours of moving. In addition, you must give signed written notice of your change of address to the sheriff of the county where you last registered within 10 days of moving.

If you plan to attend a public or private school or institution of higher education in Washington, you are required to notify the county sheriff for the county of your residence within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you are currently attending a public or private school or institution of higher education in Washington, you must notify the county sheriff, for the county where the school is located, immediately.

If you lack a fixed residence, you are required to register as homeless. You must also report in person to the sheriff of the county where you registered on a weekly basis. If you are under DOC supervision and lack a fixed residence, you must register in the county where you are being supervised. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county within 24 hours.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 3 business days after returning to this state or within 24 hours if you are under the jurisdiction of the state department of corrections, the indeterminate sentence review board or the department of social and health services.

If you move to a new state, you must register with the new state within 10 days after establishing residence. You must also send written notice, within 10 days of moving to the new state, to the county sheriff with whom you last registered in Washington State.

If you are not a resident of Washington, but attend school, are employed, or carry on a vocation in the State of Washington, you must register with the county sheriff for the county where your school, place of employment, or vocation is located.

If you are ranked as a Level II or Level III offender (even if you have a fixed residence), you must report, in person, every ninety days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours.

The King County Sheriff's Office sex offender registration desk is located on the first floor of the King County Courthouse- 516 3<sup>rd</sup> Avenue, Seattle, WA. Failure to comply with registration requirements is a criminal offense.

Copy Received:

[Signature] 5/30/08  
Defendant Date

[Signature]  
JUDGE

APPENDIX J Rev. 8/06  
Distribution:  
Original/White - Clerk  
Yellow - Defendant  
Pink - King County Jail  
Gold/enrod - Prosecutor

## APPENDIX B

FILED

2008 JUN -6 PM 3: 19

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA

CERTIFIED COPY TO COUNTY JAIL JUN - 6 2008

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,	)	No. 07-1-08484-0 SEA
	)	
Plaintiff,	)	JUDGMENT AND SENTENCE,
	)	NON-FELONY -- Count(s) <u>IV &amp; VI ONLY</u>
v.	)	[ ] DEFERRING Imposition of
	)	Sentence/Probation
STEVEN DANIEL SWENSON	)	<input checked="" type="checkbox"/> SUSPENDING Sentence
	)	
Defendant.	)	

SEE FELONY JES  
(Counts I, II, & IV)

The Prosecuting Attorney, the above-named defendant and counsel JOHN HENRY BROWNE, <sup>and Emma Scanlan</sup> being present in Court, the defendant having been found guilty of the crime(s) charged in the amended information on 04/01/2008 by guilty plea and there being no reason why judgment should not be pronounced;

IT IS ADJUDGED that the defendant is guilty of the crime(s) of: COUNTS IV AND VI COMMUNICATION WITH A MINOR FOR IMMORAL PURPOSES RCW 9.68A.090

IT IS ORDERED pursuant to RCW 9.95.200 and 9.95.210 that:

[ ] the imposition of sentence against the defendant is hereby DEFERRED for a period of \_\_\_\_\_ months from this date upon the following terms and conditions:

OR

the defendant is sentenced to imprisonment in the King County Jail, Department of Adult Detention, for 12 months on each count, said term(s) to run  concurrently [ ] consecutively with each other, and to run  concurrently [ ] consecutively with  count(s) I, II, & IV [X] Cause No(s). Same (07-1-08484-0 SEA) and the sentence (less any days of confinement imposed below) is hereby SUSPENDED upon the following terms and conditions:

(1) The defendant shall serve a term of confinement of 6 days [ ] in the King County Jail, Department of Adult Detention, [ ] in King County Work/Education Release subject to conditions of conduct ordered this date, [ ] in King County Electronic Home Detention subject to conditions of conduct ordered this date, with credit for  63 days served [ ] days as determined by the King County Jail, solely on this cause, to commence no later than immediately. This term shall run [ ] concurrently [ ] consecutively with \_\_\_\_\_ . This term shall run consecutive to any other term not specifically referenced in this order.

(2) The defendant shall be on probation under the supervision of the Washington State Department of Corrections and comply with the standards rules and regulations of supervision. Probation shall commence immediately but is tolled during any period of confinement. The defendant shall report for supervision within 72 hours of this date or release date if in custody. The length of probation shall be 24 months.

(3) Defendant shall pay to the clerk of this Court:

- (a)  Restitution is not ordered;
- Order of Restitution is attached;
- Restitution to be determined at a restitution hearing on (Date) \_\_\_\_\_ at \_\_\_\_\_ m.;
- Date to be set;
- The defendant waives presence at future restitution hearing(s);

(b) \$ 0, Court costs;

(c) \$ 500, Victim assessment, \$500 for gross misdemeanors and \$250 for misdemeanors; — concurrent with

(d) \$ 0, Recoupment for attorney's fees to King County Public Defense Programs;

VPA on felony  
Counts I, II,  
and III

(e)  \$100 DNA collection fee;

(f) \$ 0, Fine; \$ \_\_\_\_\_ of this fine is suspended upon the terms and conditions herein;

(g) TOTAL financial obligation: \$500 + any future restitution — concurrent with felony counts;

The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:  Not less than \$ \_\_\_\_\_ per month;  On a schedule established by the Department of Corrections if it has active supervision of the defendant, or by the county clerk.

(4)  The defendant shall complete \_\_\_\_\_ community service hours  at a rate of not less than \_\_\_\_\_ hours per month  to be completed by (Date) \_\_\_\_\_. If the defendant is not supervised by the Dept. of Corrections, community service will be monitored by the Helping Hands Program.

(5)  The defendant shall not purchase, possess, or use any  alcohol  controlled substance (without a lawful prescription). The defendant shall submit to urinalysis and/or breath testing as required by the Department of Corrections and submit to search of person, vehicle or home by a Community Corrections Officer upon reasonable suspicion of violation;

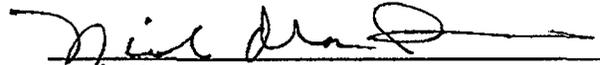
(6)  The defendant shall obtain a substance abuse evaluation and follow all treatment recommendations; \_\_\_\_\_

(7)  The defendant shall enter into, make reasonable progress and successfully complete a state certified domestic violence treatment program; \_\_\_\_\_

(8)  The defendant shall have no contact with: A.M., K.M., N.M., Devona McKay,  
Nicholas Navota

- (9)  The defendant shall have no ~~unsupervised~~ contact with minors. (under age 18), period.
- (10)  The defendant shall have a biological sample collected for purposed of DNA identification analysis and the defendant shall fully cooperate in the testing, as ordered in Appendix G (for stalking, harassment, or communicating with a minor for immoral purposes).
- (11)  The defendant shall register as a sex offender.
- (12) The defendant shall commit no criminal offenses.
- (13)  Additional conditions of probation are: ① Obtain a state certified sexual deviancy evaluation and follow all recs of evaluator, treatment provider, and CCO; ② ~~and~~ enrolled in treatment, do not change provider without prior court or CCO approval; ③ Submit to polygraph exams at CCO request to monitor compliance with conditions of community custody; ④ No possession or viewing of child pornography (including over the internet).
- (14) Additional conditions are attached to and incorporated as Appendix \_\_\_\_\_.

Date: 05/30/08

  
 Judge, King County Superior Court  
 Print Name: Nicole MacInnes

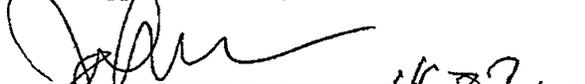
Presented by:

 30389  
 Deputy Prosecuting Attorney, WSBA #  
 Print Name: Michael Mahanderson

Defendant's current address:

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Form Approved for Entry:

  
 Attorney for Defendant, WSBA # 4673  
 Print Name: BROWN

## APPENDIX C

FILED  
2008 APR -9 PM 3: 10  
KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 07-1-08484-0 SEA

vs.

Steven Swenson

Defendant.

