

NO. 71418-0-I

IN THE COURT OF APPEALS – STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON
Respondent,

v.

JOHN BETTYS,
Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON, FOR SKAGIT COUNTY

The Honorable David R. Needy, Judge

RESPONDENT'S BRIEF

SKAGIT COUNTY PROSECUTING ATTORNEY
RICHARD A. WEYRICH, PROSECUTOR

By: ERIK PEDERSEN, WSBA#20015
Deputy Prosecuting Attorney
Office Identification #91059

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I. SUMMARY OF ARGUMENT

John Bettys filed a notice of appeal from his guilty plea pursuant to a plea agreement and the resulting judgment and sentence. The trial court imposed a contingent exceptional sentence on a sentence under RCW 9.94A.507 ordering release if the defendant were not enrolled in treatment by a date just a month out in the Department of Corrections. The Department of Corrections brought the impropriety to the court's attention, while making it a priority to get Bettys into treatment. The trial court extended the date by which to have Bettys in treatment and he was in treatment by that date.

Bettys argues the trial court lacked authority to modify the sentence by extending the treatment deadline. The trial court lacked the authority to order release under RCW 9.94A.507 pursuant to an exceptional sentence.

Despite acknowledging a factual basis sufficient to support his guilty plea at the time of the plea, Bettys now contends the trial court erred in finding there was an adequate basis to believe there was sexual contact. He cites to matter which the trial court did not rely upon in accepting the plea. Finally, despite agreeing to his prior convictions and offender score, Bettys contends he had a vested right to wash-out of a prior conviction. Bettys fails to recognize he is scored under the current scoring structure.

Bettys' conviction and sentence must be affirmed.

II. ISSUES

1. Did the trial court have authority to impose an exceptional sentence of release of a defendant sentenced as an indeterminate sentence under RCW 9.94A.507?
2. Did the trial court impermissibly extend the period of contingency to determine if Bettys qualified for treatment?
3. Where a defendant acknowledges facts adequate for him to be found guilty of a greater offense, may he seek to challenge the plea based upon factual contentions?
4. Did the defendant agree to his prior convictions and their scoring?
5. Where the scoring rules changed, did the defendant retain a vested right to wash-out of his prior conviction?

III. STATEMENT OF THE CASE

On September 3, 2013, John Bettys pled guilty to Child Molestation in the Third Degree. CP 115 (Appendix A), CP 116-25 (Appendix B). Bettys had a prior conviction for a sexual offense and therefore was subject to be sentenced under RCW 9.94A.507 to statutory maximum and a minimum sentence within the standard range. CP 117-9. Given Bettys' offender score of 9+ and the charge of Child Molestation in the Third

Degree, there was no standard range just the top of the statutory maximum of 60 months. CP 117. Bettys agreed to his prior convictions and to the offender scoring as provided on the plea form. CP 117. Because Bettys' alleged victim was under age twelve and Bettys was reluctant to admit guilt, Bettys agreed to plead guilty to enter a *Alford* plea which was also pursuant to *State v. Newton*, *State v. Zhao* and *In re Barr*. CP 124. The plea form read as follows:

This guilty plea is made pursuant to *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970), *State v. Newton*, 87 Wn.2d 363, 552 P.2d 682 (1976), *State v. Zhao*, 157 Wn. 2d 188, 193, 137 P.3d 835, 837 (2006) and *In Re Pers. Restraint of Barr*, 102 Wn.2d 265, 684 P.2d 712 (1984). Pursuant to this case law, I agree there is a factual basis for the plea to a *more serious charge* based upon the reading of the declaration for determination of probable cause filed with the court February 19, 2010. I know and understand the evidence that could be used to attempt to convict me on the originally charged offenses (having reviewed the discovery and heard testimony in a prior trial), the elements of the originally charged offenses, the elements of the amended charges, that the evidence did not support the amended charges and, that the sanctions or consequences of the amended charges were less onerous to him than the sanctions or consequences of the original charges. With all of this in mind, I make an informed, knowing and intelligent choice to freely and voluntarily enter a plea of guilty to the amended charge.

CP 124. As this language indicated, Bettys agreed there was a factual basis for the greater charge based upon the probable cause declaration. CP 124,

CP 26-40, CP 26-40 (Affidavit/Declaration of Probable Cause), 9/26/13
Transcribed RP 5-6 (See Appendix F attached hereto).

The Stat5e indicated that it was seeking the statutory maximum sentence which of 60 months under RCW 9.94A.507(3). CP 120.

The trial court continued the case and provided for payment for a sexual deviancy evaluation before sentencing to evaluate Bettys' amenability to treatment and expedite the possibility of treatment while Bettys was in the Department of Corrections (DOC). CP 126, 12/17/13 RP 43¹.

At sentencing, Bettys sought an exceptional sentence to provide for immediate release, with treatment in the community. 11/26/13 RP 17-8. The State pointed out that the trial court was compelled to sentence Bettys to the 60 months. 11/26/13 RP 12.

The trial court imposed the 60 months sentence, but added a provision termed to be an exceptional sentence providing for release should the DOC not place the defendant into treatment in the department. CP 167.
It read:

So long as the Department of Corrections is providing sex offender treatment to the defendant in custody, then this is a

¹ The State will refer to the verbatim report of proceedings by using the date followed by "RP" and the page number.

"DATE RP NAME OF HEARING.

RCW 9.94A.712² sentence and the minimum term is 60 months and the maximum term is 60 months.

If the department fails to commence sex offender treatment by January 1, 2014, then the defendant shall be immediately released from prison and placed on to community custody for the balance of the sixty month prison term. The defendant will immediately (within 20 days) enroll in sex offender treatment with a certified sexual offense treatment provider. The defendant will comply with all treatment recommendations and comply with the conditions of Appendix F. Failure to comply with any of these conditions of community custody will result in a hearing before the trial court. The Court retains the authority to return the defendant to prison for the balance of the 60 month term of any other terms the court deems appropriate.

CP 167 (Appendix D at page 4)

DOC nearly immediately challenged the sentence and a hearing was held December 17, 2013. 12/17/13 RP 33-55.

DOC pointed out the trial court was bound to sentence Bettys to the 60 months, pursuant to RCW 9.94A.507, and that it was up to the indeterminate sentence review board under RCW 9.95.420 to determine the point of release of Bettys, not the court. 12/17/13 RP 34-5.

DOC specifically requested the trial court to strike the clause to provide for release by January 1, 2014, because the trial court lacked that authority. 12/17/13 RP 40. DOC also explained that under the expedited

² RCW 9.94A.712 was recodified in 2008 as RCW 9.94A.507.

time frame DOC could not accommodate evaluating Bettys for treatment. 12/7/13 RP 36-9.

The trial court ended up extending the deadline from the Judgment and Sentence to have Bettys into treatment to February 1, 2014, but retaining the other language in the Judgment and Sentence. CP 180 (Appendix E), 12/17/13 RP 53. The timing preserved DOC's time frame to file a post-sentence petition. 12/7/13 RP 53-4.

As of a review hearing on February 5, 2014, Bettys was in enrolled in the sex offender treatment program. 2/5/14 RP 3. Bettys' counsel acknowledged that DOC was in compliance with the judgment and sentence provision that he be enrolled in treatment as was extended. 2/5/14 RP 3. Pro se, Bettys, still contended that the trial court should not have permitted the extension, and that he wasn't in treatment by January 1, 2014, that he should be released. 2/5/14 RP 3-4, 6-7. The trial court denied Bettys' motion to reconsider the order of December 17, 2013, since Bettys was enrolled in treatment at DOC. CP 218.

IV. ARGUMENT

- 1. Under RCW 9.94A.507, the trial court have lacked authority to impose the contingent portion of the sentence to an exceptional sentence of release but the provision was not triggered.**

Bettys contends the trial court lacked authority to enter an order of December 17, 2013, extending the time for him to be enrolled in sexual deviancy treatment. Opening Brief of Appellant at page 8. He contends that without that extension, under the terms of the judgment and sentence, he was required to be released under the exceptional sentence provision to treatment in the community. Opening Brief of Appellant at page 9.

However, the trial court lacked authority to impose such an exceptional sentence. RCW 9.94A.507(1) requires sex offenders to be sentenced under that section if they qualify. Bettys prior sex offense conviction qualified him. RCW 9.94A.507(1)(b). Thus, Bettys would not qualify for seeking an exceptional sentence under RCW 9.94A.535. In addition, there is the limited ability to seek an exceptional sentence on a sex offense which pertains only to the minimum term. Under RCW 9.94A.507(3)(a) the trial court is required to set the term of confinement at the statutory maximum, and set a minimum term. The minimum term may be outside the standard range based upon an exceptional sentence under RCW 9.94A.535.

RCW 9.94A.535 and RCW 9.94A.507 are not inconsistent and can be applied to the same sentence as demonstrated above by the language or RCW 9.94A.507(3). But, RCW 9.94A.505(2)(a) requires that that the court “shall impose a sentence as provided in the following sections and as applicable in the case...(ix) RCW 9.94A.507 relating to certain sex offenses.” So that must be imposed if applicable. RCW 9.94A.505(2)(a)(x) also permits exceptional sentences which must qualify pursuant to the statute. And no provision of RCW 9.94A.505, RCW 9.94A.507, or RCW 9.94A.535 provides that an exceptional sentence under RCW 9.94A.535 removes the requirement for a sentence under RCW 9.94A.507 if a defendant qualifies.

Here, the trial court did not set an exceptional minimum term, instead setting the minimum term at 60 months. However, the trial court provided for release to treatment in the community if Bettys could not get into treatment at DOC. That provision infringed on the indeterminate sentence review board obligation to determine release.

When a court sentences a person to the custody of the department under this section, **the court shall**, in addition to the other terms of the sentence, sentence the offender to community custody under the supervision of the department **and the authority of the board for any period of time the person is released from total confinement before the expiration of the maximum sentence.**

RCW 9.94A.507(5). The indeterminate sentence review board has the authority to set release eligibility. RCW 9.95.011(2), RCW 9.94A.420.

And it was DOC which brought the matter to the trial court's attention. DOC has such express authority since DOC is tasked with executing a sentence. RCW 9.94A.535 provides that there may be an appeal from an exceptional sentence as provided in RCW 9.94A.585 which provides express authority to the DOC while requiring DOC to attempt to resolve the dispute prior to challenging the sentence.

The department may petition for a review of a sentence committing an offender to the custody or jurisdiction of the department. The review shall be limited to errors of law. Such petition shall be filed with the court of appeals no later than ninety days after the department has actual knowledge of terms of the sentence. **The petition shall include a certification by the department that all reasonable efforts to resolve the dispute at the superior court level have been exhausted.**

RCW 9.94A.585 (emphasis added). Thus, DOC was obligated to seek to resolve the improper exceptional sentence. By extending the time to get into the sexual deviancy treatment, DOC was able to avoid the automatic trigger to the improper exceptional sentence, thereby obviating the need for DOC to pursue a post-sentence petition as required by RCW 9.94A.585.

Thus, the order modifying the judgment and sentence of December 17, 2013, did not improperly modify a proper judgment and sentence and Bettys' argument fails.

2. Where a defendant acknowledges facts adequate for him to be found guilty of a greater offense, he cannot seek to challenge the plea by factual arguments.

Contrary to Bettys' contention the factual record before the trial court at the time of the plea was sufficient for a jury to find him guilty of the greater offense of Child Molestation in the First Degree.

A review of factual sufficiency is confined to the record at the time of the plea.

In re Pers. Restraint of Clements, 125 Wn. App. 634, 643, 106 P.3d 244 (2005) citing *State v. Arnold*, 81 Wn. App. 379, 382, 914 P.2d 762 (1996).

CrR 4.2(d) requires the judge to be satisfied that a factual basis exists for the plea being given. In order to determine that a factual basis exists for a plea, the judge need not be convinced beyond a reasonable doubt that the defendant is guilty. *State v. Saas*, 118 Wn.2d 37, 43, 820 P.2d 505 (1991) (citing *State v. Newton*, 87 Wn.2d 363, 370, 552 P.2d 682 (1976)). Instead, a factual basis exists if **the evidence is sufficient for a jury to conclude that the defendant is guilty**. *Newton*, 87 Wn.2d at 370. The court may consider any reliable source of information to determine whether sufficient evidence exists to support the plea, as long as it is made part of the record at the time of the plea. *State v. Osborne*, 102 Wn.2d 87, 95, 684 P.2d 683 (1984) (citing *In re Keene*, 95 Wn. 2d 203, 210 n.2, 622 P.2d 360 (1980)).

