

APPENDIX

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October 8, 2024

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

STATE OF WASHINGTON,

Respondent,

v.

ERIC SEAN ROLOSON,

Appellant.

No. 56823-3-II

UNPUBLISHED OPINION

VELJACIC, A.C.J. — Eric S. Roloson pled guilty to two counts of rape of a child in the first degree. As part of the plea agreement, the State agreed to recommend a special sex offender sentencing alternative (SSOSA). The trial court rejected the recommendation and imposed a standard range sentence. Roloson appeals, contending that the State breached the plea agreement by nominally recommending a SSOSA and then raising aggravating facts to persuade the court not to impose a SSOSA. He also contends he should be permitted to withdraw his guilty pleas because they were involuntary. Roloson lastly contends that the court erred by imposing a \$500 victim penalty assessment (VPA), a \$100 deoxyribonucleic acid (DNA) collection fee, and a \$100 domestic violence assessment. We affirm Roloson’s convictions, but remand for the trial court to strike the VPA and DNA collection fee and reconsider the domestic violence assessment.

FACTS

Following allegations in January 2020 of sexual abuse involving Roloson and his stepdaughters, Roloson left for Hawaii. He was arrested in August 2020 and brought back to

Washington in October 2020.¹ The State charged him with two counts of rape of a child in the first degree and two counts of child molestation in the first degree. All crimes included a special allegation of domestic violence.

Roloson agreed to plead guilty to two counts of rape of a child in exchange for the State dropping the molestation charges and recommending a SSOSA. It was the parties' understanding that the victims also endorsed a SSOSA for Roloson.

At the plea hearing, the trial court informed Roloson of the standard sentencing range on both charges and that both counts were subject to the Indeterminate Sentencing Review Board. Roloson expressed no reservations. The court also informed him that it was aware of the parties' joint recommendation for a SSOSA, but the court did not have to follow that recommendation and instead it could impose a sentence anywhere within the standard sentencing range. Roloson stated, "I do understand that, Your Honor." Rep. of Proc. (RP) at 19. Roloson then pled guilty to two counts of rape of a child in the first degree. The court ordered a presentencing investigation report (PSI).

The PSI indicated that the girls' mother and one of the girls "initially agreed that a SSOSA sentence was appropriate, but that they do not want that now." Clerk's Papers (CP) at 21. The PSI also indicated that the mother reported that "[t]he girls have a life sentence dealing with what happened to them. [Roloson] should have a life sentence in prison because you can't take it back." CP at 21. Based on the victims' statements, Roloson's statements, and a risk assessment, the PSI recommended that Roloson receive a standard range sentence.

¹ The delay in returning to Washington was because Roloson was incarcerated in Hawaii and, while in custody, he was attacked by other inmates. His injuries were significant, resulting in a lengthy hospital stay and ultimately delaying commencement of proceedings in Washington.

At the 2022 sentencing hearing, the State began by stating that there was an agreed recommendation for a SSOSA. The State then addressed the somewhat inconsistent statements from the victims in the PSI about initially supporting a SSOSA but then appearing to change their minds. The State explained that it had been a long and difficult process for them in part because Roloson “took flight to Hawaii,” was brought back to Washington in October 2020, and the matter had been pending ever since. RP at 36.

The State went on to explain that it described the sentencing recommendation alternatives with the victims and they agreed a SSOSA would be best, and most importantly, they wanted finality. The State clarified that the girls and their mother “did support the SSOSA. They still do support the SSOSA, but as with everything in life, there are conflicts. And they’re—they’re just normal people who have had a really bad thing happen to them, and they have some conflicts. They’re going to have an opportunity to express that to Your Honor.” RP at 36-37.

The girls’ mother spoke at the sentencing hearing. She told the trial court that she supported the plea agreement, including a SSOSA recommendation, to prevent her daughters from having to testify and relive Roloson’s horrendous actions. She further stated that she had “fears that if he is released into the community, he will recommit these horrendous crimes. Repeating the same actions of molesting, raping, physically and mentally abusing my family. . . . I do fear [Roloson] will try to come after us if he is released.” RP at 41. She requested that if the court decided to impose a SSOSA that Roloson not be permitted to “be released into Cowlitz County. The thought of him living in the same town as us is completely devastating.” RP at 41.

The girls also made statements at the sentencing hearing. One told the trial court that “[t]he only reason I chose to let him have the SSOSA deal was because I was scared of facing him in trial.” RP at 43. The other girl stated, “I fear that if proper action isn’t taken, that others may be

hurt and abused by [Roloson].” RP at 47. She asked the court to take into consideration “the safety of our community.” RP at 47.

Roloson then interjected that the sentencing hearing must stop because he was going to file a motion to withdraw his guilty pleas. The trial court stopped the sentencing hearing and allowed briefing on the motion to withdraw the guilty pleas.

Roloson argued that he wanted to withdraw his guilty pleas on the basis that his pleas were not knowing, intelligent, and voluntary because the State breached the plea agreement. Roloson claimed that he only took the plea agreement because of the State’s assurances that the victims would support a SSOSA and it appeared that was not the case at the sentencing hearing. Roloson claimed he was “bombarded” and that the plea agreement was “undercut” in a way that created a manifest injustice. RP at 67-68.

The State responded that it satisfied its obligation under the plea agreement by recommending a SSOSA and that the victims expressed their desire for a SSOSA even though they had concerns about Roloson in the community. The State further argued that there was no breach because it could not control what the victims would say and that the victims were not parties to the plea agreement. The State commented that it appeared defense counsel was implying that Roloson “only admitted behavior in order to get this deal and not that he was actually admitting to the behavior. That’s a problem.” RP at 71.

In an affidavit in support of its memorandum opposing Roloson’s motion to withdraw the guilty plea, the prosecutor stated that the PSI caused him “some concern” based on both Roloson’s and the victims’ statements so he met with the girls and their mother after the PSI and felt satisfied that they “remained supportive” of a SSOSA. CP at 136-37.

The trial court denied Roloson's motion to withdraw his guilty pleas, finding that the State did not breach the plea agreement. The court reminded Roloson that the court did not have to follow the State's sentencing recommendation or the victims' wishes.

The matter proceeded to sentencing. The State informed the trial court that it "adheres to its recommendation" for a SSOSA and asked the court to "follow that." RP at 77.

The trial court went through the statutory factors of whether to impose a SSOSA. It found that Roloson could benefit from treatment, but it also found that there were allegations that Roloson committed numerous acts of sexual assault over the years against his young stepdaughters and therefore a SSOSA appeared too lenient. The court also found that Roloson was a significant risk to the community. The court stated that the victims and their mother "said the words, they wanted SSOSA imposed" and appeared to "desire for SSOSA" RP at 84-85. The court acknowledged that the mother "kind of strayed" and the girls appeared to want a SSOSA "largely to avoid trial." RP at 84-85. The court also noted that Roloson's leaving the area to avoid prosecution caused concern that he may do the same if there was a SSOSA violation and a sanction was imposed. The court noted, "the risk is huge if there's a re-offense." RP at 88.

Ultimately, the trial court denied the SSOSA recommendation and imposed the low end of a standard range sentence of 120 months to life on both counts, to be served concurrently. The court found Roloson was indigent, but imposed a \$500 VPA, a \$100 DNA collection fee, and a \$100 domestic violence assessment as legal financial obligations (LFOs).

Roloson appeals.

ANALYSIS

I. BREACH OF PLEA AGREEMENT

Roloson contends the State breached the plea agreement by nominally recommending a SSOSA and then raising aggravating facts to persuade the trial court not to impose a SSOSA. He further alleges he should be entitled to withdraw his guilty plea or demand specific performance based on the State's alleged breach. We disagree.

A. Legal Principles

Whether a breach of a plea agreement has occurred is a question of law we review de novo. *State v. Molnar*, 198 Wn.2d 500, 513, 497 P.3d 858 (2021). A plea agreement is a contract between the defendant and the State. *Id.* at 512. Because plea agreements concern the fundamental rights of the accused, the State has a “good faith obligation to effectuate the plea agreement.” *Id.* (quoting *State v. Sledge*, 133 Wn.2d 828, 840, 947 P.2d 1199 (1997)).

“A prosecutor is obliged to fulfill the State's duty under the plea agreement by making the promised sentencing recommendation.” *Sledge*, 133 Wn.2d at 840. “The recommendation need not be made ‘enthusiastically.’” *Id.* at 840 (quoting *State v. Coppin*, 57 Wn. App. 866, 873, 791 P.2d 228 (1990)). But the prosecutor is obligated not to undermine the terms of the agreement either explicitly or through conduct demonstrating an intent to evade the terms of the plea agreement. *Sledge*, 133 Wn.2d at 840.

Just because the parties reached an agreed recommendation does not mean the sentencing court “[sh]ould be faced with a one-sided hearing.” *State v. Talley*, 134 Wn.2d 176, 186, 949 P.2d 358 (1998). “The State must be allowed to use descriptive words in addition to stipulated facts because, while the State's ‘recommendation need not be made enthusiastically,’ it need not be made so unenthusiastically that it is unhelpful to the sentencing court.” *Molnar*, 198 Wn.2d at 517

(internal quotation marks omitted) (emphasis omitted) (quoting *Sledge*, 133 Wn.2d at 840). Thus, the mere mention of aggravating facts does not automatically breach the plea deal. *Molnar*, 198 Wn.2d at 516.

Ultimately, we “review [the] prosecutor’s actions and comments objectively from the sentencing record as a whole to determine whether the plea agreement was breached.” *State v. Ramos*, 187 Wn.2d 420, 433, 387 P.3d 650 (2017) (alteration in original) (quoting *State v. Carreno-Maldonado*, 135 Wn. App. 77, 83, 143 P.3d 343 (2006)). “A breach occurs when the State ‘undercut[s] the terms of the agreement explicitly or implicitly by conduct evidencing an intent to circumvent the terms of the plea agreement.’” *Id.* (quoting *Carreno-Maldonado*, 135 Wn. App. at 83). We review the State’s actions objectively, focusing “on the effect of the State’s actions, not the intent behind them.” *Id.* (quoting *Sledge*, 133 Wn.2d at 843 n.7). If we find a party breached the plea agreement, the nonbreaching party may either rescind or specifically enforce the terms of the plea agreement. *State v. Wiatt*, 11 Wn. App. 2d 107, 111, 455 P.3d 1176 (2019).

B. No Breach

Here, the State addressed how difficult the process was for the victims and mentioned that this was in part due to Roloson taking “flight to Hawaii” after the abuse allegations, which extended the time for them to have finality. RP at 36. In response to Roloson’s motion to withdraw his guilty pleas, the State argued that there was no breach because it could not control what the victims would say and that the victims were not parties to the plea agreement. Later, the State commented that it appeared defense counsel was saying that Roloson “only admitted behavior in order to get this deal and not that he was actually admitting to the behavior. That’s a problem.” RP at 71.

Relying on *State v. Xaviar*, *State v. Jerde*, and *Carreno-Maldonado*, Roloson argues these statements amount to a breach of the plea agreement.

In *State v. Xaviar*, 117 Wn. App. 196, 198-201, 69 P.3d 901 (2003), the State and the defendant agreed to a recommendation at the bottom of the standard sentencing range. But at sentencing, the prosecutor emphasized the graveness of the crime, reiterated the charges that the State did not bring, noted that the State could have, but did not, ask for a 60-year exceptional sentence, highlighted aggravating factors that would support an exceptional sentence, and referred to the defendant as ““one of the most prolific child molesters that this office has ever seen.”” *Id.* at 200. Division One of this court held that the prosecutor’s conduct constituted a breach of the plea agreement. *Id.*

In *State v. Jerde*, 93 Wn. App. 774, 776-77, 970 P.2d 781 (1999), the State agreed to recommend a standard range sentence, while the PSI recommended an exceptional sentence. At sentencing, the prosecutor briefly noted the State’s recommendation but proceeded to identify aggravating factors that the court could consider in support of an exceptional sentence, including factors that were not contained in the PSI. *Id.* at 777-78, 782. This court concluded that the prosecutor’s conduct amounted to a breach of the plea agreement, making specific note of the prosecutor’s reference to aggravating factors not mentioned in the PSI and observing that the prosecutor ““advocated for an exceptional sentence by highlighting aggravating factors and even added an aggravating factor not found in the [PSI].”” *Id.* at 782.

Finally, in *Carreno-Maldonado*, 135 Wn. App. at 79-80, the State agreed to make a low-end recommendation on one count of rape in the first degree, a midpoint recommendation of 240 months on five counts of rape in the second degree, and a high-end standard range recommendation on a count of assault in the second degree. At the sentencing hearing, the trial court set out the

standard range sentence, acknowledged having reviewed the PSI and plea agreements, then asked the State if it had anything to add. *Id.* at 80. The prosecutor then made a statement ““on behalf of the victims”” in which the prosecutor referred to the defendant’s ““very extreme violent behavior”” and his preying on ““what would normally be considered a vulnerable segment of our community”” in carrying out ““crimes . . . so heinous and so violent [they] showed a complete disregard and disrespect for these women.”” *Id.* at 80-81. Only when defense counsel objected and suggested that the State was failing to comply with the plea agreement did the prosecutor respond, ““I’m speaking here on behalf of the victims and on behalf of the [S]tate[.] And I’m not going beyond my recommendation in this case. It’s an agreed recommendation. M[y] recommendation [for the rape in the second degree is] 240 months.”” *Id.* at 81 (alterations in original). This court held that the prosecutor’s statements at the sentencing hearing breached the plea agreement by undercutting the State’s agreed sentence recommendation. *Id.* at 79.

In this case, the State commented on Roloson leaving to Hawaii, recognized there was some inconsistency with the victims’ and their mother’s wishes, and commented during the motion to withdraw the guilty plea that Roloson’s timing of his motion to withdraw his guilty plea seemed to suggest he “only admitted behavior in order to get this deal and not that he was actually admitting to the behavior.” RP at 71. But we do not view these statements in isolation. *Ramos*, 187 Wn.2d at 433.

Viewing the sentencing record as a whole, the State clearly stated that it adhered to its recommendation and hoped the trial court would follow it. The State also stated that it described the sentencing recommendation alternatives with the victims, they agreed a SSOSA would be best, and most importantly, they wanted finality. The State clarified that the girls and their mother “did support the SSOSA. They still do support the SSOSA.” RP at 36. Additionally, Roloson’s travel

to Hawaii was significant because it caused months of delay in the Washington proceedings because of his concomitant hospital stay. This was relevant to the length of the proceeding and related difficulty this caused for the victims, which explains in part their conflicted position as to the SSOSA. The State was not advocating against the plea agreement in highlighting this fact.

Based on the above, the facts of this case are distinguished from *Xaviar*, *Jerde*, and *Carreno-Maldonado*. While the State may not have enthusiastically recommended a SSOSA, it did not undercut the terms of the plea agreement explicitly or implicitly.

Because we hold that the State did not breach the plea agreement, we need not reach Roloson's argument that he is entitled to either withdraw his guilty plea or request specific performance of the parties' agreement. *See State v. McNichols*, 128 Wn.2d 242, 253, 906 P.2d 329 (1995) (based on the court's dispositive holding, it need not reach issue regarding proper remedy).

II. WITHDRAWAL OF GUILTY PLEAS

Roloson next contends that he should be entitled to withdraw his guilty pleas because his pleas were involuntary due to the State's false assurance that the victims would recommend a SSOSA. We disagree.

A. Legal Principles

Because this issue was raised before the trial court, our review is focused on whether the trial court abused its discretion in denying Roloson's motion to withdraw his guilty pleas. *State v. Lamb*, 175 Wn.2d 121, 127, 285 P.3d 27 (2012). Discretion is abused if the court's decision lacked a tenable basis in law or fact. *State v. Arndt*, 194 Wn.2d 784, 799, 453 P.3d 696 (2019). Trial courts must allow a defendant to withdraw a guilty plea to prevent a manifest injustice. *State v. Wilson*, 162 Wn. App. 409, 414, 253 P.3d 1143 (2011); CrR 4.2(f). Our courts generally recognize

four indicia of a manifest injustice: (1) denial of effective assistance of counsel, (2) failure of the defendant or one authorized by him to do so to ratify the plea, (3) involuntary plea, and (4) violation of plea agreement by the prosecution. *State v. S.M.*, 100 Wn. App. 401, 409, 996 P.2d 1111 (2000).

Lack of information may render a guilty plea involuntary. *State v. Mendoza*, 157 Wn.2d 582, 587-88, 591, 141 P.3d 49 (2006). But a guilty plea is not involuntary if “the defendant was correctly informed of all of the direct consequences of his guilty plea.” *Id.* at 591.