STATEMENT OF DEFENDANT ON  
PLEA OF GUILTY TO FELONY  
SEX OFFENSE (STDFG)

1. My true name is Steven Swenson

2. My date of birth is August 4, 1972

3. I went through the GED grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

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

(b) I am charged with the crime(s) of CF, Rape of a Child I; CF, Rape of a Child II;  
CF, Sexual Exploitation of a minor

The elements of this crime(s) are set forth in the information/ amended information,  
which is incorporated by reference and which I have reviewed with my lawyer.

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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 the right to refuse to testify against myself;

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

(d) The right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me;

(e) The right to be 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 guilt after a trial.

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

(a) The crime(s) with which I am charged carries a sentence(s) of:

Count No.	Standard Range	Enhancement That Will Be Added to Standard Range	Maximum Term And Fine
I	162 - 216 months*	N/A	life years \$ 50,000.
II	162 - 216 months*	N/A	life years \$ 50,000.
IV	77 - 102 months	N/A	10 years \$ 20,000.

\* Subject to indeterminate sentencing

1 (b) The standard sentence range is based on the crime charged and my criminal history.  
2 Criminal history includes prior convictions and juvenile adjudications or convictions, whether in  
3 this state, in federal court, or elsewhere.

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

9 (d) If I am convicted of any new crimes before sentencing, or if any additional criminal  
10 history is discovered, both the standard sentence range and the prosecuting attorney's  
11 recommendations may increase or a mandatory sentence of life imprisonment without possibility of  
12 parole may be required by law. Even so, I cannot change my mind and my plea of guilty to this  
13 charge is binding on me.

14 (e) In addition to sentencing me to confinement, the judge will order me to pay \$500 as a  
15 victim's compensation fund assessment. If this crime resulted in injury to any person or damages to  
16 or loss of property, the judge will order me to make restitution, unless extraordinary circumstances  
17 exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs,  
18 attorney fees, and other costs and fees. Furthermore, the judge may place me on community  
19 supervision, community placement or community custody and I will have restrictions and  
20 requirements placed upon me.

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(D)

(i) For sex offenses committed before July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is not more than 12 months. If the period of confinement is more than one year, the judge will order me to serve three years of community custody (or two years of community placement if offense committed before 6/6/1996) or up to the period of earned early release, whichever is longer. During the period of community custody or community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. (X) SDS

(ii) For sex offenses committed on or after July 1, 2000 but before September 1, 2001: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, the judge will sentence me to community custody for a period of 36 to 48 months or up to the period of earned early release, whichever is longer. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. (X) SDS

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(iii) For sex offenses committed on or after September 1, 2001:

(a) Sentencing under RCW 9.94A.712: If this offense is for any of the offenses listed in subsections (1) or (2), below, the judge will impose a maximum term of confinement consisting of the statutory maximum sentence for the offense, and a minimum term of confinement either within the standard range for the offense or outside the standard range if an exceptional sentence is imposed. The minimum term of confinement that is imposed may be increased by the Indeterminate Sentence Review Board if the Board determines by a preponderance of the evidence that it is more likely than not that I will commit sex offenses if released from custody. In addition to the period of confinement, I will be sentenced to community custody for any period of time I am released from total confinement before the expiration of the maximum sentence. During the period of community custody I will be under the supervision of the Department of Corrections and I will have restrictions and requirements placed upon me and I may be required to participate in rehabilitative programs.

Counts  
I + II

(1) If the current offense is any of these offenses or attempt to commit any of these offenses:

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree committed when I was at least 18 years old.	Rape of a child in the second degree committed when I was at least 18 years old.
Child molestation in the first degree committed when I was at least 18 years old.	Indecent liberties by forcible compulsion

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<b>Any of the following offenses with a finding of sexual motivation:</b>	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Kidnapping in the second degree	Assault in the first degree
Assault in the second degree	Assault of a child in the first degree
Burglary in the first degree	

(2) If the current offense is any sex offense and I have a prior conviction for any of these offenses or attempt to commit any of these offenses or a comparable offense in this state, in federal court, or elsewhere:

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree	Rape of a child in the second degree
Child molestation in the first degree	Indecent liberties by forcible compulsion
<b>Any of the following offenses with a finding of sexual motivation:</b>	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Kidnapping in the second degree	Assault in the first degree
Assault in the second degree	Assault of a child in the first degree
Burglary in the first degree	

(b) If this offense is for a sex offense that is not listed in paragraph 6(f)(iii)(a), in addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, the judge will sentence me to community custody for a period of 36 to 48 months or up to the period of earned early release, whichever is longer. During the period of community custody to which I am sentenced, I will be under the

*Count V*

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supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

(iv) If this offense is Failure to Register as a Sex Offender and the crime was committed on or after June 7, 2006, regardless of the term of confinement ordered, the judge will sentence me to community custody for a period of 36 to 48 months or up to the period of earned early release, whichever is longer. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. Q.S.D.

(g) The prosecuting attorney will make the following recommendation to the judge: \_\_\_\_\_

<sup>agreed</sup>  
GTS I + II 216 months confinement on each count to run concurrent; 102 months confinement of G+II to run concurrent; community custody for counts I + II and 36-48 months for count IV, life; sexual deviancy evaluation and follow all recommended treatment; no change in treatment provider w/out CCS approval or court approval; polygraphs; no contact w/ A.M. K.M; n.m.; Devona McKay; Nick Mascha; restitution; costs; registration; (BAROS)  
The prosecutor will make the recommendation stated in the plea Agreement and State's Sentence Recommendation, which are incorporated by reference.

(h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless there is a finding of 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.

(i) 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. For crimes committed on or after July 24, 2005, this does not apply to juveniles tried as

1 adults pursuant to a transfer of jurisdiction under RCW 13.40.110 (see RCW 9.94A.540(3)). [If not  
2 applicable, this paragraph should be stricken and initialed by the defendant and the judge SDS.]

3 The crime of Rape of a Child 1<sup>o</sup> is a most serious offense as defined by  
4 RCW 9.94A.030, and if I have at least two prior convictions on separate occasions whether in this  
5 state, in federal court, or elsewhere, of most serious crimes, I may be found to be a Persistent  
6 Offender. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence  
7 of life imprisonment without the possibility of early release of any kind. RCW 9.94A.570. [If not  
8 applicable, this paragraph should be stricken and initialed by the defendant and the judge \_\_\_\_\_.]

9 The crime of \_\_\_\_\_ with a finding that [circle  
10 applicable finding] (1) the crime was predatory as defined by RCW 9.94A.030; (2) the victim was  
11 under 15 at the time of the offense; (3) the victim was developmentally disabled, mentally  
12 disordered, a frail elder, or a vulnerable adult; if committed on or after July 1, 2006, has a  
13 mandatory minimum sentence of 25 years of confinement or the maximum of the standard range  
14 sentence, whichever is greater. The law does not allow any reduction of this sentence. RCW  
15 9.94A.712. This minimum sentence does not apply to juveniles tried as adults pursuant to RCW  
16 13.040.030(1)(e). [If not applicable, this paragraph should be stricken and initialed by the  
17 defendant and the judge SDS.]

18 (j) If this offense is (1) rape in the first degree, rape of a child in the first degree, rape in the  
19 second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child  
20 molestation in the first degree, or (2) any of the following with a finding of sexual motivation: murder  
21 in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree,  
22 kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a

1 child in the first degree, or burglary in the first degree, or (3) any attempt to commit any of the offenses  
2 listed in this sentence and I have at least one prior conviction for one of these listed offenses (or if the  
3 current offense was committed after July 21, 2001, a comparable offense in this state, in federal court,  
4 or elsewhere), the offense for which I am charged carries a mandatory sentence of life imprisonment  
5 without the possibility of parole.

6 (k) The crime charged in Count \_\_\_\_\_ includes a firearm / deadly weapon  
7 sentence enhancement of \_\_\_\_\_ months. \_\_\_\_\_

8 This additional confinement time is mandatory and must be served consecutively to any  
9 other sentence and any other enhancement I have already received or will receive in this or any other  
10 cause for any felony offense. [If not applicable, this paragraph should be stricken and initialed by  
11 the defendant and the judge S.D.S. \_\_\_\_.]