State v. Arnold, 81 Wn. App. at 382, 914 P.2d 762 (1996). Here Bettys entered a plea pursuant to *State v. Zhao*. CP 124. In *State v. Zhao*, 157 Wn.2d 188, 204, 137 P.3d 835, 843 (2006), the Supreme Court expressly approved of the procedure by which a defendant may plead guilty to

amended charges for which there is no factual basis where there was a factual basis for a greater charge.

In addition, in the same statement he explicitly authorized the court to consider the “statement of probable cause supplied by the prosecution to establish a factual basis for the plea and for the factual basis for the greater offenses.” CP 124. That probable cause declaration provides sufficient evidence for the court to believe a jury could find the defendant guilty of child molestation in the first degree. CP 27-40.

Bettys seeks to undermine the facts supporting the plea by referencing selected portions of the trial transcripts, omitting the defendant’s child hearsay statements which were admitted, making references to certain regulations and supplementing pleadings from statements of others and other cases. This exceeds the record that was presented at the trial court.

The position he now takes also contradicts Bettys’ own statement in the guilty plea where he indicated: “ I agree there is a factual basis for the plea to a *more serious charge* based upon the reading of the declaration for determination of probable cause filed with the court February 19, 2010.” CP 124.

Finally, Bettys' additional materials and references are to a defense to the charge alleged and to which he plead guilty. The other evidence in the case could lead a jury to conclude the defendant is guilty.³

Bettys has not established that the record before the trial court at the time of the guilty plea was inadequate to believe a jury could find him guilty.

3. The defendant agreed to his prior convictions, their scoring and the prior offense had not remained washed out.

Bettys contends his prior conviction occurring prior to his fifteenth birthday should not have been included in his offender score. Opening Brief of Appellant at page 24-5. He contends that since they washed in a prior judgment and sentence they should remain washed out.

At the outset, the State notes that the defendant and his counsel specifically agreed to his prior history and the scoring of those offenses in the guilty plea form. CP 117. In addition, his prior juvenile convictions were never vacated and no vested right exists to scoring of prior convictions.

The legislature amended the definition of "criminal history" in 2002. LAWS OF 2002, ch. 107, § 2(13); *State v. Varga*, 151 Wn.2d 179, 193, 86 P.3d 139 (2004). Before the amendment, a defendant's "criminal history"

³ In the prior trial, the jury did reach that determination that Bettys was guilty of Child Molestation in the First Degree based upon the trial testimony. Reversal was a result in the improper admission of evidence of prior acts of sexual conduct of Bettys under RCW 10.58.090.

did not include juvenile adjudications that occurred before the juvenile's 15th birthday. *In re Pers. Restraint of LaChapelle*, 153 Wn.2d 1, 4-5, 9-10, 100 P.3d 805 (2004). The 2002 amendment redefined the term "criminal history" to include all prior juvenile adjudications unless they were otherwise vacated. Former RCW 9.94A.030 (13); LAWS OF 2002, ch. 107, § 2(13); RCW 9.94A.525(22); *State v. Varga*, 151 Wn.2d at 193. The definition includes prior convictions that were not used to calculate a defendant's prior offender score under a former version of the SRA. Former RCW 9.94A.030(13)(c); LAWS OF 2002, ch. 107, § 2(13); *State v. Varga*, 151 Wn.2d at 193.

Thus Bettys' prior convictions even if not scored previously, or having washed out under a prior version of the SRA, are scored under the current version of the SRA. Here the current offense of conviction occurred in 2008 or 2009. CP 115.

Contrary to Bettys assertion, "[u]nder the current SRA, no offender has a vested right in the definition of criminal history in effect when a previous crime was committed." *LaChapelle*, 153 Wn.2d at 12.⁴ And the

⁴ Bettys appears to have been taken astray by citing to *State v. Cruz*, 139 Wn.2d 186, 895 P.2d 384 (1999) which has been superseded by statute.

In contrast, the 2002 SRA amendments irrefutably alter the definition of criminal history by adding that "[a] conviction may be removed from a defendant's criminal history only if it is vacated," and "[a] prior conviction that was not included in an offender score calculated

fact it may not have been scored previously does not mean it is not scored in subsequent cases.

The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence.

RCW 9.94A.525(22).

Bettys' offender score challenge fails.⁵

V. CONCLUSION

For the forgoing reasons, John Betty's challenges to his guilty plea and sentencing must be denied and his sentence affirmed.


pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history." LAWS OF 2002, ch. 107, § 2(13)(b), (c). Unlike previous versions of the SRA in *Cruz* and *Smith*, this definition of "criminal history" explicitly includes previously "washed out" convictions. Moreover, the amendments direct sentencing courts to include previously "washed out" convictions if the current version of the SRA requires consideration of such convictions when calculating defendants' offender scores. LAWS OF 2002, ch. 107, § 3(18).

State v. Varga, 151 Wn.2d 179, 193, 86 P.3d 139, 146 (2004).

⁵ Also, it should be noted that Bettys' only requested relief is for remand for resentencing as to opposed to withdrawal of his guilty plea. Brief of Appellant at page 31.

DATED this 29th day of September, 2014.

SKAGIT COUNTY PROSECUTING ATTORNEY

By: 
ERIK PEDERSEN, WSBA#20015
Deputy Prosecuting Attorney
Skagit County Prosecutor's Office #91059

DECLARATION OF DELIVERY

I, Karen R. Wallace, declare as follows:

I sent for delivery by; ☒ [X] United States Postal Service; ☐ [] ABC Legal Messenger Service, a true and correct copy of the document to which this declaration is attached, to: John Bettys, DOC#711306, addressed as HA-01-1L, Coyote Ridge Correction Center, P.O. Box 769, Connell, WA 99326-0769. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Executed at Mount Vernon, Washington this 29th day of September, 2014.


KAREN R. WALLACE, DECLARANT

APPENDIX A

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SKAGIT COUNTY SUPERIOR COURT
STATE OF WASHINGTON

STATE OF WASHINGTON,
Plaintiff,

vs.

JOHN EDWARD BETTYS,
Defendant.

NO: 10-1-00159-9

THIRD AMENDED INFORMATION

TO: JOHN EDWARD BETTYS
DOB: 09/12/1974
LKA: 9434 PADILLA HEIGHTS ROAD #A, ANACORTES, WA 98221
PHY: C/M/HT: 6'04"/300 LBS/BLU EYES/BRN HAIR
ID#: SID#WA15110978; WA DOL#BETTYJE269OK; DOC#711306
AGENCY: APD #09-A05618

By this Amended Information, the Prosecuting Attorney accuses you of the crime of:

COUNT I



Child Molestation in the Third Degree - RCW 9A.44.089 - Class C Felony

On or about and between December 1, 2008 and July 12, 2009, in the County of Skagit, State of Washington, the above-named Defendant, being at least forty-eight (48) months older than MIF, had sexual contact with MIF, who was at least fourteen (14) years old but less than sixteen (16) years old, and not married to the defendant; contrary to Revised Code of Washington 9A.44.089. (Maximum Penalty - Five (5) years imprisonment and/or a \$10,000 fine pursuant to RCW 9A.44.089(2) and 9A.20.021(1)(c), plus restitution and assessments.)

SKAGIT COUNTY PROSECUTING ATTORNEY

DATED: September 26, 2013

By


ROSEMARY H. KAHOLOKULA, WSBA#25026
CHIEF CRIMINAL DEPUTY PROSECUTOR


ORIGINAL

APPENDIX B

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**Superior Court of Washington
For Skagit County**

State of Washington

Plaintiff

vs.

JOHN E. BETTYS,

Defendant

No. 10-1-00159-9

**Statement of Defendant on Plea of
Guilty to Sex Offense
(Felony)
(STTDFG)**

- 10
1. My true name is John Edward Bettys.
 2. My age is 39.
 3. The last level of education I completed was 2 years College
 4. **I Have Been Informed and Fully Understand That:**
 - (a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me.
 - (b) I am charged with:

COUNT 1: CHILD MOLESTATION IN THE THIRD DEGREE.

The elements are: RCW 9A.44.089

Count 1: Between December 1, 2008 and July 12, 2009, in Skagit County Washington, the defendant had sexual contact with another who is at least fourteen years old but less than sixteen years old and not married to the perpetrator and the perpetrator is at least forty-eight months older than the victim.

5. **I Understand I Have the Following Important Rights, and I Give Them Up by Pleading Guilty:**
 - (a) The right to a speedy and public trial by an impartial jury in the county where the crime was allegedly 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 hear and question the witnesses who testify against me;
- (d) The right at trial to testify and 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 unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial.

6. **In Considering the Consequences of My Guilty Plea, I Understand That:**

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a **Standard Sentence Range** as follows:

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	COMMUNITY CUSTODY	MAXIMUM TERM AND FINE
1	9+	60 months		36 months (subject to RCW 9.94A.	5 years &/or \$10,000

*The sentencing enhancement codes are: (RPh) Robbery of a pharmacy, (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude. The following enhancements will run consecutively to all other parts of my entire sentence, including other enhancements and other counts: (F) Firearm, (D) Other deadly weapon, (SM) Sexual Motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9), (P16) Passenger(s) under age 16.

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

The parties agree to the following criminal history and calculation of offender score:

Indecent Liberties	3/20/89	Sent 6/20/89	Skagit, WA Juv. 3 pts
Burglary 2 nd	3/20/90	Sent 6/20/90	Skagit, WA, Juv. 1/2 pt
Burglary 2 nd	4/20/89	Sent 6/20/89	Skagit, WA Juv. 1/2 pt
Rape of a Child 1 st	1/1/90-2/18/93	Sent 9/23/93, 12/19/02	Skagit, WA Adult 3 pts
Rape of a Child 1 st	1/1/90-2/18/93	Sent 9/23/93, 12/19/02	Skagit, WA Adult 3 pts

The two counts of Rape of a Child 1st involve different victims.

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

- (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment and any mandatory fines, fees, assessments, or penalties that apply to my case. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.
- (f) ~~For sex offenses committed prior to July 1, 2000: 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 more than one year, the judge will order me to serve three years of community custody 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.~~

~~For sex offenses committed on or after July 1, 2000 but prior to 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 36 months or up to the period of earned release, whichever is longer. During the period of community custody to which I am sentenced, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.~~

For sex offenses committed on or after September 1, 2001: (i) Sentencing under RCW 9.94A.507: If this offense is any of the offenses listed in subsections (aa) or (bb), below, the judge will impose a maximum term of confinement consisting of the statutory maximum sentence of 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 appropriate. 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, which may include electronic monitoring, and I may be required to participate in rehabilitative programs.

(aa) 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
Any of the following offenses with a finding of sexual motivation:	
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
Assault of a child in the second degree	Burglary in the first degree

(bb) 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:

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
Any of the following offenses with a finding of sexual motivation:	
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
Assault of a child in the second degree	Burglary in the first degree

(ii) If this offense is a sex offense that is not listed in paragraph 6(f)(i), then in addition to sentencing me to a term of 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, or if my crime is failure to register as a sex offender, and this is my second or subsequent conviction of that crime, the judge will sentence me to community custody for 36 months or up to the period of earned release, whichever is longer. During the period of community custody to which I am sentenced, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me, which may include electronic monitoring.

For sex offenses committed on or after March 20, 2006: For the following offenses and special allegations, the minimum term shall be either the maximum of the standard sentence range for the offense or 25 years, whichever is greater:

1) If the offense is rape of a child in the first degree, rape of a child in the second degree or child molestation in the first degree and the offense includes a special allegation that the offense was predatory.

2) If the offense is rape in the first degree, rape in the second degree, indecent liberties by forcible compulsion, or kidnapping in the first degree with sexual motivation and the offense includes special allegation that the victim of the offense was under 15 years of age at the time of the offense.

3) If the offense is rape in the first degree, rape in the second degree with forcible compulsion, indecent liberties with forcible compulsion, or kidnapping in the first degree with sexual motivation and this offense includes a special allegation that the victim of the offense was, at the time of the offense, developmentally disabled, mentally disordered, or a frail elder or vulnerable adult.

Community Custody Violation: If I violate the conditions of my community custody, the Department of Corrections may sanction me up to 30 days confinement per violation and/or revoke my earned early release, or the Department of Corrections may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation.

- (g) The prosecuting attorney will make the following recommendation to the judge:
Count 1: 60 months under RCW 9.94A.507(3) and community custody under RCW 9.94A.507(5) "for any period of time the person is released from total confinement before the expiration of the maximum sentence."
Community custody conditions as recommended by the Department of Corrections in the PSI, no contact with victim, sex offender treatment while in prison and compliance with treatment upon release while on community custody, community custody to include a condition of no contact with minor children (subject to determination of treatment provider with respect to contact with his minor son), court costs, assessments and restitution.

