Appellate Case: 20-1188 Document: 010110366213 Date Filed: 06/25/2020 Page: 1

FILED
United States Court of Appeals
Tenth Circuit

June 25, 2020

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

RUBEN ARAGON,

Petitioner - Appellant,

v.

DEAN WILLIAMS, Executive Director, C.D.O.C.; THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents - Appellees.

No. 20-1188
(D.C. No. 1:19-CV-01811-LTB-GPG)
(D. Colo.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **BRISCOE**, **BALDOCK**, and **CARSON**, Circuit Judges.

Petitioner, a Colorado state prisoner proceeding pro se, filed a habeas petition pursuant to 28 U.S.C. § 2254 in the District of Colorado asserting a violation of his Fourteenth Amendment due process rights based on an alleged breach of his plea agreement. The district court dismissed Petitioner's application as untimely and denied him a certificate of appealability ("COA"). Now, Petitioner seeks a COA before this court.

If the district court denies a habeas petition on procedural grounds without reaching the petitioner's underlying constitutional claim, a COA will issue when the petitioner

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* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

shows "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right" *and* "jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 478 (2000). The petitioner must satisfy both parts of this threshold inquiry before we will hear the merits of the appeal. *Gibson v. Klinger*, 232 F.3d 799, 802 (10th Cir. 2000).

For the reasons explained below, no reasonable jurist could conclude the district court's procedural ruling was incorrect. Petitioner's claims are indisputably time-barred under 28 U.S.C. § 2244(d), and he is not eligible for equitable tolling. Therefore, exercising jurisdiction under 28 U.S.C. §§ 1291 and 2253(a), we deny Petitioner's application for a COA and dismiss this appeal.

* * *

To understand why Petitioner's claims are time-barred, we must briefly address the factual basis for his claims. In 1997, Petitioner pleaded guilty to one count of distribution of a controlled substance in the District of Colorado. The district court sentenced him to 120 months' imprisonment, to run consecutively to the Kentucky state sentence Petitioner was currently serving. The district court was silent as to whether the federal sentence would run consecutively or concurrently to any future sentences Petitioner might receive.

Thereafter, in 1998, Petitioner pleaded guilty to one count of second-degree murder and one count of distribution of a controlled substance in Colorado state court. The judgment provided that Petitioner would serve 48 years' imprisonment for second-degree murder and 22 years' imprisonment for distribution of a controlled substance. The

judgment "ordered or recommended" that the sentences run consecutively to each other and concurrently with Petitioner's Kentucky state sentence and federal sentence.

On June 20, 2019—more than ten years after his Colorado state conviction became final—Petitioner filed this action. Petitioner claims he recently learned the federal court determines whether its sentences run concurrently or consecutively to a state sentence. And "if a federal sentence is silent as to whether it is imposed concurrently or consecutively . . . the federal sentence automatically defaults to being consecutively imposed." Because Petitioner's federal sentence is silent as to whether it would run concurrently or consecutively to any future sentence, Petitioner asserts the federal sentence will be served consecutively to his Colorado state sentence. This, he argues, violates his Colorado state court plea agreement which "promised" him that his state sentence would run concurrently to any federal sentence. The district court dismissed the petition as time-barred.

* * *

The Antiterrorism and Effective Death Penalty Act of 1996 prescribes a one-year statute of limitations for habeas petitions. *See* 28 U.S.C. § 2244(d)(1). Generally, the one-year period will run from the date on which the judgment becomes final. *See Nguyen v. Golder*, 133 F. App'x 521, 523 (10th Cir. 2005) (unpublished); 28 U.S.C. § 2244(d)(1)(A). Petitioner acknowledges more than one year has passed since his conviction became final in 1998. Petitioner nonetheless argues he timely filed his habeas petition because he filed the petition within one year of the removal of a state-created impediment.

Under 28 U.S.C. § 2244(d)(1)(B), when the state creates an impediment that prevents the petitioner from filing on time, the one-year limitation does not begin to run

until the impediment is removed. *Id.* In this case, Petitioner contends the Government "hoodwinked" him and promised him something the state could not guarantee—that his Colorado state sentence would run concurrently to his federal sentence. Petitioner argues this alleged fraud constitutes a state-created impediment to timely filing, and that this impediment was not removed until he learned of the fraud in 2017. Petitioner's claim is without merit.