12 (l) The crime charged in Count \_\_\_\_\_, committed on or after July 1, 2006,  
13 includes a sexual motivation sentence enhancement of \_\_\_\_\_ months.

14 This additional confinement time is mandatory and must be served consecutively to any  
15 other sentence and any other enhancement I have already received or will receive in this or any other  
16 cause for any felony offense. [If not applicable, this paragraph should be stricken and initialed by  
17 the defendant and the judge S.D.S. \_\_\_\_.]

18 (m) The sentences imposed on counts III, V, except for any weapons enhancement,  
19 will run concurrently unless there is a finding of substantial and compelling reasons to do otherwise.

20 [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge  
21 \_\_\_\_\_.]

1 (n) Counts \_\_\_\_\_ are serious violent offenses arising from separate and distinct  
2 criminal conduct and the sentences on those counts will run consecutively unless the judge finds  
3 substantial and compelling reasons to do otherwise. [If not applicable, this paragraph should be  
4 stricken and initialed by the defendant and the judge SDS \_\_\_\_.]

5 (o) Special sex offender sentencing alternative:

6 For offenses committed before September 1, 2001: The judge may suspend execution  
7 of the standard range term of confinement under the special sex offender sentencing alternative  
8 (SSOSA) if I qualify under former RCW 9.94A.120(8) (for offenses committed before July 1, 2001) or  
9 RCW 9.94A.670 (for offenses committed on or after July 1, 2001). If the judge suspends execution of  
10 the standard range term of confinement, I will be placed on community custody for the length of the  
11 suspended sentence or three years, whichever is greater; I will be ordered to serve up to 180 days of  
12 total confinement; I will be ordered to participate in sex offender treatment; I will have restrictions and  
13 requirements placed upon me; and I will be subject to all of the conditions described in paragraph 6(e).  
14 Additionally, the judge could require me to devote time to a specific occupation and to pursue a  
15 prescribed course of study or occupational training. If a violation of the sentence occurs during  
16 community custody, the judge may revoke the suspended sentence. SDS \_\_\_\_\_

17 For offenses committed on or after September 1, 2001: The judge may suspend  
18 execution of the standard range term of confinement or the minimum term of confinement, under the  
19 special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.670. If the judge  
20 suspends execution of the standard range term of confinement for a sex offense that is not listed in  
21 paragraph 6(f)(iii)(a), I will be placed on community custody for the length of the suspended sentence  
22 or three years, whichever is greater. If the judge suspends execution of minimum term of confinement

1 for a sex offense listed in paragraph 6(f)(iii)(a), I will be placed on community custody for the length  
2 of the statutory maximum sentence of the offense. In addition to the term of community custody, I will  
3 be ordered to serve up to 180 days of total confinement or, for a crime committed after July 1, 2005, up  
4 to 12 months of total confinement with no early release; I will be ordered to participate in sex offender  
5 treatment; I will have restrictions and requirements placed upon me; and I will be subject to all of the  
6 conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a  
7 specific occupation and to pursue a prescribed course of study or occupational training. If a violation  
8 of the sentence occurs during community custody, the judge may revoke the suspended sentence.

9 (p) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the  
10 judge finds I used a motor vehicle in the commission of this felony.

11 (q) I will be required to undergo testing for the human immunodeficiency virus (HIV).

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

15 (s) I will be required to provide a biological sample for purposes of DNA identification  
16 analysis.

17 (t) I will be required to register with the sheriff of the county of the state of Washington  
18 where I reside, study, or work. The specific registration requirements are described in Appendix J,  
19 Notice of Registration Requirements, which is attached to this form.

20 (u) This plea of guilty will result in the revocation of my right to possess, own, or have in  
21 my control any firearm unless and until my right to do so is restored by a court of record.

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1 (v) Because this is a crime of domestic violence, I may be ordered to pay a domestic  
2 violence assessment of up to \$100. If I, or the victim of the crime, have a minor child, the court  
3 may order me to participate in a domestic violence perpetrator program approved under RCW  
4 26.50.150. [If not applicable, this paragraph should be stricken and initialed by the defendant and  
5 the judge \_\_\_\_\_.]

6 7. I plead guilty to the crime(s) of Count I, Rape of a Child 1<sup>st</sup>; Count II,  
7 Rape of a Child 1<sup>st</sup>; Count II, Sexual Exploitation of a Minor

8 \_\_\_\_\_  
9 as charged in the information/ \_\_\_\_\_ amended information. I have received a copy of  
10 that information.

11 8. I make this plea freely and voluntarily.

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

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

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

18 In King County, Washington during a time intervening between January 1, 2008  
19 and September 15, 2007, I had anal intercourse with ~~me~~ <sup>n.m.</sup>. I was in my 30's  
20 at the time and ~~she~~ <sup>n.m.</sup> was less than 12 yrs old and not married to me.\* Also  
21 during that same time period in King County, Washington I did knowingly  
22 \* during that same time period in King County, Washington I had anal  
intercourse with K.M. who was less than 12 years old and not married  
to me.

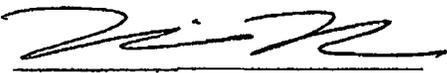
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videotape and photograph myself engaging in sexually explicit conduct  
with N.M.

12. 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.

  
DEFENDANT

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

  
PROSECUTING ATTORNEY  
Print Name: Michael Mohanderson  
WSBA# 30389

  
DEFENDANT'S LAWYER  
Print Name: Emma C. Scanlon  
WSBA# 3185

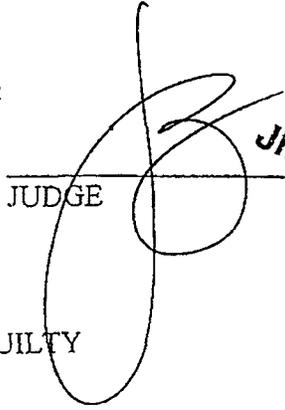
The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read; or
- (b) The defendant's lawyer had previously read to him or her; or
- (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. The 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 1 day of April, 2008

  
JUDGE  
JIM ROGERS

SUPERIOR COURT OF THE STATE OF WASHINGTON  
COUNTY OF KING

STATE OF WASHINGTON, )

Plaintiff, )

No. 071-08484-0 SEA

vs. )

STATEMENT OF DEFENDANT ON  
PLEA OF GUILTY (Misdemeanor)

Steven Swenson

Defendant. )

1. My true name is Steven Swenson
2. My date of birth is August 4, 1972
3. I went through the GED grade in school.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND that 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 Henry Browne, Emma Scanlon

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND that I am charged with the crime(s) of Count IV, communication with a minor for immoral purposes; Count VI, communication with a minor for immoral purposes.

that the elements of this crime(s) are: (1) communication (2) with a person under the age of 18 years (3) for an immoral purpose of a sexual nature;

and that the maximum sentence (s) for which is (are): 365 days

in jail and a \$ 5,000 fine(s) - on each count

I have been given a copy of the information.

6. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

- (a) I have a right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) I have the right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) I have the right to hear and question any witnesses who testify against me.
- (d) I have the right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent until the charge(s) is (are) proven beyond a reasonable doubt or until I enter a plea of guilty;
- (f) I have the right to appeal a determination of guilt after a trial.
- (g) IF I PLEAD GUILTY, I give up the rights in statement (a) through (f) of this paragraph 6.

7. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA(S), I UNDERSTAND THAT:

- (a) The crime(s) with which I am charged carries a maximum sentence(s) of 365 days in jail and a \$ 5,000 fine. — on each count
- (b) The crime of \_\_\_\_\_ has a mandatory minimum sentence of \_\_\_\_\_. 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.] *S.D.S.*
- (c) This plea of guilty will result in suspension or revocation of my privilege to drive by the Department of Licensing. 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.] *S.D.S.*
- (d) The judge may require me to pay costs, fees and assessments authorized by law. The judge may also order me to make restitution to any victims who lost money or property as a result of crimes I committed. The maximum amount of restitution is double the amount to the loss of all victims or double that amount of my gain.
- (e) 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.] *S.D.S.*
- (f) 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.