Washington State Constitution, article I, section 35 (amend. 84) provides crime victims and their families or representatives the opportunity to make a statement at a defendant’s sentencing. *See also State v. Gentry*, 125 Wn.2d 570, 624, 888 P.2d 1105 (1995). As it relates to the rights of victims and their families, the amendment provides, “[t]his provision shall not constitute a basis for error in favor of a defendant in a criminal proceeding.” WASH. CONST. art. I, § 35. In addition to constitutional protections, RCW 7.69.030(1)(m) and (n) permit victims and victims’ families or representatives to submit victim impact statements to the court and to personally make a statement at a sentencing hearing in a felony case.

B. No Abuse of Discretion

Here, the State charged Roloson with two counts of rape of a child in the first degree and two counts of child molestation in the first degree. In exchange for the State dropping both child molestation charges and recommending a SSOSA, Roloson agreed to plead guilty to the child rape charges.

At the sentencing hearing, the State informed the trial court that there was an agreed recommendation for a SSOSA. The State went on to explain that it described the sentencing recommendation alternatives with the victims and they agreed a SSOSA would be best, and most importantly, they wanted finality. The State clarified that the victims and their mother “did support

the SSOSA. They still do support the SSOSA, but as with everything in life there are conflicts. And they're—they're just normal people who have had a really bad thing happen to them, and they have some conflicts. They're going to have an opportunity to express that to Your Honor.” RP at 36-37. After the trial court denied Roloson's motion to withdraw his guilty plea, the State reiterated that it “adheres to its recommendation” for a SSOSA and asked the court to “follow that.” RP at 77.

While the victims made statements detailing Roloson's years of abuse and their fear that he would continue to hurt people in the future, these statements were within their rights and did not result in a breach of the plea agreement between Roloson and the State. Notably, the victims' mother and one of the victims expressed their support of the SSOSA. RCW 7.69.030(1)(m) and (n); *Gentry*, 125 Wn.2d at 624. Moreover, the trial court clearly advised Roloson that it was not bound by the sentencing recommendation in the plea agreement. *See* RCW 9.94A.431(2).

Based on the above, there was no manifest injustice based on an involuntary guilty plea to warrant the withdrawal of Roloson's guilty pleas. The trial court properly concluded likewise. Therefore, we hold that the trial court did not err in denying Roloson's motion to withdraw his guilty plea.

III. LFOs

Roloson next contends that the trial court erred by imposing a \$500 VPA, a \$100 DNA collection fee, and a \$100 domestic violence assessment after finding Roloson indigent. The State took no position on Roloson's arguments.

When the trial court sentenced Roloson, it was required to impose a VPA of \$500 under former RCW 7.68.035(1)(a) (2018), regardless of a defendant's indigency, as well as a \$100 DNA collection fee under former RCW 43.43.7541 (2018). But those statutes have since been amended.

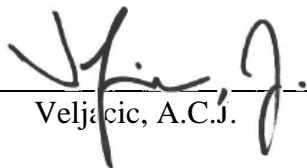
Now, a “court shall not impose the [VPA] under this section if the court finds that the defendant, at the time of sentencing, is indigent as defined in RCW 10.01.160(3).” LAWS OF 2023, ch. 449, § 1. The legislature also eliminated the \$100 DNA collection fee for all defendants. *See* LAWS OF 2023, ch. 449, § 4. Both amendments took effect July 1, 2023. LAWS OF 2023, ch. 449, § 27. Although these amendments took effect after Roloson’s sentencing, they apply to cases pending appeal. *See State v. Ellis*, 27 Wn. App. 2d 1, 16, 530 P.3d 1048 (2023). Therefore, we remand for the trial court to strike the VPA and DNA collection fee.

Regarding the domestic violence assessment, former RCW 10.99.080(1) (2015) states that the trial court may impose a domestic violence assessment on any adult offender convicted of a crime involving domestic violence. Recent amendments to this statute did not change this language. LAWS OF 2023, ch. 470, § 1003. Sentencing courts have discretion as to whether to impose a domestic violence assessment, which is to be used for the purposes of domestic violence advocacy and domestic violence prevention. *See* RCW 10.99.080(1), (2)(a); LAWS OF 2015, ch. 275, § 14. The assessment is not mandatory. Sentencing courts “are encouraged to solicit input from the victim or representatives for the victim in assessing the ability of the convicted offender to pay the penalty,” but are not required to do so. *See* RCW 10.99.080(5), LAWS OF 2015, ch. 275, § 14. Because there is no explanation in our record regarding the trial court’s decision to impose the domestic violence assessment, we permit Roloson to move for the trial court to reconsider that fee on remand in light of Roloson’s indigence.

CONCLUSION

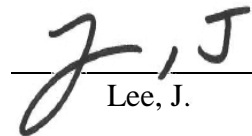
We affirm Roloson's judgment and sentence but remand to strike the VPA and DNA collection fee and potentially revisit the domestic violence assessment.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

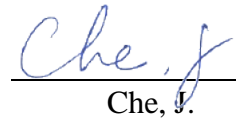


Veljacic, A.C.J.

We concur:



Lee, J.



Che, J.

THE SUPREME COURT OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

ERIC SEAN ROLOSON,

Petitioner.

No. 103812-7

ORDER

Court of Appeals

No. 56823-3-II

Department II of the Court, composed of Chief Justice Stephens and Justices Madsen, Gordon McCloud, Montoya-Lewis, and Mungia, considered at its April 29, 2025, Motion Calendar whether review should be granted pursuant to RAP 13.4(b) and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the petition for review is denied.

DATED at Olympia, Washington, this 30h day of April, 2025.

For the Court


 CHIEF JUSTICE

1 THE BAILIFF: No. 12, Eric Roloson.

2 THE COURT: All right. Sir, are you Eric Sean Roloson?

3 MR. ROLOSON: I am, Your Honor.

4 THE COURT: And, Ms. Townsend, you're here with
5 Mr. Roloson? Is that correct?

6 MS. TOWNSEND: Yes, Your Honor.

7 THE COURT: Thank you. Okay. Mr. Roloson, did you read
8 the Statement of Defendant on Plea of Guilty?

9 MR. ROLOSON: I did.

10 THE COURT: Did you understand it?

11 MR. ROLOSON: I do, Your Honor.

12 THE COURT: All right. You understand that to prove
13 Count I the State would have to prove that—excuse me. Just
14 one second. All right. The State would have to prove that on
15 or about—between January 1st of 2012 and January 24th of
16 2020, being at least 36 months older than T.B., a family or
17 household member, you had sexual contact with T.B. for the
18 purpose of sexual gratification and that you were—T.B. was
19 less than 12 years old and was not married to you and was
20 not in a state-registered domestic partnership with you. Do
21 you understand that?

22 MS. TOWNSEND: Your Honor, the—the facts as I have them
23 is that between January 1, 2012, and January 24th, 2020, in
24 Cowlitz County, being 24 months older than T.B., a family or
25 household member, had sexual intercourse with T.B. And then

1 as to—

2 THE COURT: Okay.

3 MS. TOWNSEND: —Count II, January 1, 2012 and
4 January 24th, 2020, being 24 months older than G.B., a family
5 or household member, had sexual intercourse with G.B., who
6 was less than 12 years old at the time.

7 MR. PHELAN: I think the plea's supposed to be to I and
8 III.

9 THE COURT: Okay. And I see Count I in the—okay, wait a
10 minute. In 372, Count I is a Rape of a Child charge. Count II
11 is Child Molestation. Here—

12 MS. TOWNSEND: Right. He's pleading to Counts I and III.

13 THE COURT: I and III. Okay.

14 MS. TOWNSEND: And we're dismissing the other counts on
15 the record today, right, Counsel?

16 MR. PHELAN: Yes.

17 THE COURT: Okay. Maybe I just misread this. I may have—
18 maybe I read "Count II." So, Count I is between January 1st
19 and January 24th of—January 1st of 2012 and January 24th of
20 2020, being at least 24 months older than T.B., a family or
21 household member, had sexual intercourse with T.B. T.B. was
22 less than 12 and was not married to or in a state-registered
23 domestic partnership with Mr. Roloson. Is that your
24 understanding, Mr. Roloson?

25 MR. ROLOSON: Yes, it is.

1 THE COURT: For Count III, the State would have to prove
2 that you, during that same date range, January 1st, 2012 to
3 January 24th, 2020, being at least 24 months older than G.B.,
4 a family or household member, had sexual intercourse with
5 G.B., who was less than 12 years old and was not married to
6 you and not in a state-registered domestic partnership with
7 you. Do you understand that?

8 MR. ROLOSON: I do, Your Honor.

9 THE COURT: You've got a number of rights that you give
10 up by pleading guilty: Those are the right to a speedy and
11 public trial by an impartial jury in the county where the
12 crime was allegedly committed, the right to remain silent
13 before and during the trial, and the right to refuse to
14 testify against yourself, the right at trial to hear and
15 question the witnesses who testify against you, the right at
16 trial to testify and have witnesses testify for you. Those
17 witnesses can be made to appear at no expense to you. You
18 have the right to be presume—presumed innocent unless the
19 State proves the charge beyond a reasonable doubt or you
20 enter a plea of guilty. And you have a right to appeal a
21 finding of guilt after a trial. Do you have any question
22 about the rights you're giving up today?

23 MR. ROLOSON: I do not, Your Honor.

24 THE COURT: Regarding the consequences here, the standard
25 range is listed as 120 to 160 months with lifetime community

1 custody and a maximum term of life in prison and a \$20,000
2 fine. Count III has the same standard range: 120 to 160
3 months, lifetime community custody with a maximum term of
4 life, and a \$20,000 fine. These are both offenses where the
5 Court would set a term between 120 and 160 months. And I
6 believe the Indeterminate Sentencing Review Board would
7 review your sentence at that period—at that point in time
8 and—and determine if you were to get out at that point in
9 time. Do you understand that?

10 MR. ROLOSON: I do, Your Honor.

11 THE COURT: Your offender score is listed as being 3. And
12 if it's later discovered you have additional criminal
13 history, and specifically felony criminal history, you could
14 be brought back and resentenced if this offender score of 3
15 is not correct. Do you understand that?

16 MR. ROLOSON: Yes, Your Honor.

17 MS. TOWNSEND: Bless you.

18 THE COURT: Okay. It looks like the—it says here that the
19 Prosecutor will recommend what's stated in the plea
20 agreement. And I'm looking through this, and I'm seeing a
21 number of conditions for community custody. I'm not seeing
22 any period of time recommended. Is there—

23 MS. TOWNSEND: A joint recommendation for SSOSA. And this
24 is a case that'll require a PSI, Your Honor. But the victims
25 have endorsed SSOSA for this individual. And so, we're going

1 to be doing the change of plea today and asking for the PSI
2 to be completed. And we'll produce for the Court the DOC
3 report along with the psychosexual evaluation that's been
4 completed and provided to the Prosecutor and to the family.

5 THE COURT: Mr. Roloson, is that your understanding of
6 the plea agreement?

7 MR. ROLOSON: It is, Your Honor.

8 THE COURT: And you—you understand I don't have to follow
9 that recommendation? I can give you anywhere within the
10 standard range?

11 MR. ROLOSON: I do understand that, Your Honor.

12 THE COURT: Okay. If you're not a citizen of United
13 States, a plea of guilty to an offense punishable as a crime
14 under state law is grounds for deportation, exclusion from
15 admission to the United States, or denial of naturalization
16 pursuant to the laws of the United States. Do you understand
17 that?

18 MR. ROLOSON: Yes, I do.

19 THE COURT: Do you understand that as a result of the
20 conviction you may not own, possess, or have under your
21 control any firearm, and under federal law, any firearm or—
22 or ammunition?

23 MR. ROLOSON: Yes, Your Honor.

24 THE COURT: Do you understand you'll lose your right to
25 vote as a—as a result of the conviction?

1 MR. ROLOSON: I do.

2 THE COURT: And also, you'll be required to register where
3 you reside, study, or work. When I say "register," you'll
4 have to register with the Sheriff as a sex offender. Do you
5 understand that?

6 MR. ROLOSON: Yes, Your Honor.

7 THE COURT: Also, this—these are both strike offenses.
8 Together they're one strike offense. If it's later determined
9 you have two prior strike offenses, you could be resentenced
10 to the—to a life sentence without the possibility of parole.
11 Do you understand that?

12 MR. ROLOSON: Yes, I do, Your Honor.

13 THE COURT: Knowing those things, how do you plead to
14 Count I, Rape of a Child in the First Degree, Domestic
15 Violence, guilty or not guilty?

16 MR. ROLOSON: Guilty.

17 THE COURT: And how do you plead to Count II, Rape of a
18 Child in the First Degree, Domestic Violence?

19 MR. ROLOSON: Guilty.

20 THE COURT: Do you make the plea freely and voluntarily?

21 MR. ROLOSON: Yes.

22 THE COURT: Has anyone threatened harm of any kind to you
23 or anybody else in order to make you enter this plea?

24 MR. ROLOSON: No, Your Honor.

25 THE COURT: Has anybody made any promises of any kind to

1 cause you to enter this plea except as set forth in this
2 statement?

3 MR. ROLOSON: No, Your Honor.

4 THE COURT: Your statement says, "On or between
5 January 1st, 2012 and January 24th, 2020, in Cowlitz County,
6 Washington, being 24 months older than T.B., a family or
7 household member, I had sexual intercourse with T.B., who
8 was less than 12 years old and was not married to and not in
9 a state-registered domestic partnership. And further, this
10 crime was committed by one" family house—"or household member
11 against another, as the term is defined by statute, and that
12 this is a domestic violence offense." Is that true?

13 MR. ROLOSON: That's correct, Your Honor.

14 THE COURT: Looking at Count III—

15 MS. TOWNSEND: Judge, on Line 3, could you just correct
16 that "T" to a "G"?

17 THE COURT: Yes.

18 MS. TOWNSEND: I see a typo there.

19 THE COURT: The—I—I—yes.

20 MS. TOWNSEND: Thank you, sir.

21 THE COURT: Okay. So, on Count III, it says, on—"On or
22 between January 1st, 2012, and January 24th, 2020, in Cowlitz
23 County, Washington, being 24 months older than G.B., a family
24 or household member, had sexual intercourse with G.B., who
25 was less than 12 years old and was not married to and not in

1 a state-registered domestic partnership. And further, this
2 crime was committed by one family or household member against
3 another, and that this is a crime of domestic violence as
4 defined by statute." Is that true?

5 MR. ROLOSON: It is, Your Honor.

6 THE COURT: Do you want me to accept your guilty plea?

7 MR. ROLOSON: Yes, Your Honor.

8 THE COURT: Anything else from the parties?

9 MS. TOWNSEND: Just that we set a sentencing date so that
10 we can get the packages completed and before the Court for
11 its consideration at sentencing, Your Honor.

12 THE COURT: All right. I will accept your plea,
13 Mr. Roloson, find that it's knowingly, intelligently, and
14 voluntarily made and with a factual basis to support it. I
15 will dismiss Count II and Count IV pursuant to the agreement.
16 I'm going to revoke any bail that's been set. So, you'll be
17 held without bail pending sentencing.

18 And are we still six weeks in terms of these kinds of
19 things?

20 MS. TOWNSEND: Yes.

21 THE COURT: Okay. So, realistically, let's look at—would
22 January 4th work for the parties?

23 MR. PHELAN: That should be fine for the State.

24 MS. TOWNSEND: Right now, I'm scheduled to be in trial
25 that day, Your Honor. And I believe that it's going to go.

1 THE COURT: January 11th be better?

2 MS. TOWNSEND: Could I look at maybe the 28th? Could we
3 do the 28th of December maybe? That's about eight weeks.

4 THE COURT: Yeah, if the parties don't mind this being in
5 front of any judge. I don't know who'll be-be doing that
6 28th docket.

7 MS. TOWNSEND: No, that's fine.

8 MR. PHELAN: We don't have an objection.

9 MS. TOWNSEND: No objection.

10 THE COURT: All right.

11 THE BAILIFF: Your Honor, if Judge Bashor does that
12 docket, we may need another judge to come on to hear it.

13 THE COURT: Okay. We'll—I guess we'll just have to cross
14 that bridge when we come to it.

15 THE BAILIFF: Actually, I'm sorry. I correct myself. There
16 is not an NOD in this case. So, that would be fine.

17 THE COURT: And I'm just filling out a bench order for a
18 PSI.

19 MS. TOWNSEND: Thank you, Your Honor. And what time on
20 the 28th, sir?

21 THE COURT: Nine o'clock in the morning.

22 MS. TOWNSEND: Thank you.

23 THE BAILIFF: Your Honor, was that for December 28th?

24 THE COURT: Yes.

25 MS. TOWNSEND: Yes.

1 THE BAILIFF: The nine o'clock docket would be—

2 MR. PHELAN: The readiness docket.

3 THE BAILIFF: —the readiness docket. Would you like that
4 at 1:30?

5 THE COURT: Oh, I'm sorry. I was looking at a Wednesday.
6 I was looking at 2022. So, the 20—yes, 1:30. I'm sorry. 1:30
7 on the 28th.