A review of our case law shows 28 U.S.C. § 2244(d)(1)(B) typically applies when the state thwarts a prisoner's access to the courts, for example, by denying an inmate access to his legal materials or a law library. *See Garcia v. Hatch*, 343 F. App'x 316, 318 (10th Cir. 2009) (unpublished) (collecting cases). We have further held the state-created impediment must have actually prevented the inmate from filing his application. *Id.* at 319. In this case, assuming arguendo the state fraudulently induced Petitioner's plea, Petitioner makes no claim that he was unable to discover the alleged fraud because, for instance, he did not have access to his legal materials or a law library. No state action actively prevented Petitioner from learning his state sentence would run consecutively to his federal sentence. In fact, the state court judgment that Petitioner attached to his pleadings merely "recommended" that his state sentence run concurrently with his federal sentence. The fact that Petitioner did not inquire into the nature of his sentences or conduct legal research until 2017 is not attributable to the state. Accordingly, Petitioner's habeas application is not timely filed under 28 U.S.C. § 2244(d)(1)(B).

Petitioner alternatively suggests his petition is timely under 28 U.S.C. § 2244(d)(1)(D). Under this subsection, a habeas petition may be brought within one year

of "the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence." 28 U.S.C. § 2244(d)(1)(D). The test under § 2244(d)(1)(D) is not when the petitioner obtained actual knowledge of the basis for his claims, but rather the date on which the factual predicate of the claim *could have been discovered* through the exercise of due diligence. *Id.*

Here, the factual predicate underlying Petitioner's claim—that his state and federal sentences are consecutive—was discoverable on the day Petitioner's state court conviction became final. At that time, Petitioner had already been sentenced in federal court. Thus, he could have known then that his federal sentence was silent as to whether it would run consecutively or concurrently to future state sentences. He also could have known that his state court judgment merely "recommended" his state sentence run concurrent to his federal sentence. While Petitioner only recently learned of the *legal implications* of his federal sentence, the *factual predicate* existed over ten years ago. *See Perez v. Dowling*, 634 F. App'x 639, 644 (10th Cir. 2015) (explaining § 2244(d)(1)(D) concerns the factual, not legal, basis for an inmate's claims). Accordingly, Petitioner's claims are time-barred under 28 U.S.C. § 2244(d)(1)(D).

Finally, although we conclude Petitioner's habeas application is untimely under 28 U.S.C. § 2244(d)(1), we must decide whether Petitioner is entitled to equitable tolling. "Generally, a litigant seeking equitable tolling bears the burden of establishing two elements: (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way." *Sigala v. Bravo*, 656 F.3d 1125, 1128 (10th Cir. 2011) (citing *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005)). As a result, equitable tolling is

only available in rare and exceptional circumstances, and "a garden variety claim of excusable neglect is not enough." *Id.* (citing *Irwin v. Dep't of Veterans Affairs*, 498 U.S. 89, 96 (1990)).

In this case, Petitioner does not present any extraordinary circumstance that stood in his way of discovering his state and federal sentences would run consecutively. We have held that "ignorance of the law, even for an incarcerated pro se petitioner, generally does not excuse prompt filing." *Marsh v. Soares*, 223 F.3d 1217, 1220 (10th Cir. 2000) (citing *Fisher v. Johnson*, 174 F.3d 710, 714 (5th Cir. 1999)). Petitioner's only claim for equitable tolling is that he did not realize his federal sentence would run consecutively to his state sentence until he spoke with his case manager in 2017. Although Petitioner's belated realization might amount to excusable neglect, it is insufficient to support equitable tolling. Thus, Petitioner is not entitled to equitable tolling.

* * *

For all these reasons, no reasonable jurist could conclude the district court's procedural ruling was incorrect. Petitioner's claims are time-barred, and he is not eligible for equitable tolling. Therefore, we deny Petitioner's application for a COA and dismiss this appeal. Petitioner's motion to proceed IFP is granted.