[] The prosecutor will recommend as stated in the plea agreement, which is 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 the judge finds substantial and compelling reasons not to do so (except as provided in paragraph 6(f)). I understand the following regarding exceptional sentences:
- (i) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence.
 - (ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine.
 - (iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act.
 - (iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

If the court imposes a standard range sentence, then no one may appeal the sentence. If the court imposes an exceptional sentence after a hearing, either the State or I can appeal the sentence.

- (i) 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.
- (j) I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.

- (k) I will be ineligible to vote until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A.04.079, 29A.08.520.
- (l) Government assistance may be suspended during any period of confinement.
- (m) I will be required to register where I reside, study or work. The specific registration requirements are described in the "Offender Registration" Attachment.
- (n) I will be required to have a biological sample collected for purposes of DNA identification analysis, unless it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense. I will be required to pay a \$100.00 DNA collection fee.
- (o) I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.

Notification Relating to Specific Crimes: If any of the following paragraphs *DO NOT APPLY*, counsel and the defendant shall strike them out. The defendant and the judge shall initial all paragraphs that *DO APPLY*.

- ~~_____ (p) This offense is a most serious offense or "strike" as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the offense for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. In addition, if this offense is (i) rape in the first degree, rape of a child in the first degree, rape in the second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child molestation in the first degree, or (ii) 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, assault of a child in the second degree, or burglary in the first degree, with a finding of sexual motivation, or (iii) any attempt to commit any of the offenses listed in this sentence and I have at least one prior conviction for one of these listed offenses in this state, in federal court, or elsewhere, the offense for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.~~
- _____ (q) **Special sex offender sentencing alternative:** In addition to other eligibility requirements under RCW 9.94A.670, *to be eligible for the special sex offender sentencing alternative, I understand that I must voluntarily and affirmatively admit that I committed all of the elements of the crime(s) to which I am pleading guilty. I make my voluntary and affirmative admission in my statement in paragraph 11.*

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

prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

For offenses committed on or after September 1, 2001: The judge may suspend execution of the standard range term of confinement or the minimum term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.670. If the judge suspends execution of the standard range term of confinement for a sex offense that is not listed in paragraph 6(f)(i), I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater. If the judge suspends execution of the minimum term of confinement for a sex offense listed in paragraph 6(f)(i), I will be placed on community custody for the length of the statutory maximum sentence of the offense. In addition to the term of community custody, I will be ordered to serve up to 180 days of total confinement if I committed the crime prior to July 1, 2005, or up to 12 months with no early release if I committed the crime on or after July 1, 2005; I will be ordered to participate in sex offender treatment; I will have restrictions and requirements placed upon me, which may include electronic monitoring; and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

- ~~_____ (r) If this is a crime of domestic violence, the court may order me to pay a domestic violence assessment of up to \$100.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.~~
- _____ (s) If I am subject to community custody and the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.
- ~~_____ (t) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the judge finds I used a motor vehicle in the commission of this felony.~~
- ~~_____ (u) If I am pleading guilty to felony driving under the influence of intoxicating liquor, or any drugs, or felony actual physical control of a motor vehicle while under the influence of intoxicating liquor, or any drug, in addition to the provisions of chapter 9.94A RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked, or denied. Following the period of suspension, revocation, or denial, I must comply with the Department of Licensing ignition interlock device requirements. In addition to any other costs of the ignition interlock device, I will be required to pay an additional fee of \$20 per month.~~
- ~~_____ (v) For the crimes of vehicular homicide committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)), or felony physical control under the influence (RCW 46.61.504(6)), the court shall add 12 months to the standard sentence range for each child passenger under the age of 16 who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall~~

be served in total confinement, and shall run consecutively to all other sentencing provisions.

- ~~(w) For the crimes of felony driving under the influence of intoxicating liquor, or any drug, for vehicular homicide while under the influence of intoxicating liquor, or any drug, or vehicular assault while under the influence of intoxicating liquor, or any drug, the court may order me to reimburse reasonable emergency response costs up to \$2,500 per incident.~~
- ~~(x) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6[p].~~
- ~~(y) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.~~
- ~~(z) I may be required to register as a felony firearm offender under RCW 9A.41. _____. The specific registration requirements are in the "Felony Firearm Offender Registration" Attachment.~~
- ~~(aa) The offense(s) I am pleading guilty to include a deadly weapon, firearm or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory; they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.~~
- ~~(bb) For crimes committed on or after July 22, 2007: If I am pleading guilty to rape of a child in the first, second, or third degree or child molestation in the first, second or third degree, and I engaged, agreed or offered to engage the victim in sexual intercourse or sexual contact for a fee, or if I attempted, solicited another, or conspired to engage, agree or offer to engage the victim in sexual intercourse or sexual contact for a fee, then a one-year enhancement shall be added to the standard sentence range. If I am pleading guilty to more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement.~~
- ~~(cc) If I am pleading guilty to patronizing a prostitute or commercial sexual abuse of a minor, a condition of my sentence will be that I not be subsequently arrested for patronizing a prostitute or commercial sexual abuse of a minor. The court will impose crime-related geographical restrictions on me, unless the court finds they are not feasible. If this is my first offense, the court will order me to attend a program designed to educate me about the negative costs of prostitution.~~

7. I plead guilty to:

COUNT 1: CHILD MOLESTATION IN THE THIRD DEGREE.

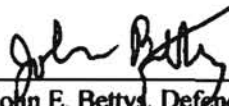
in the Third Amended Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.
9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.
10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.
11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement:


This guilty plea is made pursuant to North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970), State v. Newton, 87 Wn.2d 363, 552 P.2d 682 (1976), State v. Zhao, 157 Wn. 2d 188, 193, 137 P.3d 835, 837 (2006) and In Re Pers. Restraint of Barr, 102 Wn.2d 265, 684 P.2d 712 (1984). Pursuant to this case law, I agree there is a factual basis for the plea to a more serious charge based upon the reading of the declaration for determination of probable cause filed with the court February 19, 2010. I know and understand the evidence that could be used to attempt to convict me on the originally charged offenses (having reviewed the discovery and heard testimony in a prior trial), the elements of the originally charged offense, the elements of the amended charge, that the evidence did not support the amended charge and, that the sanctions or consequences of the amended charges were less onerous to him than the sanctions or consequences of the original charge. With all of this in mind, I make an informed, knowing and intelligent choice to freely and voluntarily enter a plea of guilty to the amended charge.


[XX] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea and for the factual basis for the greater offenses.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment. 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.


John E. Bettys, Defendant

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


Erik Pedersen, Prosecuting Attorney
WSBA# 20015


Catherine McDonald, Defendant's Lawyer
WSBA# 24002

The defendant signed the foregoing statement 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 the entire statement above and that the defendant understood it in full;
- ☐ (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- ☐ (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is attached.

Interpreter's Declaration: I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret, in the _____ language, which the defendant understands. I have interpreted this 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.

Signed at (city) _____, (state) _____, on (date) _____.

Interpreter

Print Name

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

Dated: 9-26-13

Dave Needy
Judge

APPENDIX C

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

2010 FEB 19 PM 1:38

CD

**SKAGIT COUNTY SUPERIOR COURT
STATE OF WASHINGTON**

STATE OF WASHINGTON,
Plaintiff,

vs.

JOHN EDWARD BETTYS,
Defendant.

NO: 10-1-00159-9

**MOTION FOR WARRANT
PROBABLE CAUSE**

COMES NOW the Skagit County Prosecuting Attorney and moves the Court to issue a Warrant to the Defendant:

JOHN EDWARD BETTYS

LKA: 9434 PADILLA HEIGHTS ROAD #A ANACORTES, WA 98221
DOB: SEPTEMBER 12, 1974
DOL: WA BETTYJE269OK

1. I, Erin C. Dyer, am a Deputy Prosecuting Attorney for Skagit County and make this motion in that capacity; and
2. The above-named Defendant is accused of a crimes by a document on file; and
3. Probable cause appears to exist to believe that the defendant committed the offenses charged based on the attached affidavit of Michael S. Hansen, Detective.

SKAGIT COUNTY PROSECUTING ATTORNEY

DATED: February 19, 2010

By: Erin C. Dyer
ERIN C. DYER, WSBA#35585
DEPUTY PROSECUTING ATTORNEY

MOTION FOR WARRANT
(PROBABLE CAUSE) (Revised 9/2000)

ORIGINAL

SKAGIT COUNTY PROSECUTING ATTORNEY
605 S. 3RD ST. - COURTHOUSE ANNEX
MOUNT VERNON, WASHINGTON 98273
PH: (360) 335-0440

VS

JOHN EDWARD BETTYS

AFFIDAVIT OF PROBABLE CAUSE

I Michael S. Hansen, a Detective with the Anacortes Police Department, being duly sworn on oath, deposes and says that on 07/12/09 at approximately 4:30 PM Daniel Edward King (DOB 10/15/85) came into the Anacortes Police Department to report that his 5-year-old step-son, MIF (DOB 03/24/04), had possibly been the victim of sexual abuse. Officer Jacobson spoke with Daniel King while MIF waited with his mother, Andree Mae King (DOB 09/18/85) in the lobby of the police station.

Daniel King explained that Andree King's mother, Laurie Lee Ferrell (DOB 04/24/64), had been visiting with MIF earlier that day. During the visit, Laurie Ferrell reported that MIF grabbed her groin area at some point during the visit. When confronted by Laurie Ferrell and her boyfriend, Kurt Evan Gratias (DOB 04/19/67) about the touching, MIF responded by claiming that his uncle, John Edward Bettys (DOB 09/12/74) had touched him in that spot at some point in the past.

Daniel said both he and Andree King questioned MIF in detail about his allegation that he was touched on or around his groin by John Bettys. MIF again indicated that John had specifically "Poked" his penis from the outside of his clothing. MIF stated that the touching happened once at John's residence at 9434 Padilla Heights Rd., Anacortes, Skagit County, Washington. MIF told Daniel King the incident occurred "A long time ago", but was unable to provide a specific time or date. MIF added that Michael Lee Bettys (AKA "Bacca" - DOB 02/18/81) had been present during the incident. Daniel was unable to coax any additional details from MIF and he was reluctant to speak about the incident. Daniel King stated that he and Andree inspected MIF's bare penis and groin area and did not notice anything unusual.

It should be noted that John Bettys is Daniel King's uncle, and that he and his brother, Michael Bettys ("Bacca"), were John Bettys' sexual abuse victims several years earlier. Michael and Daniel's testimony led to John's conviction and incarceration and current status as a Registered Sex Offender (RSO). Daniel claimed that Andree's family hates and judges John for these

reasons and they do not want MIF spending any time around John. Daniel noted that he believed MIF had been coached and/or instructed by Andree's family to make these claims, due to their hatred of John and his history of sexual abuse towards young boys.

As it appeared only Daniel King had been interviewed during the initial report, I called Andree King on 07/13/09 at approximately 11:00 AM. When asked to clarify what MIF had disclosed to her Andree King confirmed that MIF relayed that John Bettys had "poked" and "pulled" at his penis with his hand "some time ago". Andree King said that MIF was unclear about how long ago this might have occurred, or if it occurred on more than one occasion, but she expressed her concern as John Bettys molested her husband, Daniel King, when he was approximately five years of age. Andree stated that historically, John Bettys initiated his pattern of molestation by playfully touching, but later progressed to pulling/masturbating his victims and performing Fellatio. Andree reiterated her concern about what John Bettys may have done based on a report by MIF that he was sore around the area of his penis and that he has been acting out in what she perceives as an age inappropriate sexual manner lately, i.e. grabbing at his grandmother, Laurie Ferrell's groin area.

On 07/16/09^{ccp} at 10:00 AM, Child Interview Specialist Nicol Flaco conducted a forensic child interview of MIF at the Mount Vernon Child Advocacy Center (CAC). During the interview Daniel King and Andree King spoke with CAC Director Mary Lafond.

During the interview MIF explained that he had a secret he needed to tell the police. MIF went on to speak about his living situation and school. When asked if anyone comes to visit the home, MIF stated that "John" comes to take him to school. When asked about John's identity, MIF did not answer, but instead asked Flaco if she could come to his house and start taking him to school instead. Flaco explained that she had her own children to take to school. MIF suggested she could take her kids to school, and then come get him from his home on Stevenson Road and bring him to school afterward.