8. I plead guilty to the crime(s) of Count IV, communication with a minor for immoral purposes; Count VI communication with a minor for immoral purposes as charged.

9. I MAKE THIS PLEA FREELY AND VOLUNTARILY.

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

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

12. I have been informed and fully understand that the Prosecuting Attorney will make the following recommendation(s) to the court: 12 months confinement on each court  
confinement to the place of residence on counts I, II and III and  
to be suspended for a period of 24 months probation;  
restitution to be determined; supervised probation; no law violations;  
no contact with A.M., K.M., N.M. under a "SAPO"; no contact w/minors  
without supervision by adult w/ knowledge of conviction; no contact w/  
Devona Malen, Nicholas Navota. Sexual damage evaluation follow case  
recommend treatment; all felony sentencing recommendations in this cause  
monitored by parents as with plea agreement.

13. I have been informed and fully understand that the court can impose any sentence up to 365 days in jail and a fine of \$ 5,000 each count and that the court does not have to follow the Prosecuting Attorney's recommendation as to sentence. The court is completely free to give me my sentence up to the maximum set out above.

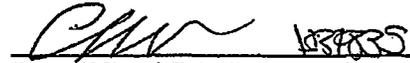
14. The court has asked me to state briefly in my own words what I did that resulted in my being charged with the crime(s) with which I have been charged. This is my statement:  
In King County, Washington during a time intervening between  
January 1, 2006 and September 15, 2007 I did communicate  
with N.M. and A.M. who were both under the age of 12  
years old, for an immoral purpose of a sexual nature by  
playing "strip blackjack" with them.

15. 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.

  
DEFENDANT

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

  
PROSECUTING ATTORNEY  
Michael Anderson

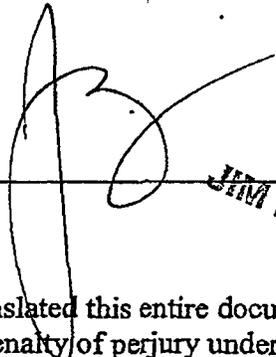
  
DEFENDANT'S LAWYER

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; or
- (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. The 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 1 day of April, 2008

  
JUDGE  
JIM ROGERS

I am fluent in the \_\_\_\_\_ language and I have translated this entire document for the defendant from English into that language. 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 \_\_\_\_\_, 20\_\_.

INTERPRETER  
Washington State Court Certified Yes \_\_\_ No \_\_\_



1 That the defendant STEVEN DANIEL SWENSON in King County, Washington, during  
2 a period of time intervening between January 1, 2006 through September 15, 2007, being at least  
3 24 months older than N.M., had sexual intercourse with N.M., who was less than 12 years old  
4 and was not married to the defendant;

5 Contrary to RCW 9A.44.073, and against the peace and dignity of the State of  
6 Washington.

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COUNT III

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Child Molestation in the First Degree**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, being at least 36 months older than N.M., had sexual contact for the purpose of sexual gratification, with N.M., who was less than 12 years old and was not married to the defendant;

Contrary to RCW 9A.44.083, and against the peace and dignity of the State of Washington.

COUNT IV

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Communication with a Minor for Immoral Purposes**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, did communicate with N.M., a child under the age of 18 years, or a person he believed to be a minor, for immoral purpose of a sexual nature;

Contrary to RCW 9.68A.090, and against the peace and dignity of the State of Washington.

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COUNT V

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Sexual Exploitation of a Minor**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, did compel, aid, invite, employ, authorize or cause N.M., a person under 18 years of age, to engage in sexually explicit conduct, knowing that such conduct would be photographed or part of a live performance;

Contrary to RCW 9.68A.040(1)(a)(b), (2), and against the peace and dignity of the State of Washington.

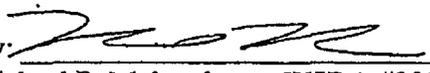
COUNT VI

And I, Daniel T. Satterberg, Prosecuting Attorney aforesaid further do accuse STEVEN DANIEL SWENSON of the crime of **Communication with a Minor for Immoral Purposes**, a crime of the same or similar character and based on a series of acts connected together with another crime charged herein, which crimes were part of a common scheme or plan, and which crimes were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the other, committed as follows:

That the defendant STEVEN DANIEL SWENSON in King County, Washington, during a period of time intervening between January 1, 2006 through September 15, 2007, did communicate with A.M., a child under the age of 18 years, or a person he believed to be a minor, for immoral purpose of a sexual nature;

Contrary to RCW 9.68A.090, and against the peace and dignity of the State of Washington.

DANIEL T. SATTERBERG  
Prosecuting Attorney

By:   
Michael P. Mohandeson, WSBA #30389  
Deputy Prosecuting Attorney



Seattle  
Police  
Department

**CERTIFICATE FOR DETERMINATION  
OF PROBABLE CAUSE**

INCIDENT NUMBER 07-471956
UNIT FILE NUMBER

That D. Stangeland is a Detective with the Seattle Police Department and has reviewed the investigation conducted in Seattle Police Department Case Number. 07-471956;

There is probable cause to believe that Steven Daniel Swenson, date-of-birth 08/04/72 committed the crime (s) of Rape of a Child 1<sup>st</sup> Degree, Child Molestation 1<sup>st</sup> Degree, and Communication with a Minor for Immoral Purposes.

This belief is predicated on the following facts and circumstances:

Reference Seattle Police Department incident number 07-471956:

On 11/20/07 Seattle Police Department received a referral from the Kitsap County Sheriff's office regarding the sexual abuse of 3 children who are now living in Kitsap County. The initial report of abuse was made to Child Protective Services in Kitsap County, and the Kitsap County Child Interview Specialist interviewed the children in the Kitsap County Prosecutor's Office on 11/19/07. It was determined that the abuse occurred in Seattle, Washington within the last 2 years. The last incident of abuse was approximately September 2007. The information was forwarded to Seattle Police for further investigation.

Detective Stangeland was assigned as the case detective.

The three female victims are A.M. age 10, N.M. age 6, and K.M. age 4. The original C.P.S. referral was made on 11/14/07, after the oldest victim, age 10, told another child that "Steve" has sex with her and her little sister (age 6), when he babysits them.

The three victims later disclosed sexual abuse by family friend Steve Swenson during their interviews on 11/19/07. The victims' mother verified that Steven Swenson has routinely babysat her three daughters (the victims) at his home for about the last 2 years. Swenson resides at 1107 Northwest 65<sup>th</sup> Street, City of Seattle, County of King, State of Washington.

A.M. age 10 disclosed that she is worried about her little sister N.M. age 6, because she spends a lot of time alone with Steve. A.M. provided Steve's full name as Steven Swenson during the interview.

A.M. said that on one occasion she entered Steve's bedroom to find Steve laying on his bed, watching as her sister N.M. disrobed. A.M. stopped her sister from disrobing.

A.M. reported that Steve plays a card game called 21 with her and her sisters. A.M. said, "If you go over 21 at any time you have to take off a piece of clothing and if you get naked and you lose and you go over another time, you have to do something that Steve wants you to do." A.M. reported that she has gotten naked during the game one time. Steve has stripped down to his underwear. N.M. age 6 and A.M. age 4 have gotten naked during the game. When A.M. has told them to put their clothes back on, Steve yelled at them.

A.M. said that she was worried, because the things that Steve wants them to do if they lose are "getting worse." He wants them to go have a bath with him. A.M. said that Steve has asked her to take a bath with him about 5 times, but that she has refused. She reported that Steve has taken baths with N.M. age 6 and K.M. age 4.

**CERTIFICATION FOR DETERMINATION  
OF PROBABLE CAUSE**

INCIDENT NUMBER 07-471956
UNIT FILE NUMBER

A.M. said she is also worried because Steve goes into his bedroom alone with her two little sisters, shuts the door, and locks it.

A.M. said that Steve told her not to tell her mom about what they do.

A.M. said that the games started when she was 9 and that the last time it happened was about 2 months ago, when Steve last babysat them. A.M.'s mother verified that Steve Swenson last babysat her daughters about 2 months ago.