Entered for the Court

Bobby R. Baldock
Circuit Judge

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 19-cv-01811-LTB-GPG

RUBEN ARAGON,

Applicant,

v.

DEAN WILLIAMS, Executive Director, C.D.O.C., and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

ORDER OF DISMISSAL

This matter is before the Court on the Recommendation Regarding Dismissal entered February 27, 2020 (ECF No. 25). Applicant filed timely objections (ECF No. 28). The Court has reviewed the Recommendation *de novo* in light of the file and record in this case. On *de novo* review the Court concludes that the Recommendation is correct.

"[A] party's objections to the magistrate judge's report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court." *U.S. v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996).

In the objections (ECF No. 28), Applicant argues this action should not be dismissed as untimely because he is entitled to equitable tolling. He alleges he relied on his attorney's representations regarding the plea agreement, as well as on the prosecutor and state court, to his detriment. He states he "only just learned that his

Colorado sentence was not running concurrently to the federal sentence imposed by a division of this Court in 2017."

These arguments are unavailing. As a general matter, "attorney negligence is not extraordinary and clients, even if incarcerated, must 'vigilantly oversee,' and ultimately bear responsibility for, their attorneys' actions or failures." *Fleming v. Evans*, 481 F.3d 1249, 1255-56 (10th Cir. 2007) (citation omitted). The test under 28 U.S.C. § 2244(d)(1)(D) is not when Applicant obtained actual knowledge of the basis for his claims, but "the date on which the factual predicate of the claim or claims presented *could have been discovered* through the exercise of due diligence." As explained in the Recommendation, "Applicant's own filings show he had the factual predicate of his claim available to him at least by 2011, 2012, and 2014, but did not seek related postconviction relief until 2017." (ECF No. 25 at 9).

"[I]gnorance of the law, even for an incarcerated pro se petitioner, generally does not excuse prompt filing." *Marsh v. Soares*, 223 F.3d 1217, 1220 (10th Cir. 2000) (citation omitted). "A habeas petitioner is not entitled to equitable tolling simply because he alleges his constitutional rights were violated during his trial or sentencing." *Winkler v. Zavaras*, 415 F. App'x 889 (10th Cir. 2011) (unpublished) (citation omitted).

For these reasons and the reasons set forth in the Recommendation (ECF No. 25), the Amended Application will be dismissed as time-barred. *See Brown v. Roberts,* 177 F. App'x 774, 778 (10th Cir. 2006) ("[d]ismissal of a petition as time barred operates as a dismissal with prejudice"). Because the action is time-barred, the Court declines to address whether the claims are exhausted.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this

Order is not taken in good faith and, therefore, *in forma pauperis* status is denied for the purpose of appeal. *See Coppedge v. United States*, 369 U.S. 438 (1962). If Applicant files a notice of appeal, he must also pay the full $505 appellate filing fee or file a motion to proceed *in forma pauperis* in the U.S. Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24.

Accordingly, it is

ORDERED that the objections (ECF No. 28) are overruled. It is

FURTHER ORDERED that the Recommendation Regarding Dismissal (ECF No. 25) is accepted and adopted. It is

FURTHER ORDERED that the Amended Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 14) is DENIED and this action is DISMISSED WITH PREJUDICE as time-barred. It is

FURTHER ORDERED that no certificate of appealability will issue because jurists of reason would not debate the correctness of the procedural ruling and Applicant has not made a substantial showing of the denial of a constitutional right. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is DENIED WITHOUT PREJUDICE to the filing of a motion seeking leave to proceed *in forma pauperis* on appeal in the United States Court of Appeals for the Tenth Circuit.

DATED at Denver, Colorado, this 13th day of May, 2020.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court

APPENDIX C

17CA1590 Peo v Aragon 01-24-2019

COLORADO COURT OF APPEALS

DATE FILED: January 24, 2019
CASE NUMBER: 2017CA1590

Court of Appeals No. 17CA1590
Arapahoe County District Court No. 92CR2038
Honorable Patricia D. Herron, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Ruben G. Aragon,

Defendant-Appellant.