8 All right. I have signed an order for the PSI. That
9 should be available for the parties via Odyssey within the
10 next day or two.

11 MS. TOWNSEND: Thank you, Your Honor.

12 THE COURT: All right. Mr. Roloson, we'll see you back on
13 the 28th of December.

14 MR. ROLOSON: Thank you, Your Honor.

15 [Session ends.]

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25 December 28, 2021, 1:41 p.m.

1 THE CLERK: We're on the record.

2 THE COURT: All right. Good afternoon. We're here for the
3 1:30 criminal motions docket. I'm Thad Scudder. If people
4 could mute your microphones until your case is called and
5 then just remember you're in court, I'd appreciate those
6 things. We're going to start with the Jail.

7 THE JAIL: No. 7, Eric Roloson.

8 THE COURT: All right. This is 20-1-00372-08. Mr. Roloson
9 is on today for sentencing. I've reviewed the PSI, I've
10 reviewed the report from Olivia Lovely, and I also reviewed
11 some submissions from Ms. Townsend's office. So, Mr. Laurine,
12 anything you'd like to add?

13 MR. LAURINE: Yes, Your Honor. Having reviewed the PSI,
14 you may question yourself, why is there an agreed
15 recommendation of SSOSA? And so, I want—I want to work
16 through that process with you so you understand where we're
17 at and—and the concerns that both parties had regarding that
18 PSI before we make the recommendation.

19 Sometime back in September, Mr. Dino Gojack contacted
20 our office and presented an option for a plea. When that was
21 presented to me, I took it to the victims, [REDACTED] and [REDACTED]
22 [break in audio] the victim's mother, Elizabeth. We sat down
23 and we had a long conversation about all—all the options
24 that were available for Mr. Roloson. I explained the process
25 of SSOSA. I explained what he was potentially looking at if

1 he didn't receive SSOSA.

2 I then made it clear to them that I didn't want them to
3 make a decision at that time. I wanted them go home, think
4 about it, and get in contact with me whether it was the next
5 day or a week. I wanted them to be thoroughly—I wanted them
6 to make the decision that they—they felt was best for them.
7 Obviously, this has not been an easy process for them. It's
8 been a long duration in time. Mr. Roloson was originally
9 interviewed years ago and then took flight to Hawaii, at
10 which point he was in custody there before he was brought to
11 our jail in 2020—end of 2020, like, October of 2020. And
12 then has then awaited either trial or plea since then.

13 They did—the two victims as well as their mother went
14 home and discussed this. And they contacted our office the
15 next morning and stated that they were in support of SSOSA.
16 That doesn't necessarily—isn't necessarily reflected well in
17 the PSI. I think some of the concerns that they have are
18 going to be better expressed to Your Honor, but what they do
19 want is some—they want this—they wanted an opportunity for
20 this to be resolved. They wanted to—they recognized some of
21 the concerns that are there for them as—as witnesses. But
22 more importantly, they wanted finality. They did support the
23 SSOSA. They still do support the SSOSA, but as with
24 everything in life, there are conflicts. And they're—they're
25 just normal people who have had a really bad thing happen to

1 them, and they have some conflicts. They're going to have an
2 opportunity to express that to Your Honor.

3 I don't see them on the--there we go. Hope Project
4 advocate is there now and Elizabeth is here. She's going to
5 be able to present to Your Honor, and then I believe [REDACTED]
6 and [REDACTED] will also speak to Your Honor, and they'll express
7 to you, probably better than what I could, what the process
8 that they went through and why it is that they support SSOSA
9 even though that they--they are conflicted.

10 Elizabeth, did you want to speak?

11 MS. ROLOSON: Sure. Uh, I have my victim impact statement,
12 Your Honor, if I could read it now?

13 THE COURT: Yeah, if you could start just by telling me
14 your name?

15 MS. ROLOSON: Sure. Uhm, I'm Elizabeth Roloson.

16 THE COURT: All right. Thank you.

17 MS. ROLOSON: Uh-huh.

18 THE COURT: Go ahead.

19 MS. ROLOSON: Uhm, when I think about the life I lived
20 with Eric Roloson, one word comes to mind: prisoner. The
21 kids and I were held captive under the abuse of Eric for
22 nine years. Excuse me. Our voices were slowly silenced, and
23 we were convinced we were the problem. The one true thing we
24 had in our lives, the Bible, was used to manipulate and
25 deceive us into thinking he was doing the will of God. Eric

1 would use scripture, prayer, and people from the church into
2 believing he was a devoted father and husband. When you're
3 constantly under the control of your abuser, you start to
4 live in a false reality, not knowing the difference between
5 right and wrong. Life gets to the point of trying to survive,
6 not just physically, but mentally as well. I remember feeling
7 like I was literally losing my mind. I was too scared to
8 reach out for help. And being told I was the problem, I began
9 to believe it.

10 When asked to write how I've been impacted by the crimes
11 of Eric Roloson, I have a hard time putting it into words.
12 I can start with how I see my children impacted. First, I
13 have my two oldest daughters whose innocence was stolen long
14 before they knew what they even meant. I've had to watch my
15 daughter [REDACTED] be taken away into handcuffs because she
16 was having PTSD and literally thought she was fighting
17 against the man who relentlessly raped her over the course
18 of nine years. I've had to hold her, hoping she would come
19 back to reality and being scared she may never come out of
20 it.

21 And then I have [REDACTED] who went through a time of not
22 talking with me about any of the abuse. Then finding out she
23 had been cutting herself to deal with the pain and trauma.
24 [REDACTED] suffers from extreme anxiety and struggles to feel
25 accepted at school and at church.

1 My oldest son, Elijah, had suffered the physical abuse
2 of Eric so severely that he chose to live with his biological
3 dad after Eric had left. He is very angry and blames me for
4 not leaving soon enough.

5 Eric and I have had two children in common, the oldest
6 being Ezekiel, who has asked to have his name changed so it
7 does not share the same name of the man who screamed and
8 yelled so much at his mom he was scared to go to sleep at
9 night. Ezekiel does not know of the sexual abuse of his
10 sisters yet. I'm afraid when he is old enough to know the
11 crimes of his father, he will be devastated and question if
12 it's in his own DNA. I dread the day he is old enough to ask
13 and understand the crimes his father committed to his
14 sisters.

15 Then I have precious Naomi, who was only one year old
16 when Eric chose to run from police and abandoned her and her
17 big brother. She will certainly have questions as well. I
18 will be the one to answer those questions and to hold both
19 of them as they hurt and try to make sense of something so
20 evil and wicked. I can only pray they find forgiveness and
21 choose to not live in bitterness and anger.

22 As for me, I not only have held everything together for
23 these five souls, but I've had to go from being a stay-at-
24 home mom to working fulltime and supporting the children on
25 my own. I do have PTSD and nightmares of being strangled

1 while Eric held Naomi as an infant. I struggle to believe
2 this isn't all my fault. I know it isn't, but when my children
3 hurt so profoundly, I feel as though I have let them down.

4 Eric is truly an evil man who does not have remorse. He
5 ran for eight months without one shred of empathy for the
6 crime he committed on my family. He has been able to afford
7 a criminal attorney and a divorce attorney while I have
8 supported all of the children, not just financially but
9 emotionally. His mother served me with papers to leave the
10 only home my children knew as soon as Eric fled to Hawaii
11 where she lives. I was then locked out of the home with our
12 belongings still inside. Eric has not shown one shred of
13 regret or sorrow for the crimes that have taken place. The
14 devastation that has been caused cannot be reversed. The
15 time Eric has spent in jail does not compare to the lifetime
16 of sorrow and scars he has left on my daughters.

17 I did choose to agree to the SSOSA deal because I did
18 not want my daughters to be retraumatized by having to tell
19 their story again. My daughter, [REDACTED] could hardly eat or
20 function in a healthy way after sharing her story. When told
21 she would have to be put in a position of being questioned
22 about the horrendous things that happened to her, my choice
23 was clear: I would agree to the SSOSA deal. The thought of
24 my family waiting for trial and then being doubted by Eric's
25 attorney was just unbearable. [REDACTED] has been able to fall

1 in love and get married. And to set her back in her healing
2 is not an option for me. Trial would have brought all the
3 pain and heartache back to reality. It was certainly a hard
4 choice to know that he may be getting what he wants after
5 all the years of him manipulating and holding his evil way
6 so well, but I chose to put him in your hands, Your Honor,
7 and ultimately in God's hands where true justice will take
8 place.

9 I do have fears that if he is released into the community,
10 he will recommit these horrendous crimes. Repeating the same
11 actions of molesting, raping, physically and mentally
12 abusing my family show that he is very unstable and has no
13 remorse for his actions. I do fear Eric will try to come
14 after us if he is released. He has said on numerous occasions
15 that he could be—could kill and never be caught, that he
16 could disappear and never be found. He is obviously mentally
17 ill and needs treatment in or out of prison.

18 If you choose to release him into the SSOSA, I ask that
19 he not be released into Cowlitz County. The thought of him
20 living in the same town as us is completely devastating. The
21 worry of one of us—the worry of one of us running into him
22 is completely heart-wrenching and downright scary. He is
23 capable of horrendous things, and I do not want my family
24 within his reach if he were to act out in resentment of what
25 has taken place.

1 The children have paid so much already for what this man
2 has done to them. They will suffer for a lifetime from the
3 crimes that were committed against them. They do not have a
4 choice to get the innocence back that was stolen from them.
5 They did not even get the pleasure of enjoying the holiday
6 season without this hanging over their heads.

7 A lot has taken away from these girls since the first
8 time Eric laid his hands on them. Please consider that they
9 will live in a prison of shame and heartache for the rest of
10 their lives. They don't get to have a redo or another chance.
11 They had their innocence stolen from them, and they will
12 never get that back.

13 I do not believe Eric Roloson is sorry for his actions.
14 He has shown that by running from police for eight months
15 and trying to take the easy way out with the SSOSA deal. He
16 is currently trying to get visitations with Naomi and Ezekiel
17 his—without the thought of them being in danger of his
18 horrendous acts on children. He refuses to settle in our
19 divorce and continues to manipulate and control from his
20 jail cell. He is an evil man who deserves the same life
21 sentence he gave my daughters when he decided to rape them
22 for nine years.

23 Thank you, Your Honor.

24 THE COURT: Thank you. Do either one of your daughters
25 wish to be heard?

1 MS. ROLOSON: Yes, sir. Both of them do.

2 THE COURT: All right.

3 MS. ROLOSON: I'm gonna put [REDACTED] on the screen.

4 Introduce yourself.

5 [REDACTED]: I'm [REDACTED]

6 THE COURT: Okay. Whenever you're ready.

7 [REDACTED]: I was so little when it started, and I
8 don't understand how someone could hurt a child the way Eric
9 hurt me. When it was happening, I felt so small and like I
10 had no control of what was happening to me. I used to get
11 really sad when I saw other girls with their dads because I
12 wanted a dad to take care of me and have fun with me in a
13 healthy way. For a while I thought the abuse was normal.

14 Now that it's over, I struggle with really bad anxiety
15 and feel like I just want this to be over. I don't want—I
16 don't want Eric to be able to hurt other children the way he
17 hurt my family. I think that he is evil and does not deserve
18 any freedom, happiness, or a new life. I honestly don't think
19 that he is sorry at all. He had so many chances to change,
20 but he never did. The only reason I chose to let him have
21 the SSOSA deal was because I was scared of facing him in
22 trial. And he still scares me and always will.

23 Thank you.

24 THE COURT: Thank you.

25 [REDACTED]: [REDACTED] Your Honor.

1 THE COURT: All right. Whenever you're ready.

2 [REDACTED] [REDACTED] [REDACTED]: No amount of words could ever
 3 describe, excuse me, the horror that my family and I have
 4 lived through. Just one moment. How do I fit nine years of
 5 abuse into one statement? How do I list all the pain and
 6 trauma caused by Eric's actions? Just a little under half of
 7 my life has consisted of constant emotional and sexual abuse.
 8 For nine years I kept a secret, scared I would be punished
 9 or that others in my family would be. I spent my elementary
 10 years oblivious to what was actually happening to me, and my
 11 teens denying that anything was wrong. At home I was tortured
 12 and manipulated into believing I was the one who was wrong
 13 and twisted. The very man I believed to be my dad hurt me.
 14 Eric manipulated me into believing he was a good and safe
 15 parent. Eric hurt me emotionally, mentally, and physically.
 16 He stole my innocence at age eight, and that is something I
 17 can never get back.

18 Eric made me believe I was weak and incapable. He made
 19 me believe I was wrong and manipulative. He made me believe
 20 I was a horrible daughter when I did not let him do as he
 21 pleased. He made me believe that I hurt my family and that
 22 I was a bad person. Excuse me, Your Honor. I now know I am
 23 none of those things. I am a good daughter and sister. I do
 24 not hurt people because I care about others. That I am
 25 strong, brave, and capable of anything I set my mind to. I

1 do not manipulate people to get what I want. My family
2 chooses me, my husband chooses me, my friends choose me
3 because I am compassionate and kind person. It's taken me a
4 long time to truly believe these things. It is easy for me
5 to forget and blame myself because of the imprint Eric left
6 on me. I now know I did nothing wrong. Eric chose his
7 destructive path and I just happened to be a victim.

8 Since I came forward, my life in a lot of ways has been
9 better, but in most ways has been more challenging. I had to
10 face the consequences of Eric's actions. During high school,
11 I worked countless hours to earn a whole year of college
12 scholarships. Because of the way Eric's abuse affected me,
13 I had to leave college and my dream of being a teacher
14 behind. I experience night terrors and extreme depressive
15 episodes. I was diagnosed with PTSD about three months after
16 coming out with my story. Since then, I have had five trips
17 to the emergency room. Two of those I was taken in a police
18 car due to the severity of the PTSD attack. One of those
19 trips, I was put in cuffs to restrain me from hurting myself.
20 These attacks are not a normal thing for people to
21 experience. They are a direct result of the brutal trauma
22 caused by Eric's abuse.

23 When I have a PTSD attack, my brain tricks me into seeing
24 Eric and I believe he's coming to hurt me or my family. I'm
25 unable to shake the feeling of visions of him watching me,

1 waiting for me to be left alone. I often cannot make out
2 complete sentences, which makes it hard to explain what is
3 happening. Sometimes I remain speechless until the next
4 morning.

5 These attacks end up one of two ways. I am either rushed
6 to the ER when I'm unable to calm down or I have to take my
7 anxiety meds and wait it out. I cannot be alone in my own
8 house. I jump at the sound of doors slamming or police
9 sirens. I fear for my own safety whenever I'm alone.

10 I would like to make it very clear that Eric's abuse has
11 impacted and continues to impact all aspects of my life.
12 Because of the abuse, I have to receive weekly counseling
13 and prescription anxiety medication for when I have an
14 attack. It has taken me two years of intense work to get
15 where I am now. I will continue to have hope in my progress.
16 Though I am slowly healing, nothing can erase what has
17 happened to me and my family. Even when I think back on
18 everything that has happened, I can't remember it all.

19 Then I remember my sweet little sister, my [REDACTED] She
20 went through it too. I can't begin to describe the pain I
21 feel for her, a thousand times worse than my own. I would
22 have done anything if it meant she could have remained safe.
23 I would do anything to take her hurt away if only it were
24 possible.

25 Your Honor, Eric Roloson makes me fear for my safety, my

1 family's, and our community's. He has shown that he's willing
2 to repeat sexual abuse continuously with no remorse or will
3 to change. He manipulated me and my family into supporting
4 him and his behaviors for nine years, and I'm scared he may
5 do that to someone else. Eric cannot be trusted as a
6 contributing and safe member of society, and he has proven
7 that time and time again. He should not be trusted in any
8 regard. I would like to state that this is no longer just
9 about the safety and justice of my family, it is now about
10 the safety of our community. I fear that if proper action
11 isn't taken, that others may be hurt and abused by Eric. I
12 cannot live with that. I ask that you consider the safety of
13 all involved. I do not wish what my family and I have endured
14 on even my worst enemy.