N.M., age 6, was also interviewed by the Child Interview Specialist on 11/19/07.

N.M. talked about playing "21" with Steve. N.M. appeared hesitant to talk about things that happened between her and Steve. She said she couldn't remember what happened with her clothes when she plays 21 with Steve.

N.M. did talk about taking baths with Steve. She said that sometimes it is just one of them in the water and sometimes they are all in the bathtub, naked together. She named the people who bathe together as herself, Steve, A.M. and K.M.

N.M. named body parts. She called the front genital part the "front of the butt" and the buttocks "the butt."

The interviewer asked N.M. what the front of the butt on Steve looks like. N.M. said "It has this little thing attached to it. I don't know what that's called." N.M. said that "juice" and "pee" come out of the thing that is attached to Steve. She said that the "juice" is "white" and comes out "whenever he wants it to."

N.M. said that she saw the white juice come out of the thing attached to Steve before, "a long time ago." She said that Steve was in the room and he was playing with her little sister K.M. (age 4). Steve asked K.M. if she wanted to "earn something." She said she would like to earn something. N.M. said "What she chose was earn money."

N.M. said that K.M. age 4 touched Steve's "thing" with her hands to earn money. Steve said, "Good job" and then the white juice came out.

N.M. reported that K.M.'s clothes were off because Steve told K.M. to take everything off. N.M. said that Steve's thing that is attached to him where the pee comes out touched K.M. on her "waist" (pointed at her abdomen). N.M. said that afterwards, Steve asked her to get toilet paper and then Steve cleaned K.M. off. Then "she gets money." N.M. said that next, "She puts her clothes back on" and Steve put his clothes back on.

N.M. said this occurred on Steve's bed in his room. She accurately described Steve Swenson's room as having "real swords around the bed." She said his blankets on his bed were itchy.

N.M. was asked if that happened to her sister once, or more than once. N.M. said it happened once. She said that K.M. was 4 when it happened, and that she (N.M.) was 5 (she is now 6).

N.M. denied that anything happened to her. She said, "He asked if I wanted to do something and I said no and he said why not, it's fun, but I didn't do anything."

**CERTIFICATION FOR DETERMINATION  
OF PROBABLE CAUSE**

INCIDENT NUMBER 07-471956
UNIT FILE NUMBER

N.M. said that the thing attached to Steve had touched her older sister A.M. (age 10), too. N.M. said that they had gotten out of the bath and that A.M. was just wrapped in a towel. They were in Steve's bedroom. Steve's clothes were off, too. The thing attached to Steve where the pee comes out touched A.M.'s private, on the outside of her private. Afterwards, "They put their clothes back on." This happened "more than once". (Note: A.M.'s original disclosure to her friend was that Steve was "having sex" with her and N.M., however A.M. did not disclose that she was molested or raped during the child interview.)

N.M. said that Steve took a picture of her crotch. She said that Steve was "seeing what humans look like." She was sitting in a chair and her clothes were off. Steve "wanted to see what color skins people can have." Steve took pictures of her. She described the video camera that was used to take the pictures.

N.M. said she has seen Steve watch "other girls doing other stuff" on the computer. There were kids on the computer and they were "having fun with their dads." N.M. said that some of the dads have things like Steve and the kids are touching them (on the computer).

K.M. age 4 was interviewed by the Child Interview Specialist on 11/19/07.

K.M. described Steve's home. She was asked about games she plays at Steve's home. She was asked about how her clothes were when she plays games at Steve's. The interviewer asked, "I heard you were playing in a room and something else happened to your clothes." K.M. said, "Yea, Steve let me take em off for a sexy thing." The interviewer asked, "What happened with that?" K.M. said, "I didn't cry."

The interviewer asked K.M. "What's a sexy thing?" K.M. said, "Where you take some of your clothes off and you take the sexy thing and put it in someone else's butt sexy thing." The interviewer asked what a sexy thing is. K.M. said, "It's a long thing that you put in someone else's thing", then added "A long thing that you put in someone else's butt." The interviewer asked, "Where is your butt" and K.M. pointed to her crotch.

The interviewer asked again for the definition of a "sexy thing." K.M. said, "It comes out of your butt. If you're a boy you have one, but if you're a girl you don't get it."

The interviewer asked, "What does it look like?" K.M. said, "It's a round thing with a pee thing where he pee out of it." The interviewer asked K.M. what happens with the sexy thing. She said, "It goes into someone else's butt." The interviewer asked whose butt the sexy thing went in. K.M. said, "Mine when we were at Steve's and someone else was gone."

The interviewer said, "Tell me where Steve's sexy thing went." K.M. pointed at herself. The interviewer asked her to show where exactly it went and K.M. lifted her leg and pointed to her crotch. The interviewer asked K.M. what she calls that part of her body. K.M. said "sexy." The interviewer asked, "Steve put his sexy thing in your sexy?" and K.M. nodded "yes." The interviewer asked K.M. where her clothes were. K.M. said, "On the bed somewhere." She said that Steve's clothes were "off the bed somewhere."

The interviewer tested K.M. about "inside" and "outside" with a pen "inside" and "outside" of the box. K.M. correctly told the interviewer when the pen was inside, versus outside of the box. The interviewer then asked K.M. if Steve's sexy was on the inside or the outside of her sexy thing.

CERTIFICATION FOR DETERMINATION  
OF PROBABLE CAUSE

INCIDENT NUMBER 07-471956
UNIT FILE NUMBER

K.M. said, "inside, just halfway." The interviewer asked K.M. what made it stop and K.M. said, "He just takes it out and puts his underwear on." K.M. said this happened more than once.

K.M. disclosed seeing kids and grownups on the computer at Steve's. She said that some of their clothes were off. The interviewer asked K.M. what the people on the computer were doing. K.M. said, "They're sexing their sisters."

The interviewer asked K.M. about baths at Steve's house. K.M. said "me, N.M. and A.M. and sometimes Steve goes in" to the bathtub. She said they were all naked in the tub. The interviewer asked where K.M. is in the bathtub. K.M. said, "I'm sitting down and pretending I'm a mermaid." The interviewer asked if anyone washed her with soap. She said that Steve does. He washes her back, leg, sexy thingy, and arm. He is behind her when he washes her. His sexy thing is "on his butt." It "wiggles around". It touches the bottom of the bathtub.

The interviewer asked, "What's happened with your sisters and Steve's sexy thing?" K.M. said, "Steve sexes up N.M. and me and that's all." The interviewer asked, "What happened with N.M.?" K.M. said, "I watched Steve do it." She said, "I just saw him sexy up N.M.."

The interviewer asked where Steve's sexy thing is. K.M. said it was on Steve's butt. She asked what he did with it (with N.M.). K.M. said, "He put it in N.M.'s sexy thing." She added, "It hurt when he did it to me."

The interviewer asked if Steve ever gives K.M. anything. She said that he gives her food and toys and lets her write on paper. The interviewer asked if Steve ever gives K.M. money. K.M. said, "Nope, but he gives me money when I'm done doing the sexy thingy." (She indicated coins rather than paper money).

She said, "He says not to tell Mama."

The interviewer asked K.M. if there was anything else to tell. K.M. said, "I know that he does sexy." The interviewer asked who Steve does sexy with and K.M. said, "Me and N.M..". K.M. said that when Steve put his sexy in her sexy, she was laying on his bed. Her head was on the pillow but her butt and her legs were on the blanket.

A search warrant was served on Swenson's home on 11/21/07. Swenson came to the door and was asked if he could speak with Detectives for a few minutes. He said he needed his attorney. Swenson indicated that he knew that the victims had made disclosures of abuse.

Swenson's home is decorated with a "dragon" motif. This is consistent to the victims' references to "dragons" in their interviews. (Apparently Swenson is very involved in Dungeons and Dragons games). Swenson's bed is surrounded by swords. He has other weaponry in his bedroom, including other cutting weapons and guns under his mattress (unknown if "real" or pellet guns).

ORIGINAL



**CERTIFICATION FOR DETERMINATION  
OF PROBABLE CAUSE**

INCIDENT NUMBER 07-471956
UNIT FILE NUMBER

His bedroom was filled with CDs and DVDs. There was a video camera next to the computer and a digital camera behind one of his two computers.