ORDER AFFIRMED

Division VI
Opinion by JUDGE RICHMAN
Navarro and Welling, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)
Announced January 24, 2019

Philip J. Weiser, Attorney General, Elizabeth Rohrbough, Senior Assistant Attorney General, Denver, Colorado, for Plaintiff-Appellee

Ruben G. Aragon, Pro Se

¶ 1 Defendant, Ruben G. Aragon, appeals the trial court's denial of his postconviction motion. We affirm.

¶ 2 In 1998, defendant pleaded guilty to second degree murder and distribution of a schedule II controlled substance. He received stipulated sentences of forty-eight years and twenty-two years in the custody of the Department of Corrections (DOC), respectively. Those sentences were imposed consecutive to each other, but concurrent to sentences defendant had received in a separate Colorado criminal case, criminal cases in Kentucky, and a federal criminal case.

¶ 3 In 2012, defendant filed a Crim. P. 35(c) motion for postconviction relief, asserting ineffective assistance of counsel, which the trial court denied. A division of this court affirmed the denial. *See People v. Aragon,* (Colo. App. No. 13CA0235, Sept. 25, 2014) (not published pursuant to C.A.R. 35(f)).

¶ 4 In 2017, defendant filed a Crim. P. 35(a) and (c) "Motion for Withdrawal of Plea Agreement Based Upon an Illegal Sentence." In that motion, he alleged the following facts: (1) after the 1998 sentencing in this matter, defendant was immediately transported to Kentucky to serve his sentences there; (2) in 2011, defendant

was transferred back to the custody of the Colorado DOC; and (3) "[i]nstead of beginning his sentence in [the federal case] as required by the federal plea agreement, federal authorities simply placed a detainer on [d]efendant expecting him to complete his 70[-]year sentence in this case." Defendant raised several arguments based on these facts, seeking primarily to withdraw from his plea agreement entered in this case. In a detailed written order, the trial court denied defendant's motion.

¶ 5 The trial court first concluded that defendant was not entitled to withdraw his guilty plea because the arguments he had raised in his motion addressed whether the sentences were being enforced in accordance with the plea agreement, not whether the sentences were illegal at the time he entered into the plea agreement. It thus denied his motion to withdraw from the plea agreement.

¶ 6 The court then addressed the contentions that the sentences were being improperly enforced. It concluded that the DOC had properly credited defendant for the thirteen years he had served in Kentucky, and had properly set his expected discharge date from DOC as August 19, 2065.

¶ 7 The court also concluded that defendant was not entitled to good time or earned time credits for the time he served in Kentucky because Colorado statutes do not provide for such credits unless the time is served in the custody of the DOC.

¶ 8 The trial court also characterized defendant's claims regarding the federal detainer as "unspecified," but to the extent they related to his federal case, the court concluded that it lacked jurisdiction with respect to those claims.

¶ 9 On appeal, defendant contends that (1) his sentence is illegal because the trial court lacked the authority to order his federal sentence to run concurrent to his Colorado sentence, (2) the stipulated concurrent sentencing provision of his plea agreement was breached because federal officials refused to exercise their authority to run his federal sentence concurrent with his Colorado sentence, and (3) his guilty plea is invalid because he detrimentally relied on a promise that his Colorado and federal sentences would be served concurrently.

¶ 10 Any arguments defendant made in his Crim. P. 35 motion that are not specifically reasserted on appeal are abandoned, and we

therefore do not address them. *See People v. Brooks*, 250 P.3d 771, 772 (Colo. App. 2010).

¶ 11 Initially, we note that the substance of defendant's claims could be deemed Crim. P. 35(c) issues and, therefore, the trial court could have denied them as successive and untimely. *See St. James v. People*, 948 P.2d 1028, 1030-35 (Colo. 1997) (breach of a plea agreement and detrimental reliance arguments implicate constitutional due process concerns and are reviewed under Crim. P. 35(c)); *see also* § 16-5-402(1), (1.5), C.R.S. 2018 (a collateral attack on a conviction must be brought within three years of conviction of an offense other than a class 1 felony and an appellate court may deny relief if it determines that a collateral attack is untimely, regardless of whether timeliness was considered by the trial court); Crim. P. 35(c)(3)(VI)-(VII) (a trial court shall deny any claim that was, or could have been, raised and resolved in a prior appeal or postconviction proceeding on behalf of the same defendant).