Flaco then asked MIF about what he was there to talk with her about. MIF stated that "John" (Bettys) touched him two times and told him 'Don't tell anyone'. While describing the touching to Flaco, MIF motioned several times toward his groin. When asked where this touching

occurred MIF told Flaco that he had been at "Grandma Sylvia's" house (known to be a Sylvia Carolyn Bettys - DOB 12/07/41 - who lives in a trailer adjacent to John Bettys) shortly after moving into "Grandma's" (believed to be Deeann Joy Thomas - DOB 09/01/42). MIF believed it had been daytime and said that he had been in the living room sitting on the couch when John Bettys moved closer to him and asked 'Hey, can I do something?'. MIF said he replied 'No', but that John touched him anyway. When describing the touching, MIF said John's hand had been over his clothing and that he softly touched what MIF identified as his "penis". MIF said being touched by John made him "pretty-pretty mad" and that it made his body "angry" and his "tummy growl". MIF said he confronted John about touching him but that John only laughed at him and told MIF not to tell anyone or he would get in trouble. MIF said he told anyway but that he didn't get in trouble. Instead, John was in "big trouble" for touching him. When asked how he knows John, MIF explained that he see's him often. MIF said however that he doesn't want to see John any more as he doesn't want him touching him like that again.

When asked if anyone had told him what to say during this interview, MIF indicated that they had not and that what he was saying was the truth.

After completing the interview MIF left the CAC with Andree and Daniel King and I spoke with Mary Lafond and Nicol Flaco further about the interview. Lafond expressed her concern that Andree and Daniel seemed to be questioning MIF's truthfulness in this incident and maintained a relationship with John Bettys even after the allegation was put forth to law enforcement. Lafond also indicated that Daniel and Andree mentioned that John Bettys had been responsible for driving MIF to school over the last few months. This gave significance to MIF's questions toward Flaco about driving him to school as the suspect in this incident has had that role in MIF's life up to this point.

On 07/17/09 I spoke with Deeann Thomas reference this incident. Deeann Thomas expressed her concern as MIF had been allowed to stay at John Betty's residence once or twice a week for the past few months. Deeann Thomas also stated that John Bettys has taken on the responsibility of driving MIF to school each day. Though there have been efforts to have another adult accompany him each day, Deeann Thomas was aware of several times which MIF and John were alone together during these trips to school.

On 07/17/09 I spoke with Laurie Ferrell about this incident. Laurie Ferrell explained how MIF had grabbed her when she carried him and how she confronted him about the inappropriate touching. Laurie Ferrell said MIF got upset over the conversation and began tipping over chairs and throwing things around the residence. Laurie Ferrell was able to calm MIF down and brought him outside where she asked MIF what was wrong and why he was behaving that way. After some hesitation, MIF told Laurie Ferrell that John Bettys "poked" him in the "private area" and made a hand gesture around the area of his groin. MIF told Laurie Ferrell this happened "a long time ago" and asked to speak with Laurie's boyfriend, Kurt Gratias further about the matter. Laurie Ferrell said Kurt Gratias and MIF spoke nearby where MIF relayed similar information to him about John Bettys touching him on or around his groin. Laurie Ferrell said she later told Andree King and Daniel King about what MIF had said. Laurie also expressed her concern as MIF had been at John Betty's residence unsupervised several times over the previous months. Laurie also said that John Bettys has been driving MIF to school every day for some time.

When asked, Laurie Ferrell adamantly denied coaching MIF in any way and suggested a reason as to why Daniel King and Andree King might be inclined to defend John Bettys. Laurie Ferrell suggested that Daniel King owes John Bettys money and also pays him for work performed on the Bettys property. The two have been close, despite John Bettys molesting Daniel King over a 5-year period of time when Daniel was a child. Laurie Ferrell also suggested that Andree and Daniel might be concerned with how it might reflect on them as parents should it be confirmed that they allowed their child unsupervised time with John Bettys, a registered sex offender.

On 07/17/09 Stanton Thomas Ferrell (DOB 02/24/84), approached me at the Anacortes Police Station and asked to speak with me about this incident. Stanton was brought into the interview room and relayed to me that MIF had told him about a separate incident involving John Bettys. Stanton told me that he had been playing soccer with MIF outside his grandmother's residence on Stevenson Rd. At one point Stanton Ferrell went to give MIF a hug and MIF recoiled, saying he didn't want to be touched. Stanton asked MIF what was wrong, believing it was out of character for MIF. Stanton said MIF told him that John Bettys had touched him in a way that he didn't like and that John should not have done that to him. Stanton Ferrell asked MIF what had occurred and MIF began telling him about watching a movie with John which involved two naked girls. Stanton Ferrell said he couldn't listen to any more and told MIF to speak with Laurie Ferrell.

further about the matter. Stanton Ferrell said he wasn't sure if MIF told Laurie Ferrell and he never provided her with the details of the conversation with MIF.

On 07/20/09 at approximately 1:50 PM, Michael Bettys ("Bacca") came into the Anacortes Police Station to speak with me about this incident. Michael Bettys suggested there was never an incident when John Bettys was left alone with MIF, adding that everyone in the family knows that John has a problem with children and is a registered sex offender. Michael Bettys suggested that MIF might be misinterpreting something as inappropriate while John Bettys and he were playing together or that MIF was coached to make this allegation towards John Bettys. I asked Michael Bettys if he believed MIF would follow through with a lie like this, knowing that John Bettys would get in trouble over the allegation. Michael Bettys would not call MIF a liar and stated that he believed if MIF was in an interview situation away from parents that he would be truthful about what really occurred.

I asked Michael Bettys about his history with John Bettys. Michael Bettys confirmed that he was about 5 and John Bettys was in his early teens when John Bettys molested him. Michael Bettys said the molestation began as exploratory touching over the clothing, but progressed to skin-to-skin contact, then Fellatio and sodomy. Michael Bettys said that he is aware that John Bettys has a problem being around children, but again reiterated that the family watches him every second that he's around kids and this therefore could not have happened.

On 07/22/09 at approximately 12:00 noon, John Bettys came into the Anacortes Police Station to speak with me about this incident. John Bettys was brought into the detective's interview room and was advised that he was not under arrest and was therefore free to leave at anytime. I told John Bettys that the interview room was recorded for both audio and video and that his remaining in that room and speaking with me was providing his consent for that recording to continue. John Bettys said he understood and continued with the interview.

At approximately 12:10 PM, I gave John Bettys a written interview packet which he completed at 2:46 PM. In the interview packet John Bettys wrote that he had never been alone with MIF at any time. John Bettys wrote that he has had very little interaction with MIF, as both MIF's grandma (Laurie Ferrell) and great grandma (Deeann Thomas) are aware that he is a registered sex offender and have issues with him being allowed to be around MIF or his younger brother,

Wyatt King. John Bettys wrote that he believed Laurie Ferrell was making an attempt to take MIF from Andree and Daniel King and coaching MIF to make this allegation against him to facilitate this attempt to gain custody. John Bettys states in the interview packet that he would be willing to take a polygraph in order to prove he is telling the truth with regards to this incident.

After completing the written interview packet, John Bettys expanded upon his statement adding that he and MIF only have limited contact but acknowledged that he has in fact been driving MIF to school every day. John Bettys wrote that MIF's mother or father "are almost always there" but when they aren't, he has always arranged to have another adult present to supervise his trips to school with MIF. John Bettys volunteered that he believed MIF is very body conscious and said that MIF, at 5-years-of-age, is very stand-offish and does not allow for any opportunities for physical contact.

After he completed his written interview I offered John Bettys the opportunity to take a polygraph exam reference this incident. John Bettys agreed and I brought in Swinomish Police Assistant Chief/Polygraph Examiner Glenn Hutchings. John had a cigarette outside the building while Asst. Chief Hutchings set up his instrumentation. At approximately 3:20 PM, John Bettys was let him back into the police station, walked back to the detective's interview room and preceded with the polygraph examination.

Asst. Chief Hutchings again advised John that he was not under arrest and was free to leave at any time during the exam process. John stated he understood and continued with the polygraph interview. Asst. Chief Hutchings outlined the allegations made by MIF to which John Bettys stated he had never watched TV with MIF at his residence and had never touched MIF on or around his groin, even in a playful manner that could be misinterpreted as sexual in nature. After the interview, Asst. Chief Hutchings ran two exams in which the following relevant questions were asked:

Did you put your hand on the clothing of MIF near his penis?

Did your hand ever touch on, or around MIF's groin area?

Have you ever touched MIF for sexual purposes?

After reviewing the results of the polygraph exam, Asst. Chief Hutchings indicated to John Bettys that he was seeing clear signs of deception when answering the relevant question involving the touching of MIF. Asst. Chief Hutchings expressed his opinion that these findings strongly suggested that John Bettys was withholding relevant information reference this allegation of touching. When confronted by the indication that there has been some touching of MIF on his part, John Bettys indicated that there in fact was touching between the two, but stated that the touching was not for sexual purposes.

John Bettys went on to describe an incident in which he disciplined MIF by giving him a "time out" for not listening. During the time out MIF was told to sit on a couch nearby and John Bettys said it was necessary to hold MIF on the couch due to his misbehavior. John Bettys described holding MIF's knees and thighs, but asserted that Daniel King was present during the incident. Asst. Chief Hutchings left the room and I proceeded to interview John Bettys further about these allegations.

John Bettys reiterated the incident involving the "time out" but went on to describe other incidents involving physical contact between him and MIF. John Bettys described "wrestling" with MIF on at least two occasions. John Bettys described this "wrestling" as pushing MIF back and forth between him and Marissa Bettys and tickling MIF on his sides, under his arms, down his legs, on his knees and around his thighs. John Bettys also described receiving hugs from MIF on at least two occasions. John Bettys also described an incident in which MIF climbed up on his lap while John Bettys was visiting Daniel King and Andree King at their residence. John Bettys described touching MIF's knee at that time but again stated that no inappropriate touching occurred during any of these incidents.

I asked John Bettys why he initially stated that there no contact whatsoever between him and MIF and why he described MIF as stand-offish when it came to physical touching in general. John Bettys did not have an answer, but only stated again that he has not been unsupervised with children and therefore could not have touched MIF inappropriately

John Bettys acknowledged that MIF has spent the night on at least one occasion. John Bettys described his wife being present during that night and that MIF was sent to take a bath or change

clothes at one point. John Bettys described that when MIF was in the bathroom at the residence, that he insisted in closing the door when he noticed John Bettys could see him changing clothes. John Bettys stated that Marissa Bettys was home the whole time and again, that he could not have been alone with MIF at any time while he was in the residence.

John Bettys acknowledged that he knows he has a problem being around children and that fact worries him when spending time around his own infant child. John Bettys said again that because of this problem, he makes sure that he is never unsupervised around kids. John Bettys continued to suggest he has never had the opportunity to be left unsupervised with MIF, despite suggestions to the contrary. John Bettys walked out of the office at approximately 6:15 PM and suggested he would be willing to take an additional polygraph tests to clarify this situation further.

On 07/30/09 at approximately 12:00 noon Kurt Gratias came into the Anacortes Police Station. Kurt Gratias relayed how MIF's disclosure to him how John Bettys had touched his genitalia or groin area. Kurt Gratias' version of events was consistent with what Laurie Ferrell had told me earlier. Kurt said MIF told him that John Bettys had "poked" him in his genital area and motioned towards his groin. When asked when this occurred MIF told Kurt Gratias 'a long time ago' and mentioned that it happened a 'couple' times. Kurt Gratias denied any allegations that he coached MIF in any way or encouraged him to falsify or exaggerate any part of this incident. Kurt Gratias said when he spoke with MIF, he didn't mention any names, or suggest anything to MIF, but only asked questions.

On 07/31/09 at approximately 10:30 AM I contacted Leah L. Lattimer (DOB 06/03/90) at her residence at 903 35th St., Anacortes. Leah Lattimer used to live with Deeann Thomas, Andree King and Daniel King and their children MIF and Wyatt King at 8552 Stevenson Rd. Anacortes. Leah Lattimer said that while living with MIF, she found MIF to have some difficulties with honesty and observed him embellish stories and be less than truthful on several occasions. Leah Lattimer described these incidents however as situations where MIF was trying to avoid getting in trouble and noted that they were not malicious lies intended to hurt anyone else or get anyone else in trouble.

Leah Lattimer said she did not believe anyone had told MIF what to say and that she was aware of an incident in which Stanton Ferrell noticed MIF acting strange and not wanting to be touched or hugged upon arriving home from John's residence. Leah Lattimer stated that John would pick MIF up two or three times each month in order to spend the night at his residence at 9434 Padilla Heights Rd. Leah Lattimer said she too noticed that after staying at John's house for any length of time MIF would be somewhat distant and "stand-offish". Leah Lattimer also noted that MIF often refused to eat after coming from John's house. Leah Lattimer described MIF as very active and touchy with others, but upon returning from John Bettys' he would refuse hugs and tell people he did not want to be touched. Leah Lattimer believed this was out of character for MIF, and was aware that Stanton Ferrell had asked MIF if anything had happened between him and John Bettys. At that time Leah Lattimer was not aware of any disclosure made by MIF. I asked Leah Lattimer if she knew anyone who might have coached MIF or coerced him into saying something against John Bettys and she stated she did not believe anyone would do such a thing.