He has a large Jacuzzi-type bathtub in the main bathroom.

Swenson's roommate verified that the victims have taken baths at the home. He said he didn't believe that Swenson took baths with the victims. He said that he is usually in his room when the children visit and that the children are usually in Swenson's bedroom with him. He verified that Swenson has a lock on his bedroom door. (Victim A.M. was concerned because Swenson reportedly locked the door when he was in the bedroom alone with the 4-year-old and 6-year-old victims.)

A forensic search of the computers is pending.

Request that Swenson be charged with Rape of a Child 1<sup>st</sup> Degree, Child Molestation 1<sup>st</sup> Degree, and Communication with a Minor for Immoral Purposes.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 30th day of November, 2007, at Seattle, Washington.

*O Stangland 4949*

ORIGINAL

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CAUSE NO. 07-1-08484-0 SEA

PROSECUTING ATTORNEY CASE SUMMARY AND REQUEST FOR BAIL AND/OR  
CONDITIONS OF RELEASE

The State incorporates by reference the Certification for Determination of Probable Cause written by Detective Donna Stangeland in Seattle Police Department incident number 07-471956, and signed on November 30, 2007.

REQUEST FOR BAIL

The State requests bail in the amount of \$350,000, pursuant to CrR 2.2 (b) (2) (i), (ii), (iii), and (iv). The amount set at first appearance was \$350,000. The defendant has criminal history from 1986 when he was a juvenile. He was originally charged with Assault in the First Degree and Unlawful Imprisonment; he pled guilty in 1987 to two counts of Assault in the Fourth Degree and Unlawful Imprisonment. No adult criminal history was located.

The current allegations are extremely serious and cause concern for community safety. The victims here are very young and vulnerable. The defendant took advantage of his position of trust as a family friend and babysitter in order to gain the victims' compliance, as well as paying them for participation in sexual acts.

The State also requests a no contact order be issued for the protection of A.M., N.M., K.M. and their mother, Devonna McKay, as well as no contact with minors.

Signed this \_\_\_\_\_ day of December, 2007.

\_\_\_\_\_  
Carol D. Spoor, WSBA #15525

FELONY PLEA AGREEMENT

Date of Crime: 01/01/06 - 09/15/07

Date: 03-28-08

Defendant: Steven Swenson

Cause No: 07-1-08484-0 (SEAKNT)

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 as follows:

On Plea To: As charged in Count(s) I, II, & V of the  original  amended information.

With Special Finding(s):  deadly weapon - firearm, RCW 9.94A.510(3);  deadly weapon other than firearm, RCW 9.94A.510(4);  sexual motivation, RCW 9.94A.835;  protected zone, RCW 69.50.435;  domestic violence, RCW 10.99.020;  other \_\_\_\_\_; for count(s): \_\_\_\_\_

DISMISS: Upon disposition of Count(s) I, II, V, the State moves to dismiss: III  
*(II & VI - gross misdemeanors)*

REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.530, the parties have stipulated that the following are real and material facts for purposes of this sentencing:

The facts set forth in the certification(s) for determination of probable cause and prosecutor's summary.  
 The facts set forth in  Appendix C;  police reports and computer forensic evidence under  
The defendant acknowledges and waives any right to have a jury determine these facts by proof beyond a reasonable doubt. *SPD# 07-471956*

RESTITUTION: Pursuant to RCW 9.94A.753, the defendant shall pay restitution in full to the victim(s) on charged counts and  agrees to pay restitution in the specific amount of \$ 100 (including any medical and counseling costs)  
 agrees to pay restitution as set forth in  Appendix C;  \_\_\_\_\_

OTHER: All terms of State's felony sentencing rec incorporated by reference;

No further charges arising out of SPD# 07-471956. Parties agree that counts I, II, IV, V, & VI are separate and distinct acts that do not encompass the same course of conduct.

CRIMINAL HISTORY AND OFFENDER SCORE: a.  The defendant agrees to this Plea Agreement and that the attached sentencing guidelines scoring form(s) (Appendix A) and the attached Prosecutor's Understanding of Defendant's Criminal History (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 or otherwise recommendation set forth in the State's sentence recommendation. An essential term of this agreement is the parties' understanding of the standard sentencing range(s) and if the parties are mistaken as to the offender score on any count, neither party is bound by any term of this agreement.

b.  The defendant disputes the Prosecutor's Statement of the Defendant's Criminal History, as follows:

(1) Conviction: \_\_\_\_\_ Basis: \_\_\_\_\_

(2) Conviction: \_\_\_\_\_ Basis: \_\_\_\_\_

c. The parties agree that neither party will seek an exceptional sentence.

Maximum on Count(s) I & II is not more than Life years each and \$ 50,000 fine each.

Maximum on Count(s) IV is not more than 10 years each and \$ 20,000 fine each.

Mandatory Minimum Term(s) pursuant to RCW 9.94A.540 only: \_\_\_\_\_

Mandatory weapon sentence enhancement for Count(s) \_\_\_\_\_ is \_\_\_\_\_ months each; for Count(s) \_\_\_\_\_ is \_\_\_\_\_ months each. This/these additional term(s) must be served consecutively to each other and to any other term and without any earned early release.

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

[Signature]  
Defendant

[Signature] 30389  
Deputy Prosecuting Attorney

[Signature] 5785  
Attorney for Defendant

[Signature] Regus  
Judge, King County Superior Court

**APPENDIX B TO PLEA AGREEMENT  
PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY  
(SENTENCING REFORM ACT)**

Defendant: **STEVEN D SWENSON**

FBI No.: **330038VC4**

State ID No.: **WA24262069**

DOC No.:

This criminal history compiled on: **December 07, 2007**

- |                          |  |
|--------------------------|--|
| <input type="checkbox"/> | None known. Recommendations and standard range assumes no prior felony convictions.              |
| <input type="checkbox"/> | Criminal history not known and not received at this time. WASIS/NCIC last received on 12/07/2007 |

**Adult Felonies - None Known**

**Adult Misdemeanors - None Known**

**Juvenile Felonies**

Offense	Score	Disposition
86-8-02275-1 unlawful imprisonment	05/03/1986	WA King Superior Court - Guilty 02/11/1987 3 months community supervision

**Juvenile Misdemeanors**

Offense	Score	Disposition
86-8-02275-1 simple assault	05/03/1986	WA King Superior Court - Guilty 02/11/1987 3 months community supervision
86-8-02275-1 simple assault	05/03/1986	WA King Superior Court - Guilty 02/11/1987 3 months community supervision

**Comments**

Prepared by: \_\_\_\_\_

Chanthavy San, CCA  
Department of Corrections

**GENERAL SCORING FORM  
Violent Sex Offense**

OFFENDER'S NAME <i>Steven Swenson</i>	OFFENDER'S DOB <i>08-04-72</i>	STATE ID# <i>WA24262069</i>
JUDGE	CAUSE# <i>07-1-08484-0 SEA</i>	FBI ID# <i>330038VC4</i>

**ADULT HISTORY:**

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

**JUVENILE HISTORY:**

Enter number of sex offense dispositions.....          x 3 =           
 Enter number of other serious violent and violent felony dispositions .....          x 2 =           
 Enter number of other nonviolent felony dispositions .....          x ½ =         

**OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct)**

Enter number of other sex offense convictions *Count II: Rape 1°; Ct. I: Sexual* 2 x 3 = 6  
 Enter number of other serious violent and violent felony convictions .....          x 2 =           
 Enter number of other nonviolent felony convictions .....          x 1 =         

**STATUS AT TIME OF CURRENT OFFENSES:**

If on community custody at time of current offense, add 1 point          + 1 =         

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

**6**

<i>Count I</i>	<b>STANDARD RANGE CALCULATION*</b>				
<i>Rape of a Child 1°</i>	<i>XII</i>	<i>6</i>	<i>162</i>	<i>216</i>	<i>Life</i>
CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	LOW TO HIGH MINIMUM SENTENCE RANGE**		MAXIMUM TERM***

- If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-7 or III-8 to calculate the enhanced sentence.
- \* Multiply the range by 75% if the current offense is an attempt.
- \*\* The minimum term for this offense (must have been committed on or after September 1, 2001), if the offender is not a persistent offender, is the standard sentence range, and the maximum term is the statutory maximum for the offense. See RCW 9.94A.712.
- \*\*\* Maximum Term is the Statutory Maximum for the offense.