¶ 12 In addition, we conclude that the trial court did not err by denying defendant's motion on the merits for the following reasons.

¶ 13 The plea agreement signed by defendant indicated that the sentence being imposed in this case would be concurrent to defendant's sentences in a separate Colorado case, the Kentucky case and the federal case. Nothing in the plea agreement provided that the trial court would attempt to modify the federal sentence to run it concurrently with the Colorado sentence. Indeed, a state criminal court has no jurisdiction over federal criminal cases. *See* Colo. Const. art. VI, § 9(1); *People v. Burgess*, 946 P.2d 565, 569 (Colo. App. 1997) (district courts have original jurisdiction over felonies committed in Colorado). Concurrent sentences imposed by state judges are nothing more than recommendations to federal officials. *See Del Guzzi v. United States*, 980 F.2d 1269, 1270 (9th Cir. 1992). Indeed, the mittimus in defendant's file in this case reflects only that the court would "recommend" that the state sentence be concurrent to the federal sentence.

¶ 14 After sentencing, defendant was transferred to Kentucky to serve his sentences under the Kentucky convictions, and was given credit against his Colorado sentences for the time served in Kentucky. Thus, that portion of the concurrent sentences provision of defendant's plea agreement was honored by the DOC. His

release date is set for August 19, 2065, which reflects the balance of his seventy-year sentence to the DOC.

¶ 15 Defendant's assertion that there was a "federal detainer" that reflects he will be required to serve his federal sentence, when and if he is released from the DOC, is not supported by the record presented to us. The attachment to defendant's Rule 35 motion that he claims is a "federal detainer" is actually minutes from a federal court proceeding. It is unclear what proceeding the minutes relate to, but it appears that they are from a date prior to defendant's state court sentencing in this case. So, to the extent those minutes reflect that defendant's federal sentence of 120 months will be served consecutive to any other sentence he was then serving, it is not apparent that it refers to the sentence in this case.

¶ 16 In any event, if defendant has a valid complaint about the manner in which the federal sentence is carried out, his remedy is to seek relief in the federal prison system, or the federal court, when and if he is transferred to federal custody, but not to withdraw from his Colorado plea agreement. *See id.* at 1271-73 (Norris, J. concurring).

¶ 17 Lastly, nothing in the record before us supports defendant's claim that his guilty plea was based on detrimental reliance on a promise that he would serve his federal sentence concurrent to the Colorado sentence. Indeed, the transcript of the providency and sentencing hearing has not been made available for our review. *See Till v. People*, 196 Colo. 126, 127, 581 P.2d 299, 299 (1978) ("In the absence of a transcript, we will presume that the findings and conclusions of the trial court are correct, and that the evidence supports the judgment.").

¶ 18 Accordingly, the order denying defendant's Crim. P. 35 motion is affirmed.

JUDGE NAVARRO and JUDGE WELLING concur.

District Court, Arapahoe County
Case #: 1992 CR 2038 Div/Room: 6

JUDGMENT OF CONVICTION, SENTENCE ~~XXXXXXXX~~ AMENDED

The People of Colorado vs ARAGON, RUBEN G
DOB 12/19/1958

The Defendant was sentenced on: 7/08/1998
People represented by...: STEVE LEE, EVA WILSON
Defendant represented by: MIKE ROOT, JIM CASSEL
UPON DEFENDANT'S CONVICTION this date of: 7/08/1998
The defendant pled guilty to:
Count # 8 Charge: CONT SUBSTANCE DISTRIB SCHED 2
C.R.S # 18-18-405(2)(a)(I) Class: F3
Date of offense(s): 12/23/1992 Date of plea(s): 7/08/1998
Count # 9 Charge: SECOND DEGREE MURDER
C.R.S # 18-3-103(1)(a) Class: F2
Date of offense(s): 12/23/1992 Date of plea(s): 7/08/1998

IT IS THE JUDGMENT/SENTENCE OF THIS COURT that the defendant be sentenced to

COLO DEPT OF CORRECTIONS FOR	22.00 YEARS	.00	COUNT 8
COLO DEPT OF CORRECTIONS FOR	48.00 YEARS	.00	COUNT 9

919 day(s) of presentence confinement shall be given
The Defendant is NOT appropriate for the Regimented Inmate Training Program

THEREFORE, IT IS ORDERED the Sheriff of ARAPAHOE COUNTY shall convey the DEFENDANT to the following department TO BE RECEIVED AND KEPT ACCORDING TO LAW COLORADO STATE DEPARTMENT OF CORRECTIONS DIAGNOSTIC UNIT AT CANON CITY, CO.