15 Thank you, Your Honor.

16 THE COURT: Thank you.

17 MS. TOWNSEND: Your Honor, I have to interject. I'm going
18 to ask to stop the sentencing so I can file a motion to
19 withdraw our plea. I've advised Mr. Laurine via email as
20 this is completely unanticipated by both sides and not what
21 we agreed to. I plan to file a motion to withdraw his plea,
22 Your Honor. We had a plea agreement; this is not consistent
23 with that plea agreement. I believe that Mr. Laurine is
24 completely surprised by what has just transpired. And I can't
25 in good faith go forward because this is—is not what we

1 talked about, what we agreed to, and what I was told was
2 going to be happening today. I've been completely blindsided,
3 has--has been my client, by the announcements that we heard
4 today, which I can tell you are not consistent with the
5 emails that I received from Mr. Laurine about what was going
6 to happen today. It's a complete 180 from what I was told.
7 And so, I--I cannot let this go forward as his lawyer, and
8 I'm going to have to file a motion.

9 THE COURT: State's position?

10 MR. LAURINE: Well, Ms. Townsend is within her right to
11 move to withdraw a plea and the Court can hear that motion
12 [inaudible].

13 MS. TOWNSEND: I would like to be able to file that motion,
14 Your Honor. Mr. Laurine and I have had email exchanges with
15 regards to this and my concerns, my request, to make sure
16 that the--the statute requires that the victims be on board
17 with SSOSA. I'd been assured prior to accepting the plea
18 offer that they were. Even after the PSI was done and we
19 both agreed it didn't read the way that they had claimed, I
20 received additional emails assuring me that the victims were
21 on board with SSOSA. There's no way that this Court or I
22 could even begin to fathom that that is their position. I
23 think they've made that clear. I think that's their right,
24 but it is not what was anticipated or agreed to or what
25 certainly led to Mr. Roloson accepting the offer.

1 And so, you know, I have to do my due diligence and bring
2 to the Court's attention what those agreements were because
3 I--there's been a material breach. And I don't blame
4 Mr. Laurine. I don't think that he expected that today. I
5 don't think he's done anything untoward. I think that it was
6 just an unexpected outcome based on what the agreements were.
7 And I have to do my due diligence and bring those issues
8 before the Court and request that we be able to withdraw the
9 plea because there's been a material breach.

10 MS. ROLOSON: Your Honor, can I speak?

11 THE COURT: Not on this issue. I would--I understand your
12 position, Ms. Townsend. I don't think there's anything in
13 front of me that would indicate that the State has failed to
14 live up to their end of the--the bargain here, and I think
15 the record should reflect that. The--

16 MS. TOWNSEND: To be fair, Your Honor, I received an email
17 from Mr. Laurine today. And for the record it says, "I am
18 blindsided by this. I don't do business like this," which
19 will be part of my motion. I believe that Mr. Laurine and I
20 were both blindsided by the presentation today. And so, I
21 would hope, because he is a member of the Court, that he
22 would advise this Court that this was unanticipated and not
23 part of what we agreed to and that he would not oppose the
24 motion.

25 THE COURT: And I--I also don't doubt that factual

1 recitation. I don't doubt that there was some—I don't know
2 if I'd go as far as blindsided by—for anybody. I think sort
3 of the—well, the nature of the PSI obviously demonstrated
4 there was, at the very least, ambivalence. And Mr. Laurine,
5 I think, indicated a recognition of conflict but—okay, what
6 I'm going to do, I guess, I will—I took the plea, so the—any
7 motion would have to be in front of me. I'm going to continue
8 this for one week, partially to do my own research. And I
9 guess the question I have is whether I should proceed to
10 sentencing and then address your motion or vice versa,
11 address your motion and then go wherever that takes us. My
12 sense is I'm going to probably address your motion first.

13 MR. LAURINE: I think it's actually appropriate to address
14 the motion prior to sentence.

15 THE COURT: And I don't—yeah, I think I would address the
16 motion first. But I—I think I'm going to need some specific
17 law on this specific fact pattern where I don't think there's
18 been any breach by the State. And so, essentially, the facts
19 are the—the victim essentially changed their mind is—is the
20 way I see it. And I see Elizabeth Roloson sort of shaking
21 her head no, but I also heard pretty clearly the victim
22 statements, which I think are certainly not in line with the
23 Court imposing a SSOSA sentence. And that's absolutely fine.
24 They—they have every right to sort of endorse whatever they
25 want at this point. The question is whether or not that has

1 an impact on Mr. Roloson's plea.

2 So, and actually I'm going to set this two weeks I think.
3 Let's look at this again on the—

4 MR. LAURINE: 14th?

5 THE COURT: —14th of February at 1:30. And I—I've heard
6 the—from the victims. I don't necessarily need to hear from
7 them again, but they're obviously free to attend any of the—
8 the hearings that they want to here.

9 So, Mr. Roloson, you're still held without bail. You're
10 going to be back the 14th of February at 1:30.

11 [Session ends.]

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February 14, 2022, 2:12 p.m.

1 THE COURT: We can start with the Jail.

2 THE JAIL: Thank you, Your Honor. We have Mr. Roloson,
3 No. 1 on the docket.

4 THE COURT: All right. This is State versus Eric Roloson,
5 20-1-00372-08. Today we're scheduled for-to address
6 Mr. Roloson's motion to withdraw his guilty plea. I have
7 received and reviewed the motion to withdraw guilty plea
8 with affidavit and memorandum, the State's response to the
9 Defendant's motion with attached declarations, and then the
10 reply to the State's response. And I-I've read all of those
11 documents.

12 MR. LAURINE: Your Honor, last week, I believe
13 Mr. Swenson, who is pictured here in-in the Zoom, filed what
14 is essentially, I'll call it, an amici brief in support of
15 the SSOSA as-as well as the retention of the plea. Did
16 Your Honor receive that? It was unrequested by the State,
17 but it was filed regardless.

18 MS. TOWNSEND: And I'm sorry, Mr. Laurine, who filed that?

19 MR. LAURINE: Mr. Swenson, who is-

20 MR. SWENSON: I'm present, Your Honor. For the record,
21 Steven Swenson, the attorney for the victims. And it was
22 filed with a bench copy on Thursday last week.

23 MS. TOWNSEND: I don't think I have it, Mr. Swenson.

24 MR. SWENSON: We sent it to you by email and regular mail.

25 MS. TOWNSEND: I can tell you I didn't get it via regular

1 mail. I can check my spam to see.

2 MR. SWENSON: You responded to the email.

3 MS. TOWNSEND: It came from my staff.

4 THE COURT: I—I have not reviewed that. I'm going to just
5 check and see if it's in Odyssey.

6 MR. LAURINE: And for the Court's record as well as
7 Ms. Townsend, it was sent by Sherrill Strassburg.

8 MS. TOWNSEND: Oh. Let me see if I can find that.

9 MR. SWENSON: And I received a reply from you,
10 Ms. Townsend, at 1:50 p.m. on February 10th saying, "hard
11 copies mailed and courtesy copies as well."

12 MS. TOWNSEND: Right. And then I've got an email that
13 says, "It's going to be filed today with a bench copy for
14 Judge Scudder." That's what I have in my email so I'm
15 checking my spam now to see if the one with the attachment
16 is there. That's the one I have from you, Mr. Swenson. It
17 says—it's just an email with no attachment saying it's going
18 to be filed today with a bench copy for Judge Scudder.

19 MR. SWENSON: Yeah, the first one was sent at 12:40 p.m.
20 from SherillStrassburg@NorthwestJustice.org with the
21 attachments.

22 MS. TOWNSEND: Okay. Let's look for Roloson; maybe that'll
23 help.

24 THE COURT: Okay. We—I'm not sure where I'm getting—I need
25 everybody to mute your microphones unless your case is being—

1 unless your case is being addressed right now.

2 Okay, I want to proceed with the motion to withdraw the
3 guilty plea. I'm going to hear from the State as well as
4 Ms. Townsend. Ms. Townsend, it's your motion. While the
5 defendants have a right to speak at sentencing, I'm not going
6 to hear them in regard to this motion.

7 MR. LAURINE: You mean the victims?

8 THE COURT: Victims, excuse me.

9 MR. SWENSON: Your Honor, I would ask that we be able to
10 be heard since the basis of the motion to withdraw is the
11 victims' statement, which they have a constitutional and
12 statutory right to make.

13 THE COURT: Okay. And I—right now, no, on the—on the
14 withdraw of the guilty plea, I'm not going to hear from you,
15 Mr. Swenson.

16 MR. SWENSON: Okay. For the record, I'll just note my
17 objection.

18 THE COURT: And your pleading is on file with the Court,
19 so I understand your objection.

20 MR. SWENSON: Thank you.

21 THE COURT: Ms. Townsend?

22 MS. TOWNSEND: Thank you. I would like to call my client,
23 Your Honor.

24 THE COURT: All right. Mr. Roloson, you want to raise your
25 right hand? Do you swear under penalty of perjury the

1 testimony you're about to give will be true?

2 MR. ROLOSON: I do, Your Honor.

3 THE COURT: Tell me your name and spell your last name
4 for the record.

5 MR. ROLOSON: Eric Roloson, R-O-L-O-S-O-N.

6 THE COURT: All right. Ms. Townsend?

7 MS. TOWNSEND: Thank you.

8 DIRECT EXAMINATION

9 BY MS. TOWNSEND:

10 Q Mr. Roloson, prior to you entering a guilty plea, did I meet
11 with you at the jail more than one occasion with regards to
12 a SSOSA request?

13 A Yes, you did.

14 Q And did we discuss in detail the necessity of the victims
15 being on board and supporting SSOSA in order for the Judge
16 to consider that under the statute?

17 A Very much so.

18 Q And did we have several conversations to your knowledge with
19 the Prosecutor with regards to the victims endorsing
20 treatment for you?

21 A We did, and they declared that they were onboard.

22 Q Was that the only reason that you decided to accept the plea
23 offer from the State, was the statement that the endorsement
24 by the victims would be made on the record?

25 A Yes, certainly. I would never have taken that deal if they

1 were not on board.

2 Q And would it be fair to say that we had more than half a
3 dozen conversations between Mr. Gojack, myself, and you
4 regarding this very situation?

5 A At least, Josie.

6 Q And then after we received the presentence investigation,
7 did we discover that there were errors in the presentence
8 investigation?

9 A We did.

10 Q And did we also then again address the issues that we
11 observed with regard to the victims not being on board with
12 SSOSA and our hesitancy to move forward?

13 A Yes.

14 Q Did you receive reassurances from me that the victims were
15 going to state on the record that they were in support of
16 you going to treatment?

17 A Yes, they reconfirmed that they were--were in--in favor of
18 that, yes.

19 Q And did that affect your decision to accept the plea offer?

20 A It certainly did.

21 Q When the victims spoke on the record, did you observe the
22 Prosecutor make any attempts to cross-examine them with
23 regards to their change of position?

24 A None whatsoever.

25 Q And do you feel that your plea agreement was breached by the

1 statements that were presented to the Court?

2 A I do.

3 Q Is it your request that the Court withdraw your plea and
4 allow this matter to go to trial?

5 A Yes, it is.

6 Q Thank you.

7 MS. TOWNSEND: Your Honor, I know that you've read the-
8 the materials. Of particular note, we provided in the case
9 law that once the victims started to go down a different
10 path than they had indicated to both the Prosecution and
11 myself, the Prosecutor had an obligation to treat it as a
12 cross-examination with regards to their support for SSOSA.
13 I do recognize-

14 THE COURT: Can you tell me what case that's from?

15 MS. TOWNSEND: I will pull up my memo. I believe that it's
16 in our original memo.

17 THE COURT: And given that the victim has a right to speak
18 at sentencing under Article I, Section 35, how could the
19 Prosecutor do that?

20 MS. TOWNSEND: Well, because they could have-he could
21 have-he could have stopped and asked the victims very
22 specifically if they were withdrawing their motion for SSOSA
23 based upon the statements that they were making. And I
24 believe he had an obligation to do-do so. And basically,
25 stop and regroup or ask them questions with regards to

1 whether or not they were endorsing. Because the statements
2 made by the victims—and I'm not chastising the victims for
3 how they may feel, that is not my intent as you may imagine—

4 THE COURT: I understand—

5 MS. TOWNSEND: —but—

6 THE COURT: —that.

7 MS. TOWNSEND: —but what they said on the record was that
8 my client deserves a life sentence. They described him
9 basically as being a monster. We were advised that they were
10 going to endorse him going to treatment. There was none of
11 that in their statements to the Court. After we received the
12 PSI and we approached the Prosecutor and said this does not
13 indicate a—a position in support of SSOSA. The PSI
14 specifically said they weren't endorsing SSOSA, they had
15 changed their mind. So, we advised the Prosecutor that we
16 were not going to go forward with the plea. And I was advised
17 by the Prosecutor that that was a mistake, they didn't say
18 that to the investigator, that they were endorsing SSOSA,
19 and that they never made those statements, never made them.

20 And so, I went back to my client with that information
21 because I think that Mr. Laurine made those statements to me
22 in good faith. I'm not trying to chastise Mr. Laurine. I
23 think that he's absolutely true. And I saw in the affidavits
24 from his staff people that that's exactly what the victims
25 had told him. But then when we got to the sentencing, it was

1 something totally different than what they had proposed to
2 us, what they proposed to the Prosecutor. And, you know, the
3 statute is very clear that the Court is to give the greatest
4 weight to what the victims are requesting. And what the
5 victims specifically requested on the record was a life
6 sentence for my client and that breaches the agreement.

7 And so, I think that based on all of those things that
8 happened and the case law, that it's very clear that my
9 client should be entitled to withdraw his plea and take this
10 matter to trial. I think what happened, it's part in response
11 by the—the Prosecutor, is that the victims did not want to
12 have to go through the—the stress of a trial and so they
13 decided to say that they were going to support SSOSA to
14 everyone that listened. But then when it came time, they did
15 not support SSOSA. I don't think this Court or anyone who
16 was at that hearing could say that they support SSOSA.

17 I saw the State's response to our motion to withdraw the
18 plea and he's trying to say, well, now the victims say that
19 they do endorse SSOSA, we just have different reasons. But
20 that's not what was proposed. That's not what was said. What
21 was said on the record is that he deserves a life sentence.
22 And that is a breach of the agreement that we made, that
23 the—that the victims would, in fact, endorse SSOSA. And
24 that's not what happened.

25 And I—I want to be very clear, this is not against

1 Mr. Laurine. I think that Mr. Laurine acted in a manner by
2 the information that he was given. But I think that he had
3 an obligation to meet with the victims, to go over what they
4 were going to say, to hear and understand that before coming
5 to me before the plea and saying they're endorsing SSOSA. I
6 think he had an obligation to interview them and to make
7 sure that their statements were consistent with what they
8 were telling him and that didn't happen.

9 And I think that that is a breach. I think that there's
10 a manifest injustice that has occurred with regards to the
11 sentencing. There's no way that my client, hearing that from
12 the victims, would have agreed to change his plea, he would
13 have gone to trial. I'm not going to speak to the--the
14 settlement arrangement, but the reason that he accepted
15 responsibility for certain charges that he ultimately
16 disagreed with was because of their endorsement for him to
17 go to treatment. So, he was positively misinformed about
18 what was going to happen at that sentencing by the
19 Prosecutor's Office. And we have to lay that responsibility
20 upon the Prosecutor because he's the only one that had the
21 right, really, to talk to the victims about what they were
22 going to say and what their real position was. It wasn't
23 something that I could do. I couldn't interview them and--and
24 say, you've told the Prosecutor you're going to do this, is
25 that the truth or not? I don't think the Court would have

1 liked that very much, and it may have affected their—their
2 position at that time if I had done so. So, I think that—

3 THE COURT: Did you—did you ask Mr. Laurine if you could
4 interview the victims about their position at sentencing? I
5 understand that there was—I understand that there are
6 typically offers that are made that require victims not be
7 interviewed. But once you had that concern, once the DOC
8 report came out and was—I guess, gave—gave us all information
9 that at best they were ambiguous about their desires here,
10 did you—did you request to interview them?

11 MS. TOWNSEND: I asked that he did. I think that me
12 interviewing them would have been not a good situation for
13 my client. I didn't want them to see that as a breach either,
14 but I did ask for the Prosecutor to look into it and to
15 interview them. And I think that he did. I think that they
16 misled him as well. That's the point, is that I think that
17 they gave him information that he relied on; he gave that
18 information to me. And that's why he sent me that exchange
19 that says, "I'm completely blindsided by this. I don't do
20 business like this," because that did not reflect what they
21 had said to him when he interviewed them post-PSI.