Leah Lattimer also indicated that over the last few months of school, John would pick MIF up and take him to Whitney Elementary. Leah Lattimer stated that most days John's wife was present, but she remembered a few occasions where John would be unsupervised with MIF. Leah Lattimer also relayed that "on numerous occasions" John would pick up MIF well before the time school was scheduled to begin. Leah Lattimer said she felt this was suspicious.

On 08/03/09 at approximately 12:00 noon, Kathi Marie Tjeerdsma (DOB 02/26/67) came into the Anacortes Police Station to speak with me about this incident. Kathi Tjeerdsma explained that she is John Bettys sister, Daniel King's aunt and is somewhat familiar with the allegation that John has touched MIF in some way.

Kathi Tjeerdsma explained that on July 7th, 2009 she learned that MIF had been staying with John Bettys & Marissa Bettys and that MIF was scheduled to stay with the couple at their residence for the remainder of that week while Deeann Thomas was in the hospital. Kathi Tjeerdsma said she relayed this information to MIF's aunt, Sherry Dee Veatch (DOB 11/02/62), and expressed her concern to her based on John's history as a sex offender. Sherry and her son, Jacob Joseph Rothschild (DOB 01/06/82) went out to 9434 Padilla Heights Rd. and picked up MIF from the property and MIF stayed with them for the remainder of the week. Kathi Tjeerdsma expressed her opinion that she did not believe John would re-offend, but also stated

that she would never allow her grandchild to stay with him at his residence like that, just in case she was wrong.

On 08/04/09 Marissa Susan Bettys (DOB 11/10/88) came into the Anacortes Police Station asking to speak with me about this incident. Marissa asked a number of questions about the case and MIF's allegations. I advised Marissa Bettys that the matter was still under investigation. Marissa Bettys asserted that she has never left John Bettys alone, with or without children present. Marissa Bettys explained that John Bettys seems to dwell on his history and becomes distant and withdrawn when he is left alone. I pointed out to Marissa Bettys that I did not believe the assertions that John Bettys is never left alone with children. Marissa Bettys restated that she not only doesn't leave John Bettys alone with children, but doesn't leave him alone by himself, ever. I asked Marissa Bettys where John Bettys was at that very moment. When she didn't answer, I asked Marissa Bettys where Harley Bettys, the couple's young child, was at that time, since neither John Bettys nor Harley Bettys were at the police station at that time. Marissa Bettys looked upset and unwilling to answer, so I asked her if she had possibly left John Bettys alone and unsupervised with their child during the period of time she had come into the police station to speak with me about this incident. Marissa Bettys didn't deny this possibility, but only got up and left the office angry.

On 08/06/09 at approximately 12:15 PM John Bettys came into the Anacortes Police Station to speak with me again reference this incident. John Bettys was brought into the detective's interview room and advised that the room was recorded for audio and video. When asked if he was willing to allow the recording to continue, John Bettys said he was. John Bettys was then advised of his rights printed on the Anacortes Police Department Recorded Statement Form. John Bettys acknowledged his understanding of his rights and agreed to waive those rights by signing the form and speaking with me further about this incident.

John confirmed that MIF had spent the night at his residence a few times over the last few months. John Bettys said that during one of the more recent incidents, MIF was dropped off by Andree King and Daniel King to spend the week with he and Marissa Bettys but spent only one night at the residence before Andree King asked John Bettys to bring MIF back home. John said he has had contact with Daniel King and Andree King almost every week since this incident was reported and that they have expressed their belief that he did not touch MIF in any way. I

pointed out to John Bettys that it was clear to me that he was not been forthcoming regarding this incident and has only provided additional information after being caught in lies about his relationship and interactions with MIF. John Bettys suggested again that he was never unsupervised with MIF and that no inappropriate touching occurred between him and MIF.

When I brought up the results of the failed polygraph, John Bettys stated that since there was no known specific date or time in which these alleged incidents occurred, that it was unlikely that anything could be proven. When urged to be truthful about this incident, John Bettys got up at that time and suggested that he needed to speak with his attorney before saying anything else reference this matter. John Bettys was walked out of the office left the police station at that time.

On 08/14/09 at approximately 9:15 AM, Daniel King and Andree King came into the Anacortes Police Station they completed written statements regarding this incident.

In her written statement, Andree King described how her son, MIF [REDACTED] disclosed to her mother that John Bettys had touched his "pee-pee". Andree King stated that she and Daniel King confronted MIF about this and he continued to assert that he was telling the truth about how John Bettys had touched him. Andree King said MIF would not lie knowing that John would get in trouble and he has remained consistent and firm in his account of what occurred. Andree King acknowledged that she and Daniel King owe John Bettys money for a car and repair work performed. Andree King also acknowledged how MIF has spent the night at John Bettys residence "often" over the last few months and that John Bettys has been driving MIF to school for the past 4-6 months at the cost of \$30 per month. Andree King said John Bettys was usually accompanied by his wife, Marissa Bettys, but was alone 4 or 5 times. Andree King wrote that John usually picked up MIF from the residence at 11:30 AM each day and indicated Whitney School (1200 M Ave., Anacortes) was scheduled to start each day at 12:15 PM (45 minutes later). The Stevenson Road address to Whitney School was determined to be a 10-minute drive. Andree also mentioned that John and Marissa would often take MIF out to lunch after school or out to the property at 9454 Padilla Heights Rd. after school.

After Daniel King completed his written statement he appeared very anxious. After handing over his written statement he left quickly. As I read through Daniel Kings statement where he described how the disclosure by MIF came about. Daniel King noted that he felt MIF was

inconsistent with what he was describing and specifically noted that he changed his account of who was present and who had left the trailer and at what specific time. Daniel King was also concerned that MIF could not specify the exact time and date when this incident occurred. When he confronted MIF about lying, MIF remained firm, but Daniel King was still not convinced. Daniel King explained the money he owes John Bettys and suggested that MIF stayed the night at John Bettys residence on only one occasion. Daniel King suggests in his statement that he believes his wife's family is manipulating the situation in order to get John Bettys in trouble and that they have a history of causing problems for John due to his history as a sex offender.

Subsequent investigation revealed a complaint made directly to Crime Prevention Officer Del Farrell during the later part of the 2008-2009 school year. Officer Farrell was contacted by Whitney School Principal, Kevin Christopher Schwartz (DOB 09/24/65), reference several parents who had observed and recognized John Bettys as a Registered Sex Offender. The parents approached school staff, including teachers Louise Kay Boyd (AKA: Louise Kay McKnight - DOB 10/08/70), Terry L. McCarroll (DOB 12/09/59) and Cathy J. Lacroix (DOB 06/11/58) with their concerns about a Registered Sex Offender coming and going from the school's campus. No case number was generated at the time of the complaint, as it was determined that Bettys had no restriction preventing him from being on school property, or around children. Parents who expressed their concerns to school staff were identified as John L. Dumas (DOB 01/24/69), Scotts Betts, Matt Kelly Koegel (DOB 03/06/72) and Lindsay Koegel. Speaking with these parents, it was determined that John Bettys was often by himself in a vehicle or on the playground when accompanying MIF before, or waiting for him after school.

On 08/27/09 I received a call from Andree King reference her being contacted by an attorney representing John Bettys. Andree King said that the attorney was asking to speak with her and MIF and that she didn't want to do so. Andree King was advised that it was up to her who she spoke with regarding this incident, that she was not required to speak with anyone representing John Bettys, and that this case has not been filed with the court and is still under investigation. Andree said she understood and would be telling the attorney not to call her back.

On 09/14/09 Andree King called reference this incident. Andree King indicated that while speaking with MIF that he "out of the blue" told her that he "lied about something" and needed to "tell her the truth". Andree said when he asked MIF what he was referring to, MIF replied

"John never touched me". Andree said she did not ask MIF any more questions and wanted to make me aware of this recantation as soon as possible. Andree King suggested this occurred 09/06/09. I asked Andree King to come in and provide a statement regarding this development as soon as possible. Andree said she would call me first thing the following morning.

A short time after speaking with Andree King I received a call from Catherine McDonald, the attorney representing John Bettys in this matter. McDonald stated that she had some information relevant to this investigation. McDonald stated that her investigator, Pandora Eyre, had been speaking with Daniel King over the phone on 09/04/09 and had overheard MIF recant his allegations that John Bettys had touched him. McDonald said that Pandora Eyre would be willing to complete a statement and fax it to me the following day.

On 09/15/09 at approximately 10:30 AM I called and spoke with Andree King about coming in and providing a statement reference this matter. Andree King agreed to come in later that afternoon and speak with me. When asked again how the recantation took place, Andree King explained that during the phone conversation between Daniel and Eyre that she took MIF out of the room and asked him again about the incident between him and John Bettys. Andree King said that she again told MIF that he would not get in trouble if he just told the truth about what had occurred. Andree King said that MIF was hesitant to say anything, but then said "John didn't touch me". Andree said she was relieved to hear MIF's recantation and brought him into the room where Daniel was still speaking over the phone with Pandora Eyre. Andree King said she relayed what MIF had said and did not ask him any more questions about the incident or why he lied about the situation. While speaking with Andree King she acknowledged that she and Daniel had actually met with Pandora Eyre at Starbucks some time before MIF's recantation and that she and Daniel King had at least two telephone conversations with Eyre prior to that meeting. Andree King said she would be in later that day and provide a written statement reference this matter.

After speaking with Andree I called and left a message for Catherine McDonald asking that Pandora Eyre provide some type of documentation for the other meeting(s) and calls between her and Daniel King and Andree King that occurred prior to, and since MIF's recantation.

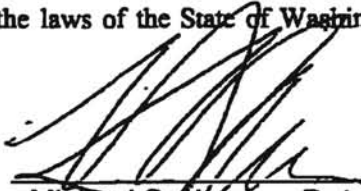
On 09/15/09 at approximately 2:00 PM I received a call from Catherine McDonald reference this incident. McDonald confirmed that there were additional meetings with Andree King and Daniel King that her investigator did not document in her statement. Catherine McDonald told me that her investigator was re-writing her statement at that time and would be sending the corrected version once it was complete.

On 09/15/09 at approximately 3:00 PM I received a phone message from Daniel King indicating that due to Andree King's health issues that the couple would not be able to come in and speak further about this incident until the later part of the following week.

On 09/24/09 at approximately 9:30 AM, Andree King called and suggested she would be in later that morning in order to provide a written statement reference ~~Michael F. [redacted]~~'s recantation regarding John Bettys. Approximately 30 minutes later, I received a voice mail message from Andree King saying that she would not be coming in after all, but would be sending her statement in with her grandmother, Deeann Thomas. At approximately 11:30 AM, Deeann came into the police station and gave me the typewritten statement signed by Andree.

Deeann Thomas again expressed her belief that Andree King and ~~Michael F. [redacted]~~ were being pressured about this incident by Daniel King. Deeann Thomas described how Andree King initially did not want to speak with attorneys representing John Bettys, but was encouraged by Daniel King to do so. Deeann Thomas told me that shortly after speaking with Investigator Pandora Eyre, Daniel King returned home from the Bettys family property. Deeann said that Daniel was very happy about the recent development and told Andree that "Grandma Sylvia" thanked her for what she had done. Deeann took that to mean that Andree's assistance in getting Miccah to recant his statement about John Bettys molesting him.

I hereby certify, under penalty of perjury, under the laws of the State of Washington, that the foregoing statements are true and correct.

 # 441
Michael S. Hansen, Detective #441
Anacortes Police Department

Dated this 24th day of September, 2009 at Anacortes, Washington.

APPENDIX D

2013 NOV 26 PM 1:36

**Superior Court of Washington
County of Skagit**

State of Washington, Plaintiff,

vs.

JOHN EDWARD BETTYS,
Defendant.

SID: WA15110978

DOB: 09/12/1974

Agency No: APD 09-A05618

No. 10-1-00159-9

Felony Judgment and Sentence – (FJS)

Prison

☒ exceptional RCW 9.94A.712 and RCW 9.94A.535

☒ Prison Confinement (Sex Offense and Kidnapping
of a Minor)

☒ Clerk's Action Required, para 2.1, 4.1, 4.3a,
4.3b, 5.2, 5.3, 5.5 and 5.7

☐ Defendant Used Motor Vehicle

I. Hearing

- 1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer, and the (deputy) prosecuting attorney were present.