**GENERAL SCORING FORM  
Violent Sex Offense**

OFFENDER'S NAME <i>Steven Swenson</i>	OFFENDER'S DOB <i>08-04-72</i>	STATE ID# <i>WA24262069</i>
JUDGE	CAUSE# <i>07-1-08484-0 SEA</i>	FBI ID# <i>330038VC4</i>

**ADULT HISTORY:**

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

**JUVENILE HISTORY:**

Enter number of sex offense dispositions.....            x 3 =             
 Enter number of other serious violent and violent felony dispositions .....            x 2 =             
 Enter number of other nonviolent felony dispositions .....            x 1/2 =           

**OTHER CURRENT OFFENSES: (Those offenses not encompassing the same criminal conduct)**

Enter number of other sex offense convictions *CT I: ROCI°; CT V: Sexual Exploitation* 2 x 3 = 6  
 Enter number of other serious violent and violent felony convictions .....            x 2 =             
 Enter number of other nonviolent felony convictions .....            x 1 =           

**STATUS AT TIME OF CURRENT OFFENSES:**

If on community custody at time of current offense, add 1 point            + 1 =           

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

**6**

<i>Count II</i>					
STANDARD RANGE CALCULATION*					
<i>Rape of a Child 1°</i>	<i>XII</i>	<i>6</i>	<i>162</i>	<i>216</i>	<i>Life</i>
CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	LOW TO HIGH MINIMUM SENTENCE RANGE**		MAXIMUM TERM***

- If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-7 or III-8 to calculate the enhanced sentence.
- \* Multiply the range by 75% if the current offense is an attempt.
- \*\* The minimum term for this offense (must have been committed on or after September 1, 2001), if the offender is not a persistent offender, is the standard sentence range, and the maximum term is the statutory maximum for the offense. See RCW 9.94A.712.
- \*\*\* Maximum Term is the Statutory Maximum for the offense.

**GENERAL SCORING FORM**

**Violent Sex Offenses**

Use this form only for the following offenses: Child Molestation 1; Indecent Liberties (with forcible compulsion); Rape of a Child 1 and 2; Rape 2

OFFENDER'S NAME STEVEN D.SWENSON	OFFENDER'S DOB 08/04/1972	STATE ID# WA24262069
JUDGE	CAUSE # 07-1-08484-0 SEA	FBI # 330038VC4 DOC #

In case of multiple prior convictions for offenses committed before July 1, 1986, for purposes of computing the offender score, count all adult convictions served concurrently as one offense and all juvenile convictions entered on the same date as one offense (RCW 9.94A.360)

**ADULT HISTORY**

Enter number of sex offense convictions \_\_\_\_\_ x 3 = \_\_\_\_\_  
 Enter number of other serious violent and violent felony convictions \_\_\_\_\_ x 2 = \_\_\_\_\_  
 Enter Number of other felony convictions . \_\_\_\_\_ x 1 = \_\_\_\_\_

**JUVENILE HISTORY**

Enter number of sex offense adjudications \_\_\_\_\_ x 3 = \_\_\_\_\_  
 Enter number of other serious violent and violent felony adjudications \_\_\_\_\_ x 2 = \_\_\_\_\_  
 Enter number of other felony adjudications \_\_\_\_\_ x 1/2 = \_\_\_\_\_

**OTHER CURRENT OFFENSES (Those offenses not encompassing the same criminal conduct)**

**Count I&II: Rape of Child 1\***

Enter number of other sex offense convictions 2 x 3 = 6  
 Enter number of other serious violent and violent felony convictions \_\_\_\_\_ x 2 = \_\_\_\_\_  
 Enter number of other felony convictions \_\_\_\_\_ x 1 = \_\_\_\_\_

**STATUS AT TIME OF CURRENT OFFENSES**

If on Community Placement at time of current offense add 1 point. + 1 = \_\_\_\_\_

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

6

**STANDARD RANGE CALCULATION\***

Count V

Sexual Exploitation of a Minor

CURRENT OFFENSE  
BEING SCORED

IX

SERIOUSNESS  
LEVEL

6

OFFENDER  
SCORE

77

LOW  
STANDARD

TO

102

SENTENCE

HIGH  
RANGE

- Multiply the range by 75% if the current offense is an attempt, conspiracy or solicitation.
- If the court orders a deadly weapon enhancement use the applicable enhancement sheets on pages III-14 or III-15 to calculate the enhanced sentence

STATE'S SENTENCING RECOMMENDATION  
FELONY SEX OFFENSES (NON-SSOSA)

Date of Crime: 01/01/06 - 09/15/07  
Defendant: Steven Swenson

Date: 03-28-08  
Cause: 07-1-08484-0 (SEA/KNT)

The State recommends that the defendant be sentenced to a term of confinement in the  King County Jail,  King County Work/Education Release,  Department of Corrections as follows:

DETERMINATE SENTENCE:

*agreed* { 102 (months) / days on Count V; \_\_\_\_\_ months / days on Count \_\_\_\_\_; \_\_\_\_\_ months / days on Count \_\_\_\_\_;  
\_\_\_\_\_ months / days on Count \_\_\_\_\_; \_\_\_\_\_ months / days on Count \_\_\_\_\_; \_\_\_\_\_ months / days on Count \_\_\_\_\_.

ALTERNATIVE CONVERSION - RCW 9.94A.680 (LESS THAN ONE YEAR ONLY):

\_\_\_\_\_ days of total confinement are hereby converted to:  
 \_\_\_\_\_ days of partial confinement to be served subject to the requirements of the King County Jail.  
 \_\_\_\_\_ days / hours community restitution under the supervision of the Department of Corrections to be completed as follows:  on a schedule established by the defendant's Community Corrections Officer;  
 \_\_\_\_\_.

Alternative conversion was not used because:  Defendant's criminal history,  Defendant's failure to appear,  
 Other: not eligible

COMMUNITY CUSTODY for FAILURE TO REGISTER AS A SEX OFFENDER under RCW 9A.44.130(11)(a) committed on or after 6-7-2006 (regardless of length of confinement) is mandatory pursuant to RCW 9.94A.545(2) and RCW 9.94A.715 for the range of 36 to 48 months.

FOR CONFINEMENT LESS THAN ONE YEAR (except for Failure to Register as a Sex Offender under RCW 9A.44.130(11)(a) committed on or after 6-7-06): COMMUNITY  SUPERVISION, for crimes committed before 7-1-2000,  CUSTODY, for crimes committed on or after 7-1-2000, is recommended pursuant to RCW 9.94A.545 for a period of 12 months.

COMMUNITY PLACEMENT (CONFINEMENT OVER ONE YEAR) is mandatory for any sex offense committed before 6-6-1996 for 24 months, or for the period of earned early release awarded under RCW 9.94A.728, whichever is longer. RCW 9.94A.700.

COMMUNITY CUSTODY (CONFINEMENT OVER ONE YEAR) is mandatory for any sex offense committed after 6-6-1996 but before 7-1-2000 for a period of 36 months or for the period of earned early release awarded under RCW 9.94A.728, whichever is longer. RCW 9.94A.710.