22 And so, I think that—I don't think it would have mattered
23 who interviewed them, Your Honor. I think that they would
24 have given the same story to either one of us, the story
25 that they gave to Mr. Laurine. And so, I don't think that

1 that could have been relied upon. But the basis is that we
2 both relied on it. We both relied on what they were saying.
3 When Mr. Laurine sent me a response that said they did not
4 say that to the investigator, they did not say those things
5 to the—to the PSI, and they're going to correct it, I relied
6 on that. My client relied on that. And that—that is the
7 issue.

8 So, the Court does not just have to look to whether or
9 not there was a breach, but whether or not there would be a
10 manifest injustice for my client to rely on that assertion
11 and then change his plea based on what he was told was going
12 to happen at the plea agreement. But I also—

13 THE COURT: Do you think—do you think the statute somehow
14 conveys a right upon defendants to negotiate with—with the
15 victim? Because essentially, you're saying the victim's
16 bound to say they're going to recommend something pursuant
17 to the statute and then follow through with it.

18 MS. TOWNSEND: Right. But the case law says, "Although
19 the state need not enthusiastically make the sentencing
20 recommendation, it is obliged to act in good faith,
21 participate in the sentencing proceeding, ask the questions
22 candidly, and not offer information by way of report,
23 testimony, or argument that undercuts the state's obligation
24 under the plea agreement." And by allowing the victims to
25 testify at that hearing, the State offered information by

1 way of testimony that undercuts the State's obligation under
2 the plea agreement. Because the State's obligation under the
3 plea agreement was that there would be an endorsement by the
4 victims of SSOSA. And there was not an endorsement by the
5 victims of SSOSA, there was an endorsement for a life
6 sentence. And that is *State v. Xavier*, 117 Wn.App., 196 from
7 2003. Breach where the defendant was called one of the most
8 prolific child molesters. In this one, the victims called
9 him a monster.

10 THE COURT: Weren't the facts that—

11 MS. TOWNSEND: [Inaudible]—

12 THE COURT: —weren't the facts that the—in *Xavier* that
13 the—the prosecutor actually called the probation officers as
14 witnesses and actually rebutted some of the things that the—
15 I guess that were recommended in the plea agreement through
16 those witnesses?

17 MS. TOWNSEND: Correct. And here that's what—exactly what
18 happened here. He called the victim who rebutted what was
19 offered in the plea agreement. So, that is the analysis, is
20 that—

21 THE COURT: Well, if—

22 MS. TOWNSEND: —he offered testimony in exact opposite of
23 what caused the plea agreement to occur, sir.

24 THE COURT: Okay. So, your position is that he actually
25 called the victims as witnesses here.

1 MS. TOWNSEND: Well, they did. They testified; they were
2 witnesses. They were witnesses at the sentencing, and they
3 were the ones that—the only ones, really, that could really
4 undercut this agreement. And under which they knew, they
5 knew that the statute says you have to give the most weight
6 to their testimony or their opinions or their wishes. And
7 their wishes, which were relayed to Mr. Roloson, was that
8 they endorsed treatment. Their statements undercut that by
9 stating he deserves a life sentence. That's—that's the
10 difference here.

11 And, yes, Mr. Laurine, as the prosecutor, called these
12 individuals, allowed them to testify, and—and that should
13 not have happened the way that it happened. And again, I
14 think he was taken by surprise. That's why he said, "this is
15 not the way that I do business." Because I don't think—I
16 don't think on—on earth that Mr. Laurine would have offered
17 that testimony if he'd known what they were going to say, if
18 they'd been honest with him. And I don't think that
19 Mr. Laurine would have come to me and said that we have an
20 agreement if he'd known the true feelings of the victims
21 with this particular case.

22 That—that is what happened, is the victims didn't want
23 to go to trial, they didn't want to be interviewed. That was
24 part of the agreement as—as the Court rightly surmised. And
25 so, instead they said we'll—we'll propose that he get SSOSA,

1 that he get treatment, but then they did something entirely
2 different because they felt entirely differently. But to get
3 the benefit of not having to go through interviews and trial,
4 they said that they would endorse SSOSA several times but
5 that is not what happened. But that was the reason, the only
6 reason, that Mr. Roloson decided against going to trial.
7 Because when I came on board, he was set to go to trial, he
8 had asked me to do these interviews. We were ready to go
9 when we got this offer. That's why I kept repeatedly
10 approaching the Prosecution and saying, are you sure? I do
11 not want to give up a trial on these issues that he has some
12 discourse with unless the victims are really on board because
13 that's what the statute says.

14 And, you know, I stand by my word. I would not do that
15 to my client. I would not go to my client and say, you have
16 to do this because this is your best option. If your—if your
17 alleged victims are on board with SSOSA, that is what the
18 judge is primarily going to listen to because he's required
19 to. He's required to give them their voice. And—and so, it
20 really goes against everything that we do in terms of plea
21 bargaining when you have that blow up. And it blew up. And
22 so, we're—we are asking that he be allowed to withdraw his
23 plea.

24 It doesn't mean, Your Honor, that we won't reach an
25 agreement in the future. It doesn't mean, necessarily, that

1 we're going to end up in a trial. But it does mean under
2 these circumstances, it should not go forward. The sentencing
3 should not go forward because I—you know, as I stated in my
4 brief, you can't unring that bell. I think it would be very
5 difficult for me or for you or for anyone, really, to unhear
6 their request that he get a life sentence 'cause that's—
7 that's what they said. That's the most profound thing that
8 they said in that hearing.

9 THE COURT: You think this is a direct consequence, their—
10 what their recommendation is leads to a direct—is a direct
11 consequence of this—

12 MS. TOWNSEND: You know, Your Honor, you have discretion.
13 And I don't mean to under—undermine, you know, your authority
14 as the—as the—the person who makes the decision. I don't.
15 I'm—I'm looking at my years of experience of listening to
16 sentencing hearings in which the victims speak and how that
17 resonates. It resonates with both your—your mind, your heart,
18 your emotions as a human and as an individual. I think that
19 I have to measure all of those things based on my experience
20 of how—how that resonates when you hear the types of
21 statements that you heard. And I have to caution, you know,
22 my client in what that means. And then, you know, when I
23 read the interpretation of the statute and the interpretation
24 of the statute that says you have to give the greatest weight
25 to what the victims are asking for, I think that that is—

1 it's such a danger. I could not in good faith not make this
2 motion before the Court because of what you've heard and
3 because you're a human. You're human like the rest of us,
4 and it was a very powerful statement that was being made in
5 the courtroom.

6 And I'm not discounting that at all. I'm not discounting
7 what the victims may have felt. But in terms of how we
8 approach this offer and how we relied upon what the
9 Prosecutor was telling us was going to happen and then not
10 have that happen in any way, shape, or form has an impact.
11 And I think the—the proper and—and lawful thing to do is to—
12 to take that out of the equation and to set us back to—to
13 pre-plea so that we can readjust. And—and quite frankly, I
14 think in this case, if we were to come back with a different
15 agreement or go to trial, it would probably have to go,
16 honestly, in front of another judge. And the only reason I
17 say that is because you can't unring the bell [sic] of what
18 you heard. You—you heard their statements, you heard their
19 pleas, and—and I was affected by it just as a human, so I
20 couldn't imagine that you wouldn't be.

21 So, that's my dilemma. I'm trying to do what's fair and
22 what's right and to correct a manifest injustice of what
23 happened to my client because he was—he was corralled into
24 making this agreement, and then he was bombarded in a way
25 that was never anticipated by anyone, certainly not by what

1 was proposed by the Prosecutor. And so, I—we're at—we're at
2 a point where this has to go back to the start, to prior to
3 the plea for us to regroup and decide what is going to be
4 the best, in this case, going forward, whether that be trial
5 or a different plea. But—but there was testimony, and it did
6 undercut the agreement, and it would create a manifest
7 injustice.

8 And I think that the—the Court might be in a bad position
9 as well, because you—you have the ultimate authority about
10 whether or not to grant SSOSA to Mr. Roloson at this point.
11 And I don't know if you would feel obligated to grant him
12 the SSOSA to override what was said by the victims, but
13 that's not the intent of the statute either. Those are—those
14 are issues that I don't think that you should have to wrestle
15 with as a judge or as a person, quite frankly. And so, I—I
16 think that we're—we're at that point, under the *Xavier* case
17 and under the—the *VanBuren* case, where—where Mr. Roloson
18 should be allowed to withdraw his plea and we—we go back to
19 the pre-plea positions. And then Mr. Laurine and I, we'll—
20 we'll sit down and talk and see what our options are at that
21 point.

22 THE COURT: Okay. We kind of got ahead of ourselves a
23 little bit here. And it may be my fault to some extent, but
24 Mr. Roloson did offer testimony. I didn't ask Mr. Laurine if
25 he had any questions of Mr. Roloson?

1 MR. LAURINE: I have no questions of Mr. Roloson.

2 THE COURT: All right. Mr. Laurine, do you have any
3 response?

4 MR. LAURINE: Your Honor, Defense has not shown that there
5 is a manifest injustice. The first concern that the—the Court
6 should consider is whether or not the State made an argument
7 that ran contrary to or outside the agreed recommendation.
8 And in this instance the State didn't. The State made it
9 clear at the beginning of the sentencing hearing that the
10 victims in this matter were coming to this resolution in a
11 different way than what we have anticipated or seen in the
12 past and that they were going to explain to the Court how it
13 is that they got there.

14 And in doing so, I made it very clear that this wasn't
15 the State's recommendation to begin with. This was brought
16 to us by Defense Counsel. So, to say that the Defendant was
17 corralled, was corralled, into this resolution fails. This
18 was the Defense request. And I took this request to the
19 victims. And I sat down for an hour and a half and explained
20 to the victims all of the ramifications of a plea, what could
21 happen if he didn't plea to a SSOSA, what he was looking at,
22 what would happen if it went to trial as I explained to the
23 Court. And then I—I expressed to them to go and think about
24 this on their own.

25 I don't need to belabor this. It's within my affidavit.

1 Everything that transpired in this matter is within my
2 affidavit. More importantly, at sentencing I made clear that
3 we were going forward with the SSOSA. I never had an
4 opportunity to make, yet again, the request for the SSOSA
5 recommendation because the objection and motion to withdraw
6 the plea was made. So, it preempted my ability to go forward
7 with my recommendation or the State's recommendation, which
8 goes to the next point.

9 Victims are not parties to pleas, period. Now, they may
10 have a special input in—in the specific Special Sex Offender
11 Sentencing Alternative in which the Court is—is and provided
12 an opportunity to give them great weight, but even then the
13 Court does not have to follow their wishes. And there is a—
14 there's a mechanism for the Court to do that. If the Court
15 goes opposite or contrary to the victims' wishes, the Court
16 is to enter in written findings as to the reasons why it has
17 gone opposite those wishes. So, that shows there the
18 legislature's as well as the court's intentions and
19 interpretations of the position that victims are. They're
20 just that, victims; they're not parties to the plea.

21 The victims did, indeed, inform the Court, as well as
22 the mother of the victims, that they were requesting SSOSA.
23 Yes, their statements went outside of what we normally hear
24 in regards to SSOSA requests. But, you know, we live in weird
25 times and sometimes people come to different—come to

1 conclusions by different means. And they wanted the Court to
2 be aware of that and understand that—the toll that it has
3 taken on them. That's what they informed the Court. But more
4 importantly, they also informed the Court that they still
5 support the SSOSA.

6 Now, nothing in the statute states that the State, the
7 victims, or any party that the Court hears from needs to
8 hold hands with the defendant, sing "Kumbaya," and express
9 his willingness for [break in audio] in order for SSOSA to
10 be granted. What it does suggest is that the defendant needs
11 to be appropriate, is receptive to treatment, that the—that
12 the victims, their opinion of this, is given great weight,
13 as well as the defendant must—must admit to the behavior.

14 In Defense Counsel's argument to withdraw the plea just
15 now, there's an indication that the Defendant only admitted
16 behavior in order to get this deal and not that he was
17 actually admitting to the behavior. That's a problem. And
18 that sets us out in a problem going forward. But more
19 importantly, everything that the State has provided you
20 suggests that the State has and still intends to uphold its
21 end of the bargain. We have not made any sort of recitation
22 of facts [break in audio] facts of other cases, from cases
23 from out of state, anything of that nature that would [break
24 in audio] this matter with [inaudible] case that we've
25 provided to the Court in which the Court of Appeals

1 determined that the plea was still good and that the—that
2 the State held its end of the bargain.

3 The State only, and the Court only, provided the victims
4 their constitutional right. Because they are victims and the
5 mother is the imputed victim, because one of the victims is
6 a minor and remains a minor still, were able to speak to the
7 Court. Now, do I find that much of the stuff that the victims'
8 mother provided to the Court to be relevant? No, I don't. I
9 was shocked by some of the things that were stated to the
10 Court. But that doesn't mean that during the conversations
11 that I held with the victims, the victims' mother as well,
12 on the instances in which I did speak with them, we didn't
13 discuss what was to be stated in the sentencing hearing.
14 That's not true; we did. We did discuss what was to be stated
15 in the sentencing hearing: To discuss the reasons why they
16 wanted the SSOSA, why they were in favor of it, as well as
17 to discuss the impact of the Defendant's actions on the
18 victims themselves. That's their right. Cannot remove that
19 right. They're not witnesses as in *Xavier*. *Xaiver* you
20 brought—brought in outside individuals to testify before the
21 court. To call victims' statements testimony, again, excuses
22 their constitutional right, which is not something this Court
23 has the ability to do.

24 Ultimately, the only time that the State and a witness
25 or a victim would be a—a—I think a party to the plea is if,

1 indeed, they were, like, associated with the Prosecutor's
2 Office. At times law enforcement are and will be parties to
3 pleas. In this instance, these victims are not law
4 enforcement. These victims are not associated with the Office
5 in any other way than the fact that they've been in our
6 offices to discuss the case and the actions of the Defendant.
7 So, we need to remove that thought from this argument.
8 They're not parties to the plea.

9 The State has, and still intends, [break in audio] with
10 the recommendation of SSOSA. I don't feel that there—anything
11 further needs to be stated in that regard. Now, if the Court
12 wants to review Mr. Swenson's provided brief, it states very
13 much the same thing that the State has provided, cites the
14 very same cases that the State has cited, and ultimately
15 states that the victims still support SSOSA. Supporting SSOSA
16 and telling the impact of the Defendant's actions on the
17 victims, that's why we have Victim Impact Statements. And
18 it's for the Court [break in audio] and sift through what is
19 important to its decision. That's why we have sentencing
20 hearings. So, [break in audio] it has not at any point
21 violated the plea agreement, does not intend to violate the
22 plea agreement, nor does it intend, nor has it intended, to
23 violate the victims' rights as appointed to them by the
24 Constitution as well as statute. We ask that you deny Defense
25 motion to withdraw this plea.

1 THE COURT: Thank you. Ms. Townsend, anything else?

2 MS. TOWNSEND: I don't think that you could state to the
3 Court that the—the statements made by the victims were not
4 testimony. I believe that the case law clearly provides that
5 it would be a manifest injustice to go forward. I believe
6 that the plea agreement was broken, and I'm asking that you
7 allow him to withdraw his plea. Thank you.

8 THE COURT: Okay. Thank you. The—the statute—the SSOSA
9 statute, which is 9.94A.670, indicates that "the court shall
10 give great weight to the victim's opinion whether the
11 offender should receive" treatment—"a treatment disposition
12 under this section. If the sentence is contrary to the
13 victim's opinion, the court shall enter written findings
14 stating its reasons for imposing the treatment disposition."
15 So, if I give treatment against the victims' wishes, I have
16 to set out written findings.

17 The—this does not, essentially, put the victim into a
18 position where they're negotiating or part of the plea
19 negotiation. They may have a position that's relayed, and in
20 this case they did. They were—their opinion was sought and
21 it was relayed to the Defendant, and I don't have any doubt
22 that the Defendant relied on that to some extent. But it's
23 not a direct consequence of his guilty plea because the Court
24 still has to exercise its discretion at sentencing. And there
25 are a number of factors that the Court has to take into

1 consideration, and they're listed in RCW 9.94A.670, Sub 4.