II. Findings

- 2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon plea, on 9/26/2013:
Child Molestation in the Third Degree - RCW 9A.44.089 - Class C Felony, Count I; DOV: 12/01/2008 – 7/12/2009

as charged in the Third Amended Information.

(If the crime is a drug offense, include the type of drug.)

☐ Additional current offenses are attached in Appendix 2.1a.

☒ The defendant is a sex offender subject to an exceptional indeterminate sentence under RCW 9.94A.712 and RCW 9.94A.535 and under conditions as set forth at page 4-5.

The jury returned a special verdict or the court made a special finding with regard to the following:

☐ The defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage a victim of child rape or child molestation in sexual conduct in return for a fee in the commission of the offense in Count _____. RCW 9.94A.839.

☐ The offense was predatory as to Count _____. RCW 9.94A.836.

☐ The victim was under 15 years of age at the time of the offense in Count _____. RCW 9.94A.837.

Felony Judgment and Sentence (FJS) (Prison)
(Sex Offense and Kidnapping of a Minor Offense)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (09/2012))

ORIGINAL

- [] The victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult at the time of the offense in Count _____. RCW 9.94A.838, 9A.44.010.
- [] The defendant acted with **sexual motivation** in committing the offense in Count _____. RCW 9.94A.835.
- [] This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- [] The defendant used a **firearm** in the commission of the offense in Count _____. RCW 9.94A.602, 9.94A.533.
- [] The defendant used a **deadly weapon other than a firearm** in committing the offense in Count _____. RCW 9.94A.602, 9.94A.533.
- [] For the crime(s) charged in Count _____, **domestic violence** was pled and proved. RCW 10.99.020.
- [] Count _____, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- [] The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count _____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- [] Count _____ is a **criminal street gang-related felony offense** in which the defendant compensated, threatened, or solicited a **minor** in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- [] Count _____ is the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang member** or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A.____.
- [] The defendant committed [] **vehicular homicide** [] **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- [] Count _____ involves **attempting to elude** a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- [] In Count _____ the defendant has been convicted of **assaulting a law enforcement officer** or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant intentionally committed the assault with what appeared to be a firearm. RCW 9.94A.831, 9.94A.533.
- [] Count _____ is a felony in the commission of which the defendant used a **motor vehicle**. RCW 46.20.285.
- [] The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- [] In Count _____, assault in the 1st degree (RCW 9A.36.011) or assault of a child in the 1st degree (RCW 9A.36.120), the offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum term of 5 years (RCW 9.94A.540).
- [] For the crime(s) charged in Count _____, **domestic violence** was pled and proved. RCW 10.99.020.
- [] In Count _____ the defendant had (number of) _____ passenger(s) under the age of 16 in the vehicle. RCW 9.94A.533.
- [] Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score. RCW 9.94A.589.
- [] **Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):**

Crime	Cause Number	Court (County & State)	DV* Yes
1.			
2.			

* DV: Domestic Violence was pled and proved.

- ☐ Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History (RCW 9.94A.525):

	Crime	Date of Crime	Date of Sentence	Sentencing Court (County & State)	A or J Adult, Juv	Type of Crime	DV* Yes
1	Burglary	3/20/89	6/20/89	Skagit, WA	J	B	
2	Indecent Libs	6/1/88	6/20/89	Skagit, WA	J	B	
3	Burglary 2°	4/20/90	6/5/90	Skagit, WA	J	B	
4	TMVWOP (washed)	4/30/90	6/5/90	Skagit, WA	J	C	
5	Theft 2°/TMVWOP (washed)	1/16/91	1/17/91	Idaho	J	F	
6	Malicious Injury (washed) (misd.)	1/16/91	1/17/91	Idaho	J	F	
7	Rape Child 1°	1/1/90	9/23/90	Skagit, WA	A	A	
8	Rape Child 1°	1/1/90	9/23/93	Skagit, WA	A	A	

* DV: Domestic Violence was pled and proved.

- ☐ Additional criminal history is attached in Appendix 2.2.

- ☐ The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.

- ☐ The prior convictions listed as number(s) _____, above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525)

- ☐ The prior convictions listed as number(s) _____, above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term
1	9+	III	60 months		60 months	5 yrs/\$10,000

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual Motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9), (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude, (ALF) assault law enforcement w/firearm, 9.94A.533(12), (P16) Passenger(s) under age 16.

- ☐ Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended sentencing agreements or plea agreements are ☐ attached ☐ as follows: _____

2.4 [x] Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence: The exception sentence is set forth at p. 4. - P.S.

The defendant shall receive sex offender treatment.

The basis for the exceptional sentence is that the best interests of the community and the defendant are served in that treatment will help alleviate the potential for recidivism.

The weight of the current evaluation and prior circumstances in sentencing in the 2002 cause number cause the court concern that offenses will continue to occur if treatment is not imposed.

2.5 Legal Financial Obligations/Restitution. The court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. (RCW 10.01.160) The court finds:

☒ That the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

☐ (Name of Agency) _____'s cost for its emergency response are reasonable. RCW 38.02.430.

III. Judgment

3.1 The defendant is *guilty* of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 The Court DISMISSES Counts _____. ☐ The defendant is found NOT GUILTY.

IV. Sentence and Order

It is ordered:

4.1 Confinement and Community Custody.

The court sentences the defendant as follows:

Confinement. RCW 9.94A.712 and 9.94A.535 and **Community Custody.** A term of total confinement and community custody in the custody of the Department of Corrections (DOC):

So long as the Department of Corrections is providing sex offender treatment to the defendant in custody, then this is a RCW 9.94A.712 sentence and the minimum term is 60 months and the maximum term is 60 months.

If the Department fails to commence sex offender treatment by January 1, 2014, then the defendant shall be immediately released from prison and placed on to community custody for the balance of the sixty month prison term. The defendant will immediately (within 30 days) enroll in sex offender treatment with a certified sexual offense treatment provider. The defendant will comply with any and all treatment recommendations and comply with the conditions of Appendix F. Failure to comply with any of these conditions of community custody will result in a hearing before the trial court. The court retains the authority to return the defendant to prison for the balance of the 60 month term or any other terms the court deems appropriate.

While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody;

(6) not own, use, or possess firearms or ammunition (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) for sex offenses, submit to electronic monitoring if imposed by DOC and (10) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody. For sex offenders sentenced under RCW 9.94A.709, the court may extend community custody up to the statutory maximum term of the sentence.

The court orders that during the period of supervision the defendant shall:

[xx] Follow conditions of Appendix F.

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

Credit for Time Served. The defendant shall receive credit for time on this matter – to be credited from February 20, 2010.

4.3a Legal Financial Obligations: The defendant shall pay to the clerk of this court: *IF not already calculated under the prior judgment:*

JASS CODE

PCV	\$ 500.00	Victim assessment	RCW 7.68.035
PDV	\$	Domestic Violence assessment	RCW 10.99.080
CRC	\$	Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
		Criminal filing fee \$200	FRC
		Witness costs \$	WFR
		Sheriff service fees \$	SFR/SFS/SFW/WRF
		Jury demand fee \$	JFR
		Extradition costs \$	EXT
		Other \$	
PUB	\$	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$	Court appointed defense expert and other defense costs	RCW 9.94A.760
FCM/MTH	\$	Fine RCW 9A.20.021; [] VUCSA chapter 69.50 RCW, [] VUCSA additional fine deferred due to indigency RCW 69.50.430	
CDF/LDI/FCD NTF/SAD/SDI	\$	Drug enforcement fund to SCIDEU	RCW 9.94A.760
CLF	\$	Crime lab fee [] suspended due to indigency	RCW 43.43.690
	\$ 100	DNA collection fee	RCW 43.43.7541
FPV	\$	Specialized forest products	RCW 76.48.140
PPI	\$	Trafficking/ Promoting prostitution/Commercial sexual abuse of minor fee (may be reduced by no more than two thirds upon a finding of inability to pay.) RCW 9A.40.100, 9A.88.120, 9.68A.105	
	\$	Other fines or costs for:	
DEF	\$	Emergency response costs (Vehicular Assault, Vehicular Homicide, DUI (vehicle, plane, boat), \$2,500 maximum) RCW 38.52.430	

Agency Name: _____
Agency Address: _____

\$ _____ Total

RCW 9.94A.760

☐ The defendant waives any right to be present at any restitution hearing (sign initials): _____

☐ Restitution. Schedule attached. Appendix 4.3

☐ the above total does not include all restitution which may be set by later order of the court.

An agreed restitution order may be entered. RCW 9.94A.753.

☐ A restitution hearing shall be set by the prosecutor if restitution is sought.

☐ A restitution hearing is scheduled for _____.

☐ The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

☒ All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ _____ per month commencing _____ RCW 9.94A.760.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

☐ The court orders the defendant to pay costs of incarceration at the rate of \$ _____ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760. (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.482.)

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160

4.3b [] Electronic Monitoring Reimbursement. The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____, for the cost of pretrial electronic monitoring in the amount of \$ _____.

4.4 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. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754. This provision does not apply if it is established that the WSP lab already has a sample from a qualifying offense. RCW 10.73.160.

☒ **HIV Testing.** The defendant shall submit to HIV testing. RCW 70.24.340.

4.5 No Contact:

☐ The defendant shall not have contact with _____ (name) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until _____ (which does not exceed the maximum statutory sentence).

☐ The defendant is excluded or prohibited from coming within _____ (distance) of:
☐ _____ (name of protected person(s))'s ☐ home/ residence ☐ work place ☐ school ☐ (other location(s)) _____, or
☐ other location: _____, until _____ (which does not exceed the maximum statutory sentence).

Sexual Assault Protection

[xx] A separate ~~Domestic Violence No-Contact Order or Antiharassment No-Contact Order~~ is filed concurrent with this Judgment and Sentence.

4.6 Other: _____

4.7 **Off-Limits Order.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

4.8 **FORFEITURE OF FIREARMS.** The firearm(s) involved in this case, _____, is (are) forfeited in accordance with the law.

V. Notices and Signatures

5.1 **Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

5.2 **Length of Supervision.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

5.3 **Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

5.4 **Community Custody Violation.**

If you violate any condition or requirement of this sentence you may be sanctioned up to 60 days of confinement per violation. RCW 9.94A.634

5.5 **Firearms.** You may not own, use or possess any firearm unless your right to do so is restored by a superior court in Washington State, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

5.6 **Sex and Kidnapping Offender Registration.** RCW 9A.44.128, 9A.44.130, 10.01.200.

1. General Applicability and Requirements: Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A.44.128, you are required to register.

If you are a resident of Washington, you must register with the sheriff of the county of the state of Washington where you reside. You must register within three business days of being sentenced unless you are in custody, in which case you must register at the time of your release with the person designated by the agency that has jurisdiction over you. You must also register within three business days of your release with the sheriff of the county of the state of Washington where you will be residing.

If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register within three business days of being sentenced unless you are in custody, in which case you must register at the time of your release with the person designated by the agency that has jurisdiction over you. You must also register within three business days of your release with the sheriff of the county of your school, where you are employed, or where you carry on a vocation.

2. Offenders Who are New Residents or Returning Washington Residents: If you move to Washington or if you leave this state following your sentencing or release from custody but later move back to Washington, you must register within three business days after moving to this state. If you leave this state following your sentencing or release from custody, but later while not a resident of Washington you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within three business days after attending school in this state or becoming employed or carrying out a vocation in this state.

3. Change of Residence Within State: If you change your residence within a county, you must provide by certified mail, with return receipt requested or in person, signed written notice of your change of residence to the sheriff within three business days of moving. If you change your residence to a new county within this state, you must register with the sheriff of the new county within three business days of moving. Also within three business days, you must provide, by certified mail, with return receipt requested or in person, signed written notice of your change of address to the sheriff of the county where you last registered.

4. Leaving the State or Moving to Another State: If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within three business days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. If you move out of state you must also send written notice within three business days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

5. Notification Requirement When Enrolling in or Employed by a Public or Private Institution of Higher Education or Common School (K-12): You must give notice to the sheriff of the county where you are registered within three business days:

- i) before arriving at a school or institution of higher education to attend classes;
- ii) before starting work at an institution of higher education; or
- iii) after any termination of enrollment or employment at a school or institution of higher education.

6. Registration by a Person Who Does Not Have a Fixed Residence: Even if you do not have a fixed residence, you are required to register. Registration must occur within three business days in the county where you are being supervised if you do not have a residence at the time of your release from custody. Within three business days after losing your fixed residence you must send signed written notice to the sheriff of the county where you last registered. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county not more than three business days after entering the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. You must keep an accurate accounting of where you stayed during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make you subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

7. Application for a Name Change: If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within five days of the entry of the order. RCW 9A.44.130(6).