COMMUNITY CUSTODY (CONFINEMENT OVER ONE YEAR) is mandatory for any sex offense (non-RCW 9.94A.712 offenses) committed after 6-30-2000 for a period of 36-48 months or for the period of earned early release awarded under RCW 9.94A.728, whichever is longer. RCW 9.94A.715. - Count V

INDETERMINATE SENTENCE - FOR QUALIFYING OFFENSES occurring on or after 9-1-2001 (RCW 9.94A.712):

Count I: Minimum Term: 216 (months) / days; Maximum Term: Life years / life

Count II: Minimum Term: 216 (months) / days; Maximum Term: Life years / life

Count \_\_\_\_\_: Minimum Term: \_\_\_\_\_ months / days; Maximum Term: \_\_\_\_\_ years / life

Count \_\_\_\_\_: Minimum Term: \_\_\_\_\_ months / days; Maximum Term: \_\_\_\_\_ years / life

*agreed* { COMMUNITY CUSTODY is mandatory for any period of time the defendant is released from confinement before the expiration of the maximum sentence. Unless a condition is waived by the court, the defendant is required to comply with any conditions imposed by the court and by the Department of Corrections pursuant to RCW 9.94A.712 / .713. The defendant is required to comply with any conditions imposed by the Indeterminate Sentence Review Board pursuant to RCW 9.94A.713 and 9.95.420 - .435. (i.e. community custody for life) - counts I + II

Terms on each count to run consecutively / concurrently with  each other. and counts IV + V under this  
Terms on each count to run consecutively / concurrently with:  Cause No(s). same cause #.

**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.

**ADDITIONAL RECOMMENDED CONDITIONS OF COMMUNITY [ ] SUPERVISION, [X] CUSTODY:**

- ① Obtain a state certified sexual deviancy eval and follow all recs of evaluator, treatment provider, and CCO
- ② Once enrolled in sexual deviancy treatment, do not change providers without prior court or CCO approval
- ③ Submit to polygraph exam at CCO request to monitor compliance of comm custody
- ④ No possession or viewing of child pornography (including over the internet)

**NO CONTACT:** For the maximum term, the defendant shall have no contact, direct or indirect, in person, in writing, by telephone or through third parties with: A.M., K.M., N.M., Devona McKay, Nick Navota  
[X] Any minors without the supervision of a responsible adult who has knowledge of this conviction and order.

Also SAPOS with A.M., K.M., + N.M.

**MONETARY PAYMENTS:** The defendant shall make the following monetary payments under the supervision of the Department of Corrections pursuant to RCW 9.94A.670, .750, and .753:

- [X] restitution as set forth on "Plea Agreement" and reimburse the victim for the cost of any counseling required as a result of the offender's crime;
- [X] Court costs, \$500 Victims Penalty Assessment, recoupment of costs for appointed counsel; \$100 DNA collection fee;
- Other \_\_\_\_\_

**BLOOD TESTING:** HIV blood testing is mandatory under RCW 70.24.340 for any sexual offense, prostitution related offense, or drug offense under RCW 69.50 associated with needle use.

**DNA TESTING:** DNA testing is mandatory under RCW 43.43.754 for any felony offense.

**SEX OFFENDER REGISTRATION:** Every person convicted of a sex offense is required to register as a sex offender pursuant to RCW 9A.44.130.

**FIREARM REVOCATION:** Revocation of the right to possess a firearm is mandatory for any felony conviction. RCW 9.41.040.

Loss of Right to Vote

The State will consider recommending the Special Sex Offender Sentencing Alternative RCW 9.94A.670, following receipt of a sexual deviancy evaluation from a qualified State-certified treatment provider. In the event the State agrees to recommend a SSOSA sentence, the State's recommendation will be \_\_\_\_\_ months as to Count(s) \_\_\_\_\_.

Approved by:

[Signature] 30389

Deputy Prosecuting Attorney, WSBA #

NON-FELONY PLEA AGREEMENT AND STATE'S RECOMMENDATION

Defendant: Steve Swenson Cause No: 07-1-08484-0 SEA/KNT

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 as follows:

On Plea To: As charged in Count(s) IV + VI of the  original  amended information.  With Special Finding(s):  domestic violence, RCW 10.99.020;  other \_\_\_\_\_; for count(s): \_\_\_\_\_

DISMISS: Upon disposition of Count(s) \_\_\_\_\_, the State moves to dismiss Count(s): \_\_\_\_\_.

REAL FACTS: The parties have stipulated that the following are real and material facts for purposes of this sentencing:

The facts set forth in the certification(s) for determination of probable cause and prosecutor's summary.

The facts set forth in  Appendix C;  police reports and computer forensic evidence generated under SPD 07-471956.

The STATE RECOMMENDS, pursuant to RCW chapter 9.95:

Imposition of sentence on Count(s) \_\_\_\_\_ be DEFERRED for a period of \_\_\_\_\_ months (probation period may not exceed 24 months on each count), on the FOLLOWING CONDITIONS:

Sentence of 12 months in the King County Jail on Count(s) IV + VI (concurrent) (consecutive), but execution SUSPENDED with a probation termination date of 24 months (probation period may not exceed 24 months on each count), on the FOLLOWING CONDITIONS:

agreed  SERVE 0 days months on Count IV and 0 days months on Count VI in the King County Jail with credit for all days served solely on this cause with work release, if eligible. Terms to be served concurrent consecutive with each other. Terms to be served concurrently consecutively with counts I, II, III + V. Terms to be consecutive with any other term not referenced on this page.

MONETARY CONDITIONS: court costs, victim penalty assessment, recoupment for appointed counsel, WSP lab fee of \$100, incarceration costs of \$50 per day (in King County Jail), and \_\_\_\_\_.

RESTITUTION: The defendant shall pay restitution in full to the victim(s) on charged counts and  agrees to pay restitution in the specific amount of \$ 150 (including any medical or counseling costs)  agrees to pay restitution as set forth in  Appendix C;  \_\_\_\_\_

SUPERVISED PROBATION under the jurisdiction of and subject to standard rules of supervision of the Washington Department of Corrections or King County Probation Department.

Have NO LAW VIOLATIONS

Have NO CONTACT WITH:

CRIME VICTIM(S) A.M., K.M., N.M. as a condition of sentence  and RCW 10.99 or RCW 26.50. -SAPO

MINORS, EXCEPT WITH SUPERVISION by responsible adult with knowledge of connections Devona McKay; Nicholas Navota

Do not possess or use ALCOHOL OR NON-PRESCRIBED DRUGS

Obtain a SUBSTANCE ABUSE EVALUATION and comply with recommended TREATMENT program.

Enter and complete a state-certified DOMESTIC VIOLENCE TREATMENT program.

OTHER: Sexual deviancy eval and follow all treatment recs; All conditions set forth in felony sentencing rec under this cause # (incorporated by reference)

The State's recommendation will increase in severity if additional criminal convictions are found or if the defendant commits any new charged or uncharged crimes, fails to appear for sentencing or violates the conditions of release. The recommendation assumes that prior convictions have been fully disclosed and are set forth in Appendix B.

Maximum on Count(s) IV + VI is not more than 12 months each and \$ 5,000 fine each.  
Maximum on Count(s) \_\_\_\_\_ is not more than \_\_\_\_\_ months each and \$ \_\_\_\_\_ fine each.

MANDATORY CONSEQUENCES: HIV test (RCW 70.24.340) for any sex offense or prostitution related offense, or drug offense with needle use; DNA test (RCW 43.43.754) for Harassment, Stalking or Communication with a Minor for Immoral Purposes; Revocation of right to possess a FIREARM (RCW 9.41.040) for some domestic violence offenses; DRIVER'S LICENSE REVOCATION (RCW 46.20.285; RCW 69.50.420); OFFENDER REGISTRATION (RCW 9A.44.130, 140).

Steve Swenson  
Defendant

[Signature] 30389  
Deputy Prosecuting Attorney

[Signature] 3435  
Attorney for Defendant

[Signature]  
Judge, King County Superior Court

CERTIFICATION OF SERVICE

Today I deposited in the mails of the United States of America, a properly stamped and addressed envelope directed to Sheryl Gordon McCloud, at the following address: 710 Cherry Street, Seattle, WA 98104-1925, attorney for the petitioner, containing a copy of the State's Response in In re Personal Restraint of Steven Swenson, No. 63565-4-I, in the Court of Appeals of the State of Washington.

I certify under penalty of perjury of the laws of the state of Washington that the foregoing is true and correct.

W Brame

Name

Done in Seattle, Washington

8/13/09

Date

RECEIVED  
COURT OF APPEALS  
DIVISION ONE

AUG 13 2009