ADDITIONAL REQUIREMENTS

The defendant shall also pay the following costs

COURT COSTS	$ 30.00	VICTIM ASSISTANCE	$ 125.00
VICTIM COMPENSATION	$ 125.00	REQUEST FOR TIME TO PAY	$ 25.00

JUDGMENT OF CONVICTION IS NOW ENTERED, IT IS FURTHER ORDERED OR RECOMMENDED: SENTENCE IN COUNT 8 TO RUN CONSECUTIVELY WITH SENTENCE IN ADDED COUNT 9. THESE SENTENCES TO RUN CONCURRENTLY WITH KENTUCKY CASES 95CR411 AND 86CR23, ARAPAHOE COUNTY CASE 92CR466, AND FEDERAL CASE 92CR422F. /MLM

DATE 7-9-98 NPT 7-8-98 JUDGE James F. Macrum

JAMES F. MACRUM
DISTRICT JUDGE

DISTRICT COURT
STATE OF COLORADO } ss.
Arapahoe County,
CERTIFIED to be a full, true and correct copy of the original in my custody.
DATED 7-10 A.D. 1998
DEBORAH M. LOCKWOOD
Clerk of the District Court
By Linda A. Lee Deputy

P.E. #7

DISTRICT COURT, ARAPAHOE COUNTY, COLORADO
Case No. 92CR2038, Division 6

98 JUL -8 PM 1:02

PLEA AGREEMENT OF THE PARTIES

THE PEOPLE OF THE STATE OF COLORADO
vs. Ruben Aragon,
Defendant.

THE DEFENDANT HAS AGREED TO PLEAD GUILTY TO COUNT(S)* Eight(8) Distribu Coca of ~~Heroin~~ F3 18-18-405; Nine (9) Second Degree Murder 18-3-103(1) F2, ~~Count Tenti~~ ~~Mandatory Senten~~

THE PEOPLE HAVE AGREED TO DISMISS COUNT(S) One(1), Two(2), Three(3), Four(4), Six(6) and Seven(7)

THE PEOPLE HAVE AGREED TO DISMISS CASES(S)

*Insert offense and classification (e.g.: "Theft[F-4]")

SENTENCE AGREEMENT

1. Deferred Judgment and Sentence:
2. Probation:
3. Restitution:
4. Community Corrections (Condition/Probation)
5. Community Corrections (Direct Sentence)
6. County Jail/Work Release:
7. County Jail/No Work Release:
8. DOC: 48 years as to Count Nine(9), 22 years as to Count Eight(8)
9. Alternative Service Hours:
10. Drug/Alcohol Eval:
11. Drug/Alcohol Treatment:
12. Mental Health Evaluation:
13. Counseling:
14. In-Patient Treatment:
15. No Contact with Victim(s):
16. No Contact with children under ___ years of age:
17. No Access to Firearms:
18. Other: Sentences imposed as to Counts Nine(9) and Eight(8) are to run consecutive to each other but concurrent to any sentence defendant is currently serving, those being Arapahoe County # 92CR466, Federal case 92CR422 + Kentucky cases 95CR 96CR223

DEFENSE COUNSEL: Ruben Aragon
Reg. No.
Date:

DEPUTY DISTRICT ATTORNEY: [signature]
Reg. No. 10969
Date: 7/8/98

DEFENDANT: [signature]
Date: 7-8-98

BY THE COURT: 003916
[signature]
Date: 7-8-98

VICTIM APPROVAL: YES ✓ NO ___ Contact by: [signature]

amended to reflect no ct 10 but a finding by the court of sentencing in the aggravated range — because he was on bond for a pending

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