5.7 Motor Vehicle: If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.

Conditions (Check all that apply)

Conviction - Complete for DUI or physical control convictions BAC _____ <input type="checkbox"/> No Test <input type="checkbox"/> Refusal <input type="checkbox"/> Drug related <input type="checkbox"/> Mental Health		<input type="checkbox"/> Passenger under age 16
Complete when imposing discretionary ignition interlock requirements <input type="checkbox"/> Discretionary period _____ year(s) _____ months in addition to DOL required		Conviction recommendation (for RCW 46.20.342 only) <input type="checkbox"/> Recommend non-extension

Vehicle Information (You must check either yes or no for all fields)

Commercial Vehicle <input type="checkbox"/> Yes <input type="checkbox"/> No	16 passenger <input type="checkbox"/> Yes <input type="checkbox"/> No	HazMat <input type="checkbox"/> Yes <input type="checkbox"/> No
--	--	--

5.8 Other: _____

Done in Open Court and in the presence of the defendant this date: 11-26-13

Don Needy
Judge

Rosemary H. Kaholokula
Deputy Prosecuting Attorney
Rosemary H. Kaholokula, WSBA
#25026

C McDonald
Attorney for Defendant
Catherine McDonald, WSBA #24002

John Edward Bettys
Defendant
John Edward Bettys

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature: *John Edward Bettys*

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

CAUSE NUMBER of this case: 10-1-00159-9

Interpreter signature/Print name: _____

VI. Identification of the Defendant

SID No. WA15110978

(If no SID complete a separate Applicant card (form FD-258) for State Patrol)

Date of Birth 09/12/1974

FBI No. 240067TA5

Local ID No. SO 20159

Alias name, DOB: UNK

DOC No. 711306

Race:

☐ Asian/Pacific Islander

☐ Black/African-American

☐ Caucasian

Ethnicity:

☐ Hispanic

Sex:

☐ Male

☐ Native American

☐ Other: _____

☐ Non-Hispanic

☐ Female

Fingerprints: I attest that I saw the defendant who appeared in court affix his or her fingerprints and signature on this document.

Clerk of the Court, Deputy Clerk, Wm Churchill

Dated: 11/26/2013

Defendant's signature: [Signature]

Defendant's current address: _____

Officer Initials	Badge/ID#	DNA	FINGERPRINTS	Date
------------------	-----------	-----	--------------	------

ASm

4111

L

11-26-13

Left four fingers taken simultaneously

Left Thumb

Right Thumb

Right four fingers taken simultaneously



SUPERIOR COURT OF WASHINGTON
COUNTY OF SKAGIT

STATE OF WASHINGTON, Plaintiff, vs.

JOHN EDWARD BETTYS, Defendant.
SID: WA15110978 If no SID, use DOB:
09/12/1974

No. 10-1-00159-9

WARRANT OF COMMITMENT

THE STATE OF WASHINGTON TO: The Sheriff of Skagit County(Jail), and to the proper offices of the Department of Corrections.

The Defendant's charges are disposed of as follows:

Child Molestation in the Third Degree - RCW 9A.44.089 - Class C Felony, Count I; DOV: 12/01/2008 - 7/12/2009
GUILTY PLEA

and the court has ordered that the defendant be punished by serving the determined sentence of:

Count	Confinement	Work Release / EHM / Work Crew
1	60 months	
2		
3		

Defendant is ordered to report to Jail Alternatives (North end of Jail) within 10 days of the date of this order and commence sentence by: /jail schedule. ☒ DOC: IMMEDIATE

Defendant shall receive day(s) credit for time served. ☒ Credit to be determined. Credit since Feb 20, 2010.

If eligible and approved by the Skagit County Jail, a portion of your sentence may be served through a Program other than total confinement. The application process can take several weeks and may require paperwork and actions on your part. Violation of any Program rules may result in your arrest and your option to participate in Programs may be revoked. Any remaining time left to be served may be converted to straight jail time. You may also be subject to a probation violation hearing, which may result in additional penalties.

I have read the above and agree to abide by the terms as set forth by the Skagit County Jail.

Defendant: _____

Approved; Attorney for Defendant: *C. J. Donnell*

LEGAL FINANCIAL OBLIGATIONS

Defendant must pay all ordered fines, fee and restitution to the Superior Court Clerk's Office. Contact a Collections Clerk at 360-419-3448 within 10 days of sentencing for amount ordered and acceptable methods of payment. Payments are to begin within 30 days from sentencing, unless otherwise arranged with the Collections Clerk.

NOW, THEREFORE, YOU, THE SHERIFF, ARE COMMANDED to receive the defendant for confinement and placement as ordered in the Judgment and Sentence and noted above.

DATED: 11/26/13

Nancy K. Scott, Clerk

By: *[Signature]*



JAIL CERTIFICATION OF COMPLETION:

I CERTIFY that the above-named defendant COMPLETED his jail sentence:

Date: _____

Officer: _____

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAGIT**

STATE OF WASHINGTON)

Cause No.: 10-1-00159-9

Plaintiff)

v.)

BETTYS, John Edward)

Defendant)

JUDGEMENT AND SENTENCE (FELONY)

APPENDIX F

ADDITIONAL CONDITIONS OF SENTENCE

DOC No. 711306

CRIME RELATED PROHIBITIONS:

1. ~~Obey all laws.~~ *No new crim law violation.*
2. ~~Have no direct or indirect contact with MIF, the victim of this offense, for life.~~
3. Have no contact with minor children without the presence of an adult who is knowledgeable of the offense and has been approved by the supervising Community Corrections Officer. *or Court upon motion by defendant.*
4. Do not seek employment or volunteer positions which place you in contact with or control over minor children.
5. Do not frequent areas where minor children are known to congregate, such as, but not limited to schools, parks, playgrounds, daycare, as defined by the supervising Community Corrections Officer.
6. Do not date women or form relationships with families who have minor children, unless approved in advance by the supervising Community Corrections Officer and/or therapist, *except for his wife Marissa*
7. Do not remain overnight in a residence where minor children live or are spending the night. *Betty.*

8. ~~Do not possess or consume alcohol and do not frequent establishments where alcohol is the chief commodity for sale.~~
9. Enter in to ~~and successfully complete~~ a sex offender treatment program with a certified provider as approved by your Community Corrections Officer.
10. Do not possess or consume ^{unlawful} controlled substances unless you have a legally issued prescription.
11. Your residence, living arrangements and employment must be approved by the supervising Community Corrections Officer.
12. Participate in ^{urinalysis} ~~urinalysis~~, breathalyzer, and polygraph examinations as directed by the supervising Community Corrections Officer.
13. Report to and be available for contact with the assigned Community Corrections Officer as directed.
14. Pay supervision fees as determined by the Department of Corrections.
15. Defendant shall not own, use or possess a firearm or ammunition. (~~9A-120(13)~~)
16. Remain within geographic boundary, as set forth in writing by the Community Corrections Officer.
17. Comply with all Conditions, Requirements, and Instructions as set forth by the Department of Corrections ~~and in Island County Judgment and Sentence 03-1-00225-4.~~
18. ~~Pay the costs of crime related counseling and medical treatment required by the victim.~~

11-26-13
DATE

Dave Needy
JUDGE, SKAGIT COUNTY SUPERIOR COURT

APPENDIX E

SUPERIOR COURT OF WASHINGTON
COUNTY OF SKAGIT

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

STATE OF WASHINGTON,
Plaintiff,
vs.

2013 DEC 17 AM 10:17

CAUSE NO.

10-1-00159-9

ORDER RE:

John E. Betty
Defendant

- ☒ HEARING DATES (Clerk's Action Required)
☐ QUASHING WARRANT (Sheriff's Action Required)
☐ BAIL (Sheriff's Action Required)
☐ CLERK'S ACTION REQUIRED
☒ OTHER: amend TTS; Strike 1-3-14

The Court, being fully advised and good cause having been shown, Now, Therefore, ORDERS:

☒ HEARING DATES: This matter is continued to the dates below. ☐ by agreement of the parties (signed by defendant) ☐ by motion of defendant/state. The defendant's presence is required for:

OMNIBUS: _____ 9:00 a.m. STATUS: _____ 9:00 a.m.

3.5/3.6 HEARING: _____ 9:30 a.m. REVIEW: _____ 9:00 a.m.

TRIAL CONFIRMATION: _____ 1:30 p.m. OTHER: _____ 9:00 a.m.

TRIAL: _____ 9:00 a.m. (See Waiver Below If Applicable)

TIME FOR TRIAL: _____ (30 days after trial pursuant to continuance under CrR 3.3)

SENTENCING: _____ 9:00 a.m. (See Waiver Below If Applicable)

☐ Presentence Investigation required. ☐ Defendant is in custody ☐ Defendant's Address:

☐ WARRANTS: Outstanding warrants in this cause are quashed. The next hearing date is as noted above.

☒ ~~BAIL~~ The hearing of 1-3-14 is stricken.

☒ OTHER: The judgment of Nov. 26, 2013, at IP 4.1, at the paragraph commencing with "If the Department..." is amended as follows:

"If the Department fails to commence sex offender treatment by Feb 1, 2014, then the defendant shall..."

Dated: Dec 17, 2013

Dore Moody
Judge of the above-titled Court

WAIVERS BY DEFENDANT

☐ SPEEDY TRIAL: The undersigned, having been advised by my Attorney of Record that I have the right to be brought to trial within 60/90 days of the commencement date, hereby requests that trial in this matter be reset. I am aware of and wish to waive my right to speedy trial by resetting a commencement date of: _____ resulting in a new time for trial date as provided in CrR 3.3 of: _____ (60/90 days after commencement date).

☐ SENTENCING: The undersigned, having been advised of my right to be sentenced within 40 court days from the date of the guilty plea or conviction, and being aware of, hereby waive the right to speedy sentencing pursuant to RCW 9.94A.500. I acknowledge this waiver is my personal request and I am not prejudiced by this continuance.

Defendant

CRASH
Attorney for Defendant

Erik Pedersen
Prosecuting Attorney

Erik Pedersen
Goldenrod Copy - Prosecuting Attorney

Original: Clerk's Office
PA-8

Canary Copy - Defendant Pink Copy - Attorney for Defendant

APPENDIX F

SUPERIOR COURT OF WASHINGTON
COUNTY OF SKAGIT

STATE OF WASHINGTON,

Plaintiff,

v.

JOHN E. BETTYS,

Defendant.

NO. 10-1-00159-9

TRANSCRIPT OF JOHN BETTYS
GUILTY PLEA HEARING OF
SEPTEMBER 26, 2013

**TRANSCRIPT OF JOHN BETTYS GUILTY PLEA HEARING OF SEPTEMBER 26,
2013 TRANSCRIBED FROM AUDIO RECORDING OF PROCEEDINGS PROVIDED
BY THE SKAGIT COUNTY CLERK**

Court is now in session, the Honorable Judge Needy is presiding.

Pedersen: Good afternoon your honor. This is Erik Pedersen for the State of Washington and calling the case of John Bettys, case #10-1-159-9. This is the date that we had set for sentencing in this particular case.

Bailiff: (Inaudible) your honor, sorry

Pedersen: That's not

Bailiff: (Inaudible)

Needy: (Inaudible)

TAPPING.....

Bailiff: That one I think is dead.

TAPPING.....

Bailiff: Frustrating (inaudible) downstairs, do you want me to go down and check?