2 The—the argument that the—the victims were witnesses, to
3 the extent that—I mean, this wasn't a real facts hearing.
4 They were not under oath. And they were not called by the—
5 the Prosecutor as a witness for the purpose of anything other
6 than they were offered the opportunity to speak, which is
7 their right under Article I, Section 35 of the Washington
8 Constitution. There are also statutory provisions which
9 allow for that. Even if the Prosecutor wanted to prevent
10 them from speaking at sentencing, I don't see he would have
11 any basis to do that. To say that he would have to—to put a
12 duty on him to cross-examine them, well, he pretty candidly
13 said he wasn't expecting this and he expected something
14 different from them.

15 In the plea colloquy—I went back and reviewed the plea
16 colloquy. And in some of the pleadings it's indicated that
17 Mr. Roloson was well aware that the Court did—does not have
18 to follow, A, the State's recommendation, or B, the victims'
19 wishes. The notion that the Court has to give the greatest
20 weight, the statute doesn't say that. It says the Court has
21 to give "great weight." But there are—again, there are a
22 number of factors the Court has to consider.

23 I don't find that the State breached their plea
24 agreement. I don't think the victim was acting as an agent
25 of the State. And I think that this is a situation where the

1 plea agreement was not breached, so I would deny the motion
2 to withdraw the guilty plea.

3 MR. LAURINE: So, Your Honor, that leaves us at the point
4 where the State, again, needs to reiterate its
5 recommendation. There was an agreed recommendation that was
6 originally and ultimately supported by the victims. It was
7 presented to us by Defense that the Defendant would request
8 SSOSA. We—we agreed to that recommendation based on the
9 earlier assent by the victims and I believe their continued
10 agreement and support of that, as evidenced by the affidavit
11 Mr. Swenson provided the State in addition to his amici brief
12 that he's provided to the Court that has been filed with the
13 court.

14 Obviously, these events have been [break in audio] and—
15 and harmful. And to return to one of my contrary arguments
16 to Ms. Townsend's own argument to withdraw, there's this
17 thinking that because people are going to [break in audio]
18 a SSOSA recommendation that all parties need to feel good
19 about that, there are multiple reasons why people come to a
20 determination why they want to have a specific resolution.
21 And not all of it is—is easy. And in this instance, it's one
22 of those moments where it wasn't easy, but it was—it was an
23 assent based on a desire to prevent further harm.

24 Obviously, there's some hope that Mr. Roloson can engage
25 in effectively and be successful in treatment, but ultimately

1 So, I guess going back to risk. One of the things I have
2 to consider is if we impose this alternative, can I—I guess
3 how much faith do I have in Mr. Roloson? He's an adequate
4 candidate and he's of average risk, and when this whole thing
5 was discovered, he fled to Hawaii, fled the jurisdiction.
6 So, I guess, frankly, I don't—I don't know that I have a lot
7 of faith in Mr. Roloson. Counsel indicated that he's been
8 crime-free. His—his evaluation from Ms. Lovely didn't
9 indicate that. It indicated that he had absconded from
10 Probation more than—on more than one occasion. And he
11 absconded here.

12 So, this is a case, when I read Olivia Lovely's report
13 which was far—was an—was before I heard anything from the
14 victims, I was essentially not real impressed with the idea
15 that I was going to—that I would impose a SSOSA sentence
16 based on this evaluation. And while I respect that the
17 victims didn't want to go to trial and they did endorse
18 SSOSA, I—I don't think it's appropriate in this case. I think
19 with the—among the scheme of—in the scheme of things, this—
20 this was something that, again, was ongoing for a long period
21 of time. And I think that's where I end up coming down with
22 the greatest weight. And then to essentially leave the
23 jurisdiction to avoid prosecution, I—I don't have any faith
24 that if there was something that went haywire and there was
25 a SSOSA—or a SSOSA—some kind of report that said, hey, we

1 recommend a sanction because Mr. Roloson's in violation of
2 his SSOSA, I don't know if he would stick around to deal
3 with it. And again, the risk is huge if there's a re-offense.

4 In terms of the sentence the Court imposes, this is a
5 situation where the maximum penalty is life and I just fix
6 a minimum term. The—and I just need to pull up the plea form
7 because I haven't been focused on—really on the minimum term.

8 MR. LAURINE: Your Honor, the minimum term is 120 to 160
9 months to life.

10 THE COURT: Mr. Roloson, I think I would be well within
11 my discretion given the offense to give you 160 months at
12 the minimum. I'm going to give you credit for the fact that
13 you did take responsibility for these offenses and plead
14 guilty and set the minimum at 120 months in each case. And
15 the Indeterminate Sentencing Review Board will set the—will
16 actually determine when you're released.

17 So, I'm also—today I'm signing a lifetime sexual assault
18 protection order that's in effect immediately. I am finding
19 that Mr. Roloson is subject to the indeterminate sentencing
20 under 9.94A.507. These are crimes of domestic violence. That
21 the victims were under 15 at the age of the offenses in
22 Counts I and II. There are prior—there's prior felony history
23 that washes. So, the only offense impacting the offender
24 score for Count I is Count III and for Count III is Count I,
25 so. Regarding legal financial obligations, is there a basis

20-1-00372-08
FJS 38
Felony Judgment and Sentence
11854205



18

SUPERIOR COURT

22 FEB 14 PM 22

COWLEY CLERK
SPRING 14

BY: [Signature]

Superior Court of Washington County of

State of Washington, Plaintiff,

vs.

ERIC SEAN ROLOSON,
Defendant.
DOB: 03/11/1980
TCN/PCN:
SID: WA20726697

No. 20-1-00372-08

Felony Judgment and Sentence -- Prison

☒ RCW 9.94A.507 Prison Confinement

(Sex Offense and Kidnapping of a Minor)

(FJS)

☐ Clerk's Action Required, para 2,1, 4.1, 4.3a, 4.3b,
4.8, 5.2, 5.3, 5.5, 5.7, and 5.8

☐ Defendant Used Motor Vehicle

☐ Juvenile Decline ☐ Mandatory ☐ Discretionary

I. Hearing

1.1 The court conducted a sentencing hearing this date 2/12/22; 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

☒ guilty plea (date) 11/08/21 ☐ jury-verdict (date) ☐ bench trial (date) :

Count	Crime	RCW (w/subsection)	Class	Date of Crime
I	RAPE OF A CHILD IN THE FIRST DEGREE – DOMESTIC VIOLENCE	9A.44.073, 10.99.020, 26.50.010(6)	FA	01/01/12- 01/24/20
III	RAPE OF A CHILD IN THE FIRST DEGREE – DOMESTIC VIOLENCE	9A.44.073, 10.99.020, 26.50.010(6)	FA	01/01/12- 01/24/20

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

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

☐ Additional current offenses are attached in Appendix 2.1a.

☒ The defendant is a sex offender subject to indeterminate sentencing under **RCW 9.94A.507**.

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

- GV** ☐ For the crime(s) charged in Count _____, **domestic violence – intimate partner** was pled and proved.
- GV** ☒ For the crime(s) charged in Count I AND III, **domestic violence – family or household member** was pled and proved.
- ☐ The defendant used a **firearm** in the commission of the offense in Count _____. RCW 9.94A.825, RCW 9.94A.533.
- ☐ The defendant used a **deadly weapon other than a firearm** in committing the offense in Count _____. RCW 9.94A.825, 9.94A.533.
- ☐ Count _____, is aggravated murder in the first degree committed while the defendant was ☐ under 16 years of age ☐ 16 or 17 years of age when the offense was committed.
- ☐ Count _____, was committed while the defendant was under 18 years of age and the time of confinement is over 20 years.
- ☐ 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.
- ☐ In count _____ an internet advertisement in which the victim of the crime was described or depicted was instrumental in facilitating the commission of the crime. RCW 9.68A.100, RCW 9.68A.101, or RCW 9.68A.102, Laws of 2013, ch. 9, §1.
- ☐ 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.
- ☐ The victim was developmentally disabled, mentally disordered, or a frail eld. or vul. erable 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.
- ☐ In count _____ the defendant committed a robbery of a pharmacy as defined in RCW 18.64.011(21), RCW 9.94A._____.
- ☐ 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.829.
- ☐ 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.
- GY** ☐ In Count _____, the defendant had (number of) _____ **passenger(s) under the age of 16** in the vehicle. RCW 9.94A.533.
- ☐ 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 9.94A.285.
- ☐ The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- ☐ Reasonable grounds exist to believe the defendant is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. RCW 9.94B.080
- ☐ 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).
- ☐ 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	THEFT-1 (WASHES)	04/05/05	07/27/05	SNOHOMISH CO., WA	A		
2	ASSAULT-3 (WASHES)	11/22/06	01/11/07	COWLITZ CO., WA	A		
3							
4							
5							

* 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
I	3	XII	120-160M		120-160M	LIFE \$50,000
III	3	XII	120-160M		120-160M	LIFE \$50,000

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (RPh) Robbery of a pharmacy, (VH) Veh. Hom, see RCW 9.94A.533(7), (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 with firearm, RCW 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 ☐ Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence:

☐ below the standard range for Count(s) _____.

☐ above the standard range for Count(s) _____.

☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury, by special interrogatory.

☐ within the standard range for Count(s) _____, but served consecutively to Count(s) _____.

Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 Legal Financial Obligations/Restitution. The court has considered the total amount owing, the defendant's financial resources and the nature of the burden that payment will impose. (RCW 10.01.160). The court makes the following specific findings:

☒ The defendant is indigent as defined in RCW 10.101.010(3)(a)-(c) because the defendant:
☐ receives public assistance ☐ is involuntarily committed to a public mental health facility ☒ receives an annual income, after taxes, of 125 percent or less of the current federal poverty level.

☐ The defendant is not indigent as defined in RCW 10.101.010(3)(a)-(c).

☐ 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 costs for its emergency response are reasonable. RCW 38.52.430 (effective August 1, 2012).

- 2.6 [] Felony Firearm Offender Registration.** The defendant committed a felony firearm offense as defined in RCW 9.41.010, and:
- [] The defendant should register as a felony firearm offender. The court considered the following factors in making this determination:
 - [] the defendant's criminal history.
 - [] whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere.
 - [] evidence of the defendant's propensity for violence that would likely endanger persons.
 - [] other: _____
 - [] The defendant must register as a felony firearm offender because the offense was committed in conjunction with an offense committed against a person under the age of 18, or a serious violent offense or offense involving sexual motivation as defined in RCW 9.94A.030.

III. Judgment

- 3.1** The defendant is **guilty** of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.
- 3.2** [X] The court **dismisses** Counts II AND IV in the charging document.

IV. Sentence and Order

It is ordered:

4.1 Confinement. The court sentences the defendant to total confinement as follows:

- (a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

[] The defendant was under 18 at the time of the offense and shall be initially placed in the custody of the Department of Children, Youth, and Families (DCYF):

120 months on Count I _____ months on Count _____

120 months on Count III _____ months on Count _____

_____ months on Count _____ months on Count _____

- [] The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.
- [] The confinement time on Count _____ includes _____ months as enhancement for [] firearm [] deadly weapon [] sexual motivation [] VUCSA in a protected zone [] manufacture of methamphetamine with juvenile present [] sexual conduct with a child for a fee [] impaired driving.

Actual number of months of total confinement ordered is: 120

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

This sentence shall run consecutively with the sentence in the following cause number(s) (see RCW 9.94A.589(3)): _____

Confinement shall commence immediately unless otherwise set forth here: _____

- (b) **Confinement.** RCW 9.94A.507 (Sex Offenses only): The court orders the following term of confinement in the custody of the DOC:

Count	<u>I</u>	minimum term:	<u>120</u>	maximum term:	<u>Statutory Maximum</u>
Count	<u>III</u>	minimum term:	<u>120</u>	maximum term:	<u>Statutory Maximum</u>

(c) **Confinement.** RCW 10.95.030 (Aggravated murder and under age 18.) The court orders the following:

Count _____ minimum term: _____ maximum term: Life
 Count _____ minimum term: _____ maximum term: Life

(d) **Credit for Time Served.** The defendant shall receive credit for eligible time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served.

(e) ☐ **Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for remaining time of confinement.

4.2 Community Custody. (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701, RCW 10.95.030(3))

(A) The defendant shall be on community custody for:

Count(s) _____ 36 months Sex Offenses
 Count(s) _____ 36 months for Serious Violent Offenses
 Count(s) _____ 18 months for Violent Offenses
 Count(s) _____ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

Community custody on all counts shall be served concurrently, except for the following counts which shall be served consecutively: _____.

The community custody terms of this sentence shall run consecutively with the community custody term in the following cause number(s) (see RCW 9.94A.589(2)(a)): _____.

(Sex offenses, only) For count(s) I AND III, sentenced under RCW 9.94A.507, for any period of time the defendant is released from total confinement before the expiration of the statutory maximum.

(B) 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; (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:

☐ not possess or consume alcohol.

☐ not possess or consume controlled substances, including marijuana, without a valid prescription.

☐ have no contact with: _____

☐ remain ☐ within ☐ outside of a specified geographical boundary, to wit: _____

not reside within 880 feet of the facilities or grounds of a public or private school (community protection zone). RCW 9.94A.030.

☐ participate in an education program about the negative costs of prostitution.

☐ participate in the following crime-related treatment or counseling services:

☐ undergo an evaluation for treatment for ☐ domestic violence ☐ substance use disorder ☐ mental health ☐ anger management, and fully comply with all recommended treatment.

☐ comply with the following crime-related prohibitions: _____

☒ Other conditions: _____

DEFENDANT MUST COMPLY WITH THE ATTACHED APPENDIX H – DEPARTMENT OF
CORRECTIONS COMMUNITY PLACEMENT – CUSTODY.

(C) For sentences imposed under RCW 9.94A.507, the Indeterminate Sentence Review Board may impose other conditions (including electronic monitoring if DOC so recommends). In an emergency, DOC may impose other conditions for a period not to exceed seven working days.

Court Ordered Treatment: If any court orders mental health or substance use disorder 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.

(D) If the defendant committed the above crime(s) while under age 18 and is sentenced to more than 20 years of confinement:

- (i) As long as the defendant's conviction is not for aggravated first degree murder or certain sex crimes, and the defendant has not been convicted of a crime committed after he or she turned 18 or committed a disqualifying serious infraction as defined by DOC in the 12 months before the petition is filed, the defendant may petition the Indeterminate Sentence Review Board (Board) for early release after the defendant has served 20 years.
- (ii) If the defendant is released early because the petition was granted or by other action of the Sentence Review Board, the defendant will be subject to community custody under the supervision of the DOC for a period of time determined by the Board, up to the length of the court-imposed term of incarceration. The defendant will be required to comply with any conditions imposed by the Board.
- (iii) If the defendant violates the conditions of community custody, the Board may return the defendant to confinement for up to the remainder of the court-imposed term of incarceration.

4.3a Legal Financial Obligations: The defendant shall pay to the clerk of this court:JASS/Odyssey CODE

PCV 3105	\$500.00	Victim assessment	RCW 7.68.035
PDV 3102	\$ 100.00	Domestic Violence (DV) assessment	RCW 10.99.080
	\$	Violation of a DV protection order (\$15 mandatory fine)	RCW 26.50.110
CRC 3403	\$	Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
		Criminal filing fee \$200.00	FRC
		Witness costs \$	WFR
		Sheriff service fees \$	SFR/SFS/SFW/WRF
		Jury demand fee \$250.00	JFR
		Extradition costs \$	EXT
		Other \$	
PUB 3225	\$	Fees for court appointed attorney	RCW 9.94A.760
WFR 3231	\$	Court appointed defense expert and other defense costs	RCW 9.94A.760
FCM 3303	\$	Fine RCW 9A.20.021; [] VUCSA chapter 69.50 RCW, [] VUCSA additional	
MTH 3337		fine deferred due to indigency	RCW 69.50.430
CDF 3302	\$	Drug enforcement fund of	RCW 9.94A.760
LDI 3308/FCD 3363			
NTF 3338/SAD 3365/SDI 3307			
CLF 3212	\$	Crime lab fee [] suspended due to indigency	RCW 43.43.690
	\$100.00	DNA collection fee [] suspended. DNA previously collected	RCW 43.43.7541
FPV 3335	\$	Specialized forest products	RCW 76.48.171
PPI 3405	\$	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	
EXM 3233	\$	Fee for Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct (\$1,000 fee for each separate conviction)	RCW 9.68A.070
	\$	Other fines or costs for:	
DEF 3506	\$	Emergency response costs (\$1,000 maximum, \$2,500 max. effective Aug. 1, 2012.)	RCW 38.52.430
		Agency:	
RTN/RJN 3801	\$ TBD	Restitution to:	
		(Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)	
	\$ 700 ⁰⁰	Total	RCW 9.94A.760

[X] The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

[X] shall be set by the prosecutor.

[] is scheduled for _____ (date).

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

☐ **Restitution** Schedule attached.

☐ Restitution ordered above shall be paid jointly and severally with:

<u>Name of other defendant</u>	<u>Cause Number</u>	<u>(Victim's name)</u>	<u>(Amount-\$)</u>
RJN			

☐ 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. (Restitution payments must begin immediately. RCW 9.4A.750(1).)

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 72.09.480.)

The restitution 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. No interest shall accrue on non-restitution obligations imposed in this judgment. 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. This paragraph does not apply if it is established that the Washington State Patrol crime laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754.

The facility where the defendant serves the term of confinement shall be responsible for obtaining the sample as part of the defendant's intake process or as soon as practicable.

4.5 No Contact:

☒ The defendant shall not have contact with T.A.B. (DOB: [REDACTED]) AND G.B. (DOB: [REDACTED]) (name) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until LIFETIME (which does not exceed the maximum statutory sentence).

☒ The defendant is excluded or prohibited from coming within 100 YARDS (distance) of:
☒ T.A.B. AND G.B. (name of protected person(s))'s ☒ home/
 residence ☒ work place ☒ school ☒ (other location(s)) PERSONS
 _____, or
☐ other location: _____,
 until LIFETIME (which does not exceed the maximum statutory sentence).

[X] A separate Domestic Violence No-Contact Order, Antiharassment No-Contact Order, Stalking No-Contact Order, or Sexual Assault Protection 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 Exoneration: The Court hereby exonerates any bail, bond and/or personal recognizance conditions.

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.

(a) If you are subject to a violation hearing and DOC finds that you committed the violation, you may receive a sanction of up to 30 days of confinement. RCW 9.94A.633(1).

(b) If you have not completed your maximum term of total confinement and you are subject to a violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.633(2)(a).

5.5a Firearms. You may not own, use, or possess any firearm and, under federal law, any firearm or ammunition, unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, 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 and RCW 9.41.047.

5.5b [] Felony Firearm Offender Registration. The defendant is required to register as a felony firearm offender. The specific registration requirements are in the "Felony Firearm Offender Registration" attachment.

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.

While in custody, if you are approved for partial confinement, you must register when you transfer to partial confinement with the person designated by the agency that has jurisdiction over you. You must also register within three business days from the end of partial confinement or release from confinement with the sheriff of the county where you reside.

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, Temporary 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 starting school in this state or becoming employed or carrying out a vocation in this state. If you are visiting and intend to reside or be present 10 or more days in Washington, then you must register the location where you plan to stay or your temporary address with the sheriff of each county where you will be staying within three business days of your arrival.

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 the 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. Travel Outside the United States: If you intend to travel outside the United States, you must provide signed written notice of the details of your plan to travel out of the country to the sheriff of the county where you are registered. Notice must be provided at least 21 days before you travel. Notice may be provided to the sheriff by certified mail, with return receipt requested, or in person.

If you cancel or postpone this travel, you must notify the sheriff within three days of canceling or postponing your travel or on the departure date you provide in your notice, whichever is earlier.

If you travel routinely across international borders for work, or if you must travel unexpectedly due to a family or work emergency, you must personally notify the sheriff at least 24 hours before you travel. You must explain to the sheriff in writing why it is impractical for you to comply with the notice required by RCW 9A.44.130(3).

6. 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.

7. 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 of release 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 with the sheriff of 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 stay 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 the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

8. 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 three business days of the entry of the order. RCW 9A.44.130(7).

5.7 [] Department of Licensing Notice: The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. **Clerk's Action** –The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the Defendant's driver's license. RCW 46.20.285. **Findings for DUI, Physical Control, Felony DUI or Physical Control, Vehicular Assault, or Vehicular Homicide (ACR information):**

- [] Within two hours after driving or being in physical control of a vehicle, the defendant had an alcohol concentration of breath or blood (BAC) of ____.
- [] No BAC test result.
- [] BAC Refused. The defendant refused to take a test offered pursuant to RCW 46.20.308.
- [] Drug Related. The defendant was under the influence of or affected by any drug.
- [] THC level was _____ within two hours after driving.
- [] Passenger under age 16. The defendant committed the offense while a passenger under the age of sixteen was in the vehicle.

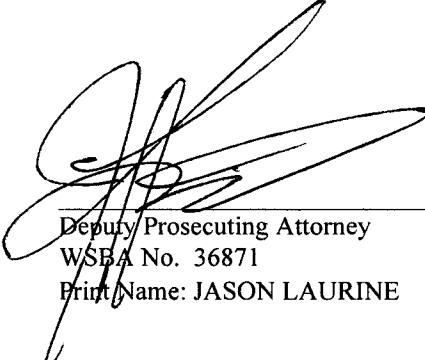
Vehicle Info.: [] Commercial Veh.; [] 16 Passenger Veh.; [] Hazmat Veh.

5.8 [] Department of Licensing Notice – Defendant under age 21 only.

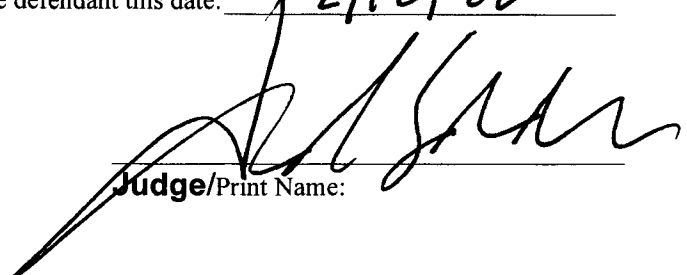
Count _____ is (a) a violation of RCW chapter 69.41 [Legend drug], 69.50 [VUCSA], or 69.52 [Imitation drugs], and the defendant was under 21 years of age at the time of the offense **OR** (b) a violation under RCW 9.41.040 [unlawful possession of firearm], and the defendant was under the age of 18 at the time of the offense **OR** (c) a violation under RCW chapter 66.44 [Alcohol], and the defendant was under the age of 18 at the time of the offense, **AND** the court finds that the defendant previously committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

Clerk's Action –The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the Defendant's driver's license. RCW 46.20.265

5.9 Other: _____

Done in Open Court and in the presence of the defendant this date: 2/12/22


Deputy Prosecuting Attorney
WSBA No. 36871
Print Name: JASON LAURINE



Attorney for Defendant
WSBA No. 31965
Print Name: JOSEPHINE
TOWNSEND

Judge/Print Name: _____

Defendant
Print Name: ERIC SEAN
ROLOSON

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: _____

I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the _____ language, which the defendant understands. I interpreted this Judgment and Sentence for the defendant 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 _____

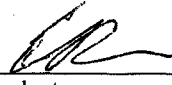
5.9 Other: _____

Done in Open Court and in the presence of the defendant this date: _____

Judge/Print Name:

 Deputy Prosecuting Attorney
 WSBA No. 36871
 Print Name: JASON LAURINE

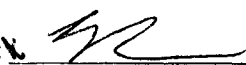
 Attorney for Defendant
 WSBA No. 31965
 Print Name: JOSEPHINE
 TOWNSEND

x 
 Defendant
 Print Name: ERIC SEAN
 ROLOSON

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: 

I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the _____ language, which the defendant understands. I interpreted this Judgment and Sentence for the defendant 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

VI. Identification of the Defendant

SID No.: WA20726697

Date of Birth: 03/11/1980

FBI No.: 460172CC4

Local ID No. _____

PCN No. _____

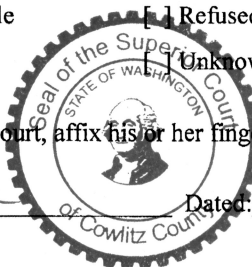
Other _____

Alias name, DOB: _____

Race:**Ethnicity:****Sex:**

☐ Asian ☐ Black ☐ Indian-American Indian or Alaska Native ☐ Hispanic ☒ Male
☐ Multiracial ☐ Native Hawaiian or Other Pacific Islander ☐ Non-Hispanic ☐ Female
☐ Refused ☒ White ☐ Unavailable ☐ Refused
☐ Unknown ☐ Other: _____ ☐ Unknown

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, Pete MattsonDated: 2/14/22**The defendant's signature:** [Signature]

Left four fingers taken simultaneously

Left
ThumbRight
Thumb

Right four fingers taken simultaneously



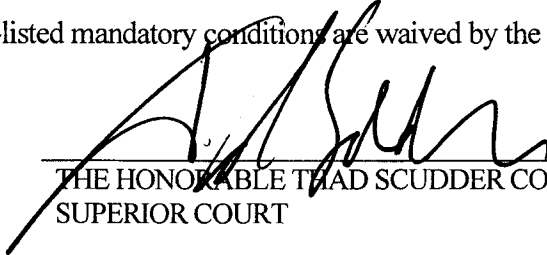
CRIME RELATED PROHIBITIONS: Defendant shall comply with the following other conditions during the term of community custody:

- (1) Do not have contact with the victims.
- (2) Successfully participate in and complete as directed, and at own expense, a WA DOC approved sex offender counseling program.
- (3) Sign all releases necessary to ensure that the CCO can consult with the treatment provider to monitor progress and compliance.
- (4) Submit to polygraph examinations, at own expense, every six (6) months or as directed.
- (5) Complete an evaluation for Substance Abuse Treatment and follow all recommended treatment as ordered by CCO.
- (6) You must not have contact with minors unless accompanied by an approved chaperone who is capable of protecting the child, who knows of the conviction, and has been approved of in advance by your CCO and/or your sexual deviancy treatment provider.
- (7) Register residence with the County Sheriff's Department within 72 hours of release.
- (8) You must not access the internet without developing a written safety plan approved by your CCO and sexual deviancy therapist and installing any special equipment on your computer required by your CCO as a part of your safety plan. A copy of any written internet safety plan must be forwarded to the ISRB for its files.
- (9) You must not engage in a romantic or sexual relationship without your CCO's permission. You must disclose your status as a sex offender and the nature of your offending to include unadjudicated victims, to anyone with whom you intend to begin such a relationship. The disclosure must be verified by the CCO.
- (10) You must not date individuals nor form relationships with families who have minor children, unless you receive prior approval from your CCO.
- (11) You must not participate in youth programs, including, but not limited to, scouting, athletic, and school programs.
- (12) You must not possess or access sexually explicit materials. Sexually explicit materials consists of any item reasonably deemed to be intended for sexual gratification and which displays, portrays, depicts, or describes: a) Nudity, which includes, but is not limited to, exposed/visible (in whole or part, including under or through translucent/thin materials providing intimate physical detail) genitals/genitalia, anus, buttocks and/or female/transgender breast nipple(s); b) A sex act which includes, but is not limited to, genital-genital, oral-genital, anal-genital, or oral-anal contact/penetration, genital or anal contact/penetration with an inanimate object, masturbation and/or bodily excretory behavior; c) Sadistic/masochistic abuse, bondage, bestiality, and/or participant who appears to be nonconsenting, dominated, degraded, humiliated, or in a submissive role, and/or a participant who appears to be acting in a forceful, threatening, dominating, or violent manner; and/or d) A minor, or a model or cartoon depicting a minor, in a sexually suggestive setting/pose/attire.
- (13) You must not use, possess or control any Marijuana/THC or enter any establishments whose primary purpose is the sale of Marijuana/THC.

WAIVER: The following above-listed mandatory conditions are waived by the Court:

DATE

2/12/22


THE HONORABLE THAD SCUDDER COWLITZ COUNTY
SUPERIOR COURT

December 19, 2024

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

ERIC SEAN ROLOSON,

Appellant.

No. 56823-3-II

**ORDER DENYING MOTION FOR
RECONSIDERATION**


Appellant, Eric Sean Roloson, moves this court to reconsider its October 8, 2024 opinion.

After consideration, we deny the motion. It is

SO ORDERED.

Panel: Jj. Lee, Veljacic, Che

FOR THE COURT:



Veljacic, A.C.J.

20-1-00372-08
MTAF 29
Motion and Affidavit Declaration
11786660



FILED *WJH*
SUPERIOR COURT

2022 FEB -3 A 10:36

CRIMINAL JUSTICE

BY *BM*

10

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

STATE OF WASHINGTON,

NO. 20-1-00372-08

vs.

MOTION FOR WITHDRAWAL
OF GUILTY PLEA, AFFIDAVIT
AND MEMORANDUM IN
SUPPORT

ERIC ROLOSON

Comes now the Defendant, and moves the Court to allow for withdrawal of his plea of guilty entered into on November 8, 2021. This motion is upon the grounds that the prosecutor attorneys erred in informing him that he would be eligible to seek a SSOSA as a consequence of accepting the State's offer of a plea of guilty to his charges and that the victims, whose endorsement would be given the greatest weight per the statute would support him receiving a SSOSA sentence. It was thoroughly discussed that Mr. Roloson would not enter a plea unless the alleged victims supported SSOSA as it was explained to him that their position is given the greatest weight. The response provided to defense was as follows:

From: Laurine, Jason <LaurineJ@co.cowlitz.wa.us>

Sent: Thursday, October 21, 2021 10:59 AM

MOTION AND ORDER ALLOWING WITHDRAWAL-

1

Townsend Law
211 E. 11th Street Ste 104
Vancouver WA 98660
josie@jctownsend.com

Scanned

29

ORIGINAL

To: Josephine Townsend <josie@jctownsend.com>
Subject: RE: Roloson

Josephine-

Prior to taking his leave of absence, Dino and I discussed in person the potential of Mr. Roloson pleading to 2 counts ROC1 and requesting a SSOSA disposition.

Yesterday afternoon I had both victims and their mother in my offices. We discussed Dino's proposal of SSOSA, the pros/cons, answering all their questions. I left open all options for them and permitted them time to consider everything. They informed me today that they support your client's request for SSOSA.

Jason

Upon receipt of the Presentence Investigation Report, the report indicated that the victims had withdrawn their support for SSOSA and correspondence with the prosecutor was had regarding the withdrawal of the plea, if in fact the victims were not on board. A second time, the prosecutor had been informed that the victims would be on board with SSOSA and would testify to the court as to their position in favor of the Defendant.

The Following e-mail exchange was had with the prosecutor assigned.

From: Josephine Townsend [mailto:josie@jctownsend.com]
Sent: Tuesday, December 28, 2021 9:54 AM
To: Laurine, Jason <LaurineJ@co.cowlitz.wa.us>
Cc: Dino Gojak <dgojak07@gmail.com>
Subject: RE: Roloson

I agree that we set out sentencing so that we both can talk to the people we need to talk to. I am not disagreeing with you, but from a legal standpoint the victims have violated the agreement we made, because his agreement to plead was based on their endorsement of SSOSA. I would not recommend someone plead and ask for SSOSA if the victims are not on board because their opinion is given the greatest weight. They cannot have it both ways – agree to SSOSA, to avoid trial, then renig once he pleas..... They are entitled to their position, but he will want to withdraw his plea and go to trial if that is the position they wish to take. Again, they have that right, and I understand that, but then he would have the right to face them in trial. Dino and I have explained to him several times the risks he faces if that is to occur. We will go over the PSI with him and then we can reconvene once you have talked to your people.

MOTION AND ORDER ALLOWING WITHDRAWAL-
 2

Townsend Law
 211 E. 11th Street Ste 104
 Vancouver WA 98660
 josie@jctownsend.com

From: Laurine, Jason <LaurineJ@co.cowlitz.wa.us>
Sent: Wednesday, January 5, 2022 1:05 PM
To: Josephine Townsend <josie@jctownsend.com>
Subject: RE: Discovery Information Available For Case 20-1-00372-08 On Defendant Eric Roloson

Josephine-

Our office has held brief telephonic conversations with Elizabeth, who claims she never made the statements listed in the PSI and that she and the victims are still supportive of SSOSA. That said, we will conduct a more thorough conversation with them on Friday to gauge their position.

Jason

From: Laurine, Jason <LaurineJ@co.cowlitz.wa.us>
Sent: Monday January 10, 2022
To: Josephine Townsend [<mailto:josie@jctownsend.com>]

I have spoken with the victims, who state that they wish the SSOSA to go forward. They will inform the court of that. I will also present qualification argument prior to their statements to the court.