Needy: (Inaudible) having the record (inaudible)

1 Pedersen: Shall we
2 Bailiff: (Inaudible)
3 Pedersen: Shall we
4 Needy: We (inaudible) to talk but
5 Bailiff: I'll call (inaudible)
6 Pedersen: Shall we move to another court room, possibly?
7 Needy: No. I think she's right, I think he's not coming thru the headset but it is
8 comingthru the
9 Bailiff: That's right.
10 Needy: The recording so she'll be able to (inaudible). Maybe I can talk about
11 something and ah hopefully it is being recorded. Also, it will give her a
12 downcheck. The court reporters have asked that I enter orders allowing both of
13 our 2 court reporters to be paid for the hearings that they have provided transcripts
14 for Mr. Bettys, um, May 29th,
15 May 29th, May 2nd, May 8th.
16 Long pause, sirens in background.
17 Needy: She's calling.
18 Long pause.
19 Needy: So, we may begin the hearing again. We are recording.
20 Pedersen: Hold this for a second. Your honor, this is Erik Pedersen, calling the State of
21 Washington vs. John Bettys, case # 10-1-159-9. This is on today for a sentencing
22 hearing, um, post of the entry of the guilty plea which I believe occurred on
23 September 11th of this year. Ah, there was a decision rendered by the Court of
24 Appeals in the State v. Peltier, ah, it's a decision out of Division 1 and the case
25 number on that is 68942-8-I. Ah, based on my review of that case it was
26 abundantly clear that the statute of limitations had run esset in two charges and no
27 waiver by Mr. Bettys would have been in effective as to, ah, except allowing the
28

1 court to accept the plea as to those two charges. I approached defense counsel
2 about the situation and offered an alternative proposal with respect to ah change of
3 plea in this case and ah that my understanding that Mr. Bettys has accepted that.
4 So, at this point I'm asking the court to accept the joint motion to withdraw the
5 plea of guilty that was entered herein and um allow Mr. Bettys to withdraw the
6 guilty plea and we, thereafter we would propose the court allow Mr. Bettys to plead
7 guilty to Child Molestation in the Third Degree and to have the statement of plea of
8 guilty and amended information as to those charges.

9 Needy: Just for the record it was September 13 that the prior guilty plea was taken.

10 Um. Now Mr. Swift (inaudible) speak on behalf of the defendant.

11 Swift: I'll speak on behalf of, ah, we substantially agreed. The only difference is in the
12 Peltier case reviewed that it deprives the court, not of jurisdiction or the ability to
13 hear a plea but simply the ability to enter a sentence. However, we do agree that,
14 ah, the ability to enter a sentence was a material term of the deal, the pre-trial
15 agreement that was entered into this case. That under the circumstances, the
16 State, the Court's inability, ah provides the State the ability to withdraw from the
17 plea agreement at this point in time. And that certainly was what the case law
18 was under Peltier that went forth, so we agree that the State, we jointly agree to
19 dismiss the plea. Also, we have agreed and will agree to ah enter a plea of guilty
20 to the child molestation in the third degree which requires no amendments of the
21 statute of limitations to enter the plea to.

22 Needy: Bettys, this is somewhat unusual, I assume you understand what's going on?

23 Bettys: Yes I do your honor.

24 Needy: Are you agreeing with your attorneys and the State and to ask the court to
25 withdraw your prior entered guilty plea?

26 Bettys: Yes your honor, I believe it would be in the interest of justice.
27
28

1 Needy: Based on the agreement of the parties, the authority of the court under the
2 circumstances the court will withdraw the prior guilty pleas on two of the charges
3 of Communicating With a Minor for Immoral Purposes, Count 1 and Assault in
4 the Second Degree, Count 2. Are we ready to move forward with an entry of a
5 plea to the Third Amended Information?

6 Pedersen: I believe so your honor.

7 Needy: Bettys, have you and your attorneys received a Third Amended Information?

8 Bettys: Yes I have your honor.

9 Needy: Do you have any questions about the charge in that cause?

10 Bettys: Ah, no your honor.

11 Needy: (Inaudible) You, have you read this statement on plea of guilty?

12 Bettys: Yes I have your honor.

13 Needy: Do you have any questions about any of the information in the guilty plea form?

14 Bettys: No your honor.

15 Needy: You're aware of the rights once again that you give up by pleading guilty instead
16 of going to trial?

17 Bettys: Yes your honor.

18 Needy: You know the standard sentencing range and/or maximum penalty for this
19 charge?

20 Bettys: Yes your honor.

21 Needy: In this case, the standard range and the maximum penalty are one and the same,
22 60 months or 5 years. Do you understand that?

23 Bettys: Yes your honor.

24 Needy: And up to a \$10,000 fine. By pleading guilty to a felony you give up your right to
25 own or possess a firearm until that right is reinstated by a separate court order.
26 Are you aware of that?

27 Bettys: Yes your honor.

1 Needy: Are there registration requirements with this charge?

2 Swift: Yes.

3 Needy: Are you aware of those?

4 Bettys: Yes your honor.

5 Pedersen: And your honor we filed those registration documents at the last entry of the

6 guilty plea. I have the same registration of the crime that would apply so we

7 would ask the court to adopt that prior findings, of the finding pleadings.

8 Needy: Do you have any objection to simply adopting the prior entered registration

9 requirement?

10 Bettys: No your honor.

11 Needy: And do you know what the parties are going to be recommending at your

12 sentencing hearing?

13 Bettys: Um, not completely but I do understand it it is being discussed at this point.

14 Needy: And, just to be clear, from my understanding is that despite recommendations that

15 even court ordered your ultimate status of community or placement of DOC will

16 be up to the review board not necessarily any of us in this court room. Do you

17 understand that?

18 Bettys: I do understand that.

19 Needy: But the range is 60, can't be greater than 60 and ah, everyone seems to be agreed

20 on the recommendation.

21 Bettys: Yes your honor.

22 Needy: Whatever authority that may hold. And this is also being done on an Alford Plea?

23 Bettys: Yes your honor.

24 Needy: To me, that means that you're not admitting having committed this particular

25 offense but you do believe that if you went to trial you could be found guilty of

26 this or even a more serious charge and a more serious penalty and based on the

27

28

1 circumstances you want to take advantage of the prosecutor's offer. Is all that
2 correct?

3 Bettys: That is correct your honor.

4 Needy: You understand if I accept your plea, even though an alford plea then it's treated
5 like any other guilty plea and the only thing remaining for the court is to enter
6 judgment and sentence?

7 Bettys: Yes your honor.

8 Needy: Are you entering this arrangement based on your own decision and your own
9 choice?

10 Bettys: Yes your honor.

11 Needy: And you're allowing the court to rely on the information and the reports that have
12 been filed as a basis, factual basis, for the finding of guilt in this case.

13 Bettys: Yes.

14 Needy: Based on the ah reports in this file and the court's prior knowledge, having
15 conducted a jury trial on this case I will find a factual basis to find you guilty of
16 the third amended information charge Child Molestation in the Third degree, and
17 so find you guilty at this time and I will make find that your plea is knowingly
18 and voluntarily entered.

19 Bettys: Thank you your honor.

20 Needy: What is the plan regarding sentencing. We already have a presentence report
21 from the prior charges.

22 Pedersen: Your honor, um, I understand that given the nature of the charge here defense will
23 be requesting a continuance of sentencing to get an evaluation of Mr. Bettys and
24 the state is not opposed to that request. We will provide the additional
25 information with the change to the charge to the Department of Corrections
26 should they chose to amend the presentence report. I will also take the time to
27 make sure the Department of Corrections is aware and may provide further
28

1 guidance and information to the court about whether or not Mr. Bettys um, would
2 be able to get treatment at any point during his prison sentence or whether not and
3 what they could do in terms of treating him in the community depending on the
4 outcome of the evaluation which we understand defense may be getting.

5 McDonald: Your honor, we're gonna suggest sometime the week of October 21st,um the 24th
6 would put it 4 weeks out which is a Thursday, um, 4 weeks from today, the 21st is
7 a Monday (inaudible) before then we have a trial on the 17th and 18th and Mr.
8 Swift is out of town at hearings on the 15th and 16th the week before. So, I don't
9 know what your schedule looks like but

10 Needy: I don't either. The administrator's office is the one that would have to tell you,
11 um, but we can certainly put it on for that day and then subject to availability or
12 not

13 Pedersen: Melissa

14 Needy: and move it around.

15 Pedersen: October twenty

16 McDonald: Fourth,

17 Pedersen: Fourth , potentially.

18 McDonald: Would be a Thursday.

19 Pedersen: What about the 23rd? The Wednesday (inaudible)

20 McDonald: That would be fine too.

21 Needy: Either day is fine.

22 McDonald: Yeah.

23 Needy: October 23rd is fine.

24 Pedersen: I'm gonna see if we can have Ms. Beaton come in here. Norm, I've added the
25 provision with respect to the transcripts on the, on this order.
26
27
28

1 McDonald: And your honor one additional thing um, we would ask that um, if there are any
2 funds that need to be um expended to do the evaluation that that be paid for at
3 public expense.

4 Needy: I don't know where those funds come from.

5 McDonald: Okay.

6 Needy: I

7 McDonald: We don't either, that why we're

8 Needy: We're looking at October 23rd or the 24th but we decided Wednesday might be
9 better.

10 Beaton: That's fine, yeah have a calendar that week.

11 Needy: Oh, I'm on the criminal calendar so I (inaudible)

12 McDonald: There you go. So,

13 Pedersen: So

14 McDonald: So we

15 Pedersen: may propose the 23rd at 1:30?

16 Needy: That would be the best (inaudible)

17 McDonald: (inaudible)

18 Needy: 3:00 it would have to be if it's on Wednesday unless you want to do it Wednesday
19 morning during part of the regular calendar or

20 McDonald: Wednesday morning is fine too.

21 Pedersen: Okay. 9:30 on the 23rd then?

22 McDonald: 9:30.

23 Swift: Ah, we'll research it your honor and submit by separate motion without necessary
24 for a hearing. We'll either have authority for it or we won't.

25 McDonald: For the

26 Swift: The the funds.
27
28

1 Needy: I, I'm not opposed if but they're not Superior Court funds and their not assigned
2 counsel funds and are probably not from

3 Swift: How about

4 Needy: use DOC funds.

5 Swift: Give us an expert witness fund? Or expert funding? I mean it's an expert.

6 Needy: Except we're not having an offending trial anymore, this post sentencing

7 Swift: Well

8 Needy: services. (Inaudible) basis.

9 McDonald: (Inaudible)

10 Pedersen: It appears that it might be considered expert services.

11 McDonald: (inaudible) guilty (inaudible) transcript.

12
13 Needy: You're opening a potentially dangerous door there. People required to pay, the
14 unfortunate part of our system has always been in the past that many people have
15 been denied the opportunity for community based treatment because they couldn't
16 afford it. If there's now going to be a precedence that all innocent people are
17 entitled to free 2 year sex offender treatment program in the community, that
18 would be a tremendous amount of money.

19 McDonald: Well, we're not, I don't think we're asking for the treatment to be paid for, just
20 the evaluation which he would be getting at no cost at the Department of
21 Corrections. I don't know if um if they would require, I mean I know for
22 example, drug and alcohol evaluations individuals have to pay for those.

23 Needy: Well those are the (inaudible) called pre-sentencing service of the evaluation
24 might be far more eligible than the post-sentence treatment phase.

25 Swift: Well, that's all we're asking for, is funding for the evaluation your honor. Not for
26 the (inaudible).

27 McDonald: It would be nice, but we don't think
28

1 Needy: I'll sign an order for what ever funds that might come out of I would be happy to
2 have um

3 McDonald: Okay.

4 Needy: this available for me to order this (inaudible).

5 McDonald: Great.

6 Needy: Do you have a service provider already (inaudible)

7 McDonald: We do not but we will certainly find one in the next day or so, and I'm sure, um,
8 Letty can give us some guidance in that respect too.

9 Needy: She might have some guidance for you on the funding availability also.

10 McDonald: That's fine.

11 Needy: also.

13 McDonald: And if, um, um, madam bailiff do you have a blank order at all?

14 Needy: Ask the clerk if

15 McDonald: Clerk. There we go.

16 ??: (Inaudible)

17 McDonald: Do you have a blank order?

18 Needy: (Inaudible) court reporter (Inaudible)

19 McDonald: Thank you so much.

20 Needy: I'm going to leave the sentencing memorandum as a prior brief sentence report in
21 the file for future reference.

22 Long pause.

23 Pedersen: Your honor. If we're just talking an order for funds I don't have a problem with
24 that being provided ex-parte and the court taking that signing that later off the
25 record.

26 Needy: (Inaudible) good to go?

27 Pedersen: Thank you. (Inaudible)

1 McDonald: What does that say?

2 Needy: Mr. Pedersen, I'm going to change this to October 23rd (Inaudible)

3 ???Inaudible

4 McDonald: So Erik, does it need that?

5 Needy: (Inaudible)

6 ???(Inaudible)

7 Needy: Alright, there will be a recess

8 McDonald: Thank you your honor.

9 Needy: (Inaudible). Thank you all.

10 Bailiff: All rise please.

11
12
13 I, Karen R. Wallace, declare as follows:

14 The preceding transcript is a true and correct copy, to the best of my abilities of a
15 proceedings held in Skagit County Superior Court in the State of Washington v. John E. Bettys,
16 case number 10-1-00159-9 on September 26, 2013, transcribed from the electronic copy of the
proceedings provided by the Skagit County Clerk.

17 . Executed at Mount Vernon, Washington this 29th day of September, 2014.

18
19 
KAREN R. WALLACE, DECLARANT