Sentencing was set over to today, at 1:30 p.m. Despite assurances that the victims were on board with SSOSA and would inform the court of their position, quite the opposite occurred. The mother of the alleged victims asked the court to impose a life sentence. During their statements to the court, the undersigned attorney notified the assigned prosecutor that the statements being made were not supportive of SSOSA and in direction contrast to what had been proposed by the state in terms of their endorsement for sentencing. After the statements were made by the victims to the court, the assigned prosecutor, Jason Laurine stated, "I am blindsided by this. I don't do business like this." (Ex A). Indicating that the state made its offer to plead based upon the assurances that the victims would be supportive of SSOSA and

MOTION AND ORDER ALLOWING WITHDRAWAL-

3

Townsend Law
 211 E. 11th Street Ste 104
 Vancouver WA 98660
josie@jctownsend.com

the acceptance of the plea, was based upon the promise of the state that the victims would endorse and recommend SSOSA to the Court. That did not occur.

This motion is supported by the following affidavits and memoranda in this case:

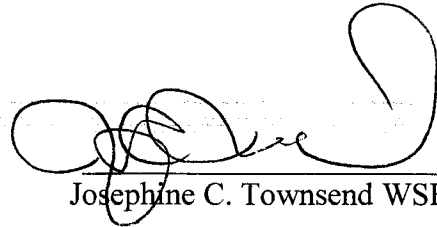
AFFIDAVIT IN SUPPORT OF MOTION TO WITHDRAW GUILTY PLEA

1. I am an attorney and I make this declaration based upon my personal knowledge;
2. I am over the age of 21 years old;
3. Mr. Roloson entered into a plea agreement with the State of Washington. The Plea agreement involved Mr. Roloson pleading to some of his charges and that the victims would endorse SSOSA.
4. Mr. Roloson was represented by myself . It was our understanding that Mr. Rolson would be eligible for a SSOSA sentence if he pled guilty and that the victims had assured the state that they would endorse SSOSA.
5. Mr. Roloson pled guilty with the express understanding that he would be eligible to seek a SSOSA disposition with the endorsement of the victims. Further he was informed that if the victims were not on board with a SSOSA disposition he should not accept the offer because the greatest weight is given to the opinion of the victims in such cases.
6. On several occasions as outlined in the following brief in emails, the Attorney for the State of Washington advised me that the victims were on board in supporting a SSOSA disposition and that they would be supportive on the record at sentencing.
7. Since it is now clear that the victims misinformed the prosecution regarding their position, and that position has to be given great weight under the statute, the

Defense represents that Mr. Roloson's plea was not knowing, intelligent and voluntary.

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

Dated this January 31, 2022



Josephine C. Townsend WSBA 31965

**MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION TO
WITHDRAW PLEA OF GUILTY**

The Court shall allow a defendant to withdraw the defendant's plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice. If the defendant pleads guilty pursuant to a plea agreement and the court determines under RCW 9.94A.090 that the agreement is not consistent with (1) the interests of justice or (2) the Prosecuting Standards set forth in RCW 9.94A.430-.460, the court shall inform the defendant that the guilty plea may be withdrawn and a plea of not guilty entered.

CrR 4.2(f). Furthermore, pursuant to CrR 7.8(b)(1), mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order constitutes a reason for which "the Court may relieve a party from final judgment, order or proceeding." Misinforming the Defendant about his eligibility for a SSOSA based upon a promise that the victims would endorse the program at sentencing, and then they ask the court to impose a life sentence instead constitutes a mistake, excusable neglect or irregularity in obtaining an order.

Courts are prevented from accepting a plea of guilty that was not made voluntarily, competently and with an understanding of the nature of the charge and the consequences of the plea. *State v. Taylor*, 83 Wash. 2d. 594, 596 (1974). Acting to withdraw a plea of guilty prior to sentencing demonstrates a good faith belief on the part of the Defendant that he entered into the plea without understanding the consequences of his plea. Defendant was granted

numerous assurances before and after his plea and before sentencing that the victims

MOTION AND ORDER ALLOWING WITHDRAWAL-

5

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1 understood the nature of his offenses and that treatment outside of prison would be the best
2 option for him.

3 A defendant must be informed of all the direct consequences of his plea prior to
4 acceptance of a guilty plea. *State v. Barton*, 93 Wash. 2d 301, 305 (1980). Furthermore, while a
5 Defendant need not be informed of all the collateral consequences of entering a guilty plea, a
6 Defendant must not be positively *misinformed* about the consequences of a guilty plea. *Id.*
7 Whether or not a sentencing alternative is available to the Defendant in this case is a direct
8 consequence of his guilty plea. Defendant was positively *misinformed* of his ability to seek the
9 alternative because the court must give the greatest weight to the position of the victims in
10 granting SSOSA, See RCW 9.94A.670.(4). Which states: After receipt of the reports, the court
11 shall consider whether the offender and the community will benefit from use of this alternative,
12 consider whether the alternative is too lenient in light of the extent and circumstances of the
13 offense, consider whether the offender has victims in addition to the victim of the offense,
14 consider whether the offender is amenable to treatment, consider the risk the offender would
15 present to the community, to the victim, or to persons of similar age and circumstances as the
16 victim, ***and consider the victim's opinion whether the offender should receive a treatment***
17 ***disposition under this section. The court shall give great weight to the victim's opinion***
18 ***whether the offender should receive a treatment disposition under this section.***

19 This statute was reviewed in detail with Mr. Roloson, and his only agreement not to go
20 to trial was based upon the repeated assurances that the victims endorsed SSOSA. Mr. Roloson
21 was also informed that it is ultimately the Court's decision whether to grant SSOSA but no
22 judge would grant SSOSA over a victim's objection.
23

1 If the victims were not on board, Mr. Roloson was informed that he should not accept
2 the plea. Based on the statements made by the victims in court today, SSOSA would most
3 certainly be denied. Mr. Roloson was shown the written assurances by the prosecution which
4 announced that the victim's position would be supportive. There had been no indication that
5 they had withdrawn the support and Defense was informed that the statements made in the
6 presentence investigation were false and that they never said that to DOC.

7 Without those assurances, Mr. Roloson would not have accepted the plea and the
8 opportunity to advocate for SSOSA. This therefore constitutes a basis for withdrawal of the
9 plea of guilty.

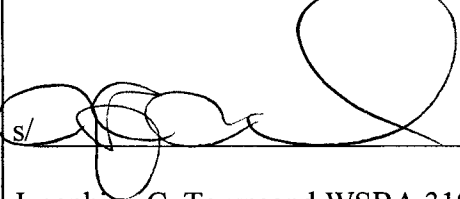
10 A defendant need not be informed of all possible consequences of his plea, but he must
11 be informed of all direct consequences. *State v. Ross*, 129 Wn.2d 279, 284, 916 P.2d 405
12 (1996). "The distinction between direct and collateral consequences of a plea 'turns on whether
13 the result represents a definite, immediate and largely automatic effect on the range of the
14 defendant's punishment'." *State v. Barton*, 93 Wn.2d 301, 305, 609 P.2d 1353 (1980). "A
15 defendant may challenge the voluntariness of his plea where he is misinformed of the
16 sentencing consequences." *State v. Mendoza*, 157 Wn.2d 582, 587-91, 141 P.3d 49 (2006).
17 "The defendant need not establish a causal link between the misinformation and his decision to
18 plead guilty." *Id. at 590*; *State v. Weyrich*, 163 Wn.2d 554, 182 P.3d 965 (2008). Here
19 however, Mr. Roloson can point to the fact that unless he was given the assurances by the
20 prosecution that SSOSA would be endorsed by the victims, he would not have taken or made
21 his plea. This was reiterated several times to the state, who in turn, admitted, "*I am blindsided*
22 *by this. I don't do business like this.*" Which is an honorable statement by the state's
23

1 representative. His statements reflect the fact that neither the state, nor the defense were told
2 the truth about the victim's position in this matter.

3 In *Weyrich*, the respondent was misinformed that the statutory maximum for theft
4 crimes was five years, rather than the correct ten years. *Weyrich*, 163 Wn.2d at 554. The
5 Supreme Court of Washington reversed the Court of Appeals and held that "because *Weyrich*
6 was misinformed that the statutory maximum sentence for thefts was five years, he should have
7 been allowed to withdraw his pleas." *Id.* In this case, the prosecutor informed the defense on
8 multiple occasions that the victims endorsed SSOSA and that they would be informing the
9 court of their position as to granting leniency to the accused. He was further informed that the
10 statute on SSOSA gives the greatest weight to the opinions of the victims.

11 For the forgoing reasons, Defendant requests that the Court permit him to withdraw his
12 plea of guilty to the charges and place this matter back onto the trial calendar.

13
14 Submitted this January 31, 2022 at Vancouver Washington

15
16  s/_____

17 Josephine C. Townsend WSBA 31965

18
19 **ORDER**

20 This matter having come on counsel of record's motion to withdraw plea of guilty, a
21 finding of Manifest Injustice having been ___DETERMINED ___ NOT DETERMINED,
22 it is hereby ORDERED that Mr. Roloson be allowed to withdraw his plea of guilty the charges
23 set forth in his change of plea and this matter is to be set upon the trial calendar.

1
2 ORDERED this February _____ 2022

3
4 _____
Superior Court Judge

Josephine Townsend

From: Laurine, Jason <LaurineJ@co.cowlitz.wa.us>
Sent: Monday, January 31, 2022 1:51 PM
To: Josephine Townsend
Subject: RE: I will need to move to withdraw his plea and go to trial

I am blindsided by this. I don't do business like this.

From: Josephine Townsend [mailto:josie@jctownsend.com]
Sent: Monday, January 31, 2022 1:50 PM
To: Laurine, Jason <LaurineJ@co.cowlitz.wa.us>
Cc: Dino Gojak <dgojak07@gmail.com>
Subject: RE: I will need to move to withdraw his plea and go to trial

We should have been told that this was their position in advance. You know that we only accepted the offer because they agreed to SSOSA and would endorse it. This is the complete opposite.

Josephine C. Townsend
Attorney At Law
211 E. 11th Street Suite 104
Vancouver WA 98660
360-694-7601
360-694-7602 Fax

Josie@JCTownsend.com

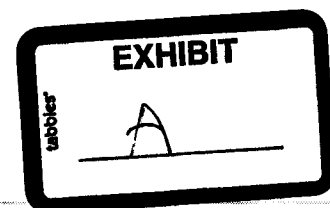
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From: Laurine, Jason <LaurineJ@co.cowlitz.wa.us>
Sent: Monday, January 31, 2022 1:49 PM
To: Josephine Townsend <josie@jctownsend.com>
Subject: RE: I will need to move to withdraw his plea and go to trial

I understand.



From: Josephine Townsend [mailto:josie@jctownsend.com]
Sent: Monday, January 31, 2022 1:47 PM
To: Laurine, Jason <LaurineJ@co.cowlitz.wa.us>
Subject: I will need to move to withdraw his plea and go to trial

Cowlitz County Prosecuting Attorney
Hall of Justice
312 SW 1st Avenue
Kelso, WA 98626
(360) 577-3080 Fax (360) 414-9121

1 sex cases when SSOSA alternative is desired, Mr. Gojak provided me the opportunity to review
2 his client's previously obtained psycho-sexual evaluation.

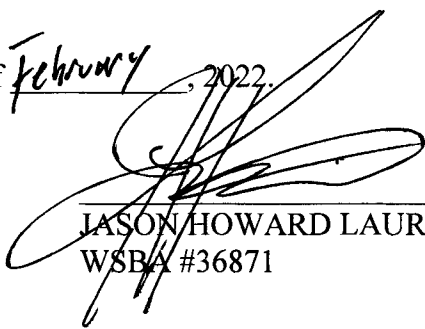
- 3 4. My assessment of the defendant following the review of that evaluation is that he was a likely
4 candidate for SSOSA. I informed Mr. Gojak of my opinion and that I would be willing to discuss
5 with the victims all possible resolutions.
- 6 5. On October 20, 2021, the listed victims and their mother, Elizabeth Roloson, arrived in our
7 offices to discuss all potential resolutions. This meeting was extensive, lasting about an hour and
8 a half, and provided the opportunity to fully advise of the ramifications of any plea and or trial.
9 The victims asked several questions and left with a working understanding of the differences
10 between an actual sentence and an alternative sentence. At no time did I force their decision. In
11 fact, I specifically requested they not make a decision that day, to review what they've been
12 informed, and then let us know whether they preferred trial, SSOSA, or some other option.
- 13 6. On October 21, 2021, our office received a Google message from Elizabeth Roloson, informing
14 us that the victims supported a SSOSA.
- 15 7. On that same day I informed Mr. Gojak and Ms. Townsend that the victims assented to their
16 client's desire to seek SSOSA.
- 17 8. On November 8, 2021, the defendant entered a change of plea to Counts 1 and 3 of the original
18 information. These Counts relate to a specific instance against each victim. A presentence
19 investigation report (PSI) was ordered at that time and sentencing was set to December 28,
20 2021.
- 21 9. Our office received the PSI on December 23, 2021.
- 22 10. Review of that document caused me some concern based not only on the statements attributed
23 to the defendant but also the statements attributed to the victims.
- 24 11. I spoke with defense counsel regarding the PSI over email. I expressed that both parties to the
25 agreement made difficult for a court to support the decision to sentence to SSOSA. I was specific
about the statements the defendant made to DOC. Defense counsel understood, and we agreed
to speak with the relative parties.
12. I immediately requested my victim service provider to set up a meeting with the family to
discuss their statements. That meeting did not occur until Friday, January 7, 2022. But before
that time, the victim's mother informed VSP's that she had not made the statements attributed
to her by the writer of the PSI.

- 1 13. This information did contradict what I learned from my telephonic conversation with Miranda
2 McIlroy, the writer of the PSI. She informed me that she merely recorded the statements made,
3 that she did not direct anything during the conversation. She informed me that the victims
4 stated they felt pressured to agree with the SSOSA recommendation.
- 5 14. During the meeting with victims and their mother, I specifically asked if they stated they felt
6 pressured from our office to assent to a SSOSA. Both Elizabeth and [REDACTED] stated clearly they
7 had not felt pressure from me, but rather from the circumstances of the case. They stated they
8 had conflict between their desires to see the defendant in prison with the desire to prevent
9 themselves from further suffering due to trial. I asked specifically if they maintained their assent
10 and support of a SSOSA, explaining that it is crucial for this to remain for the resolution. Both
11 Elizabeth and [REDACTED] informed me they still supported the SSOSA. This conversation was
12 lengthy. It was also observed by then victim service provider, Amy Englemann, and my office
13 administrator, Julie Miller.
- 14 15. Based on my conversation, I felt comfortable informing defense counsel that our
15 recommendation remained and that the victims remained supportive.
- 16 16. For various reasons, including the concerns regarding the PSI, sentencing was set out to January
17 31, 2022.
- 18 17. Elizabeth Roloson, [REDACTED] and [REDACTED], each spoke to the court, as is their right.
19 The content of their statements, however, contradicted much of what I was informed during my
20 meetings with them on October 20, 2021, and January 7, 2022.
- 21 18. Defense counsel emailed me several times throughout the statement portion of the sentencing
22 hearing, informing me that she would ask to set aside the plea and or request the ability to
23 withdraw the plea.
- 24 19. One of her emails stated "We should have been told that this was their position in advance. You
25 know that we only accepted the offer because they agreed to SSOSA and would endorse it. This
is the complete opposite." This email was received during Elizabeth Roloson's lengthy comments
to the court. My response was "I am blindsided by this. I don't do business like this."
20. Needless to say, I was shocked by the content of her statements. My response was as much
shock as it was a concern that defense believed I sandbagged her and her client. As an attorney,
specifically as a prosecuting attorney, my word is my reputation. When I informed counsel that
the victims supported the SSOSA, and then again that they maintained that support, I did so

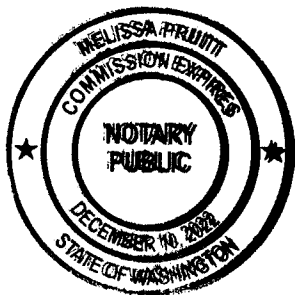
genuinely. Listening to Elizabeth's statement to the court, I felt as if my integrity as an attorney was impugned.

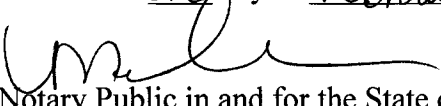
21. While the victims have an absolute right to express the pain they suffered and still suffer due to the events the defendant pled to, the statements from Elizabeth Roloson were new to me. Indeed, I found them to be selfish, self-centered, and completely irrelevant to the determination of the defendant's sentence. Moreover, had I been made aware that a discussion of prior, unreported allegations of kidnapping and assault against Elizabeth would be shared with the court, I would have instructed her to keep her comments to the pain she witnessed her daughters suffer and the reasons why she supported SSOSA—the very things I informed her of on our last meeting, January 6, 2022, and the very things she agreed to inform the court.
22. Be that as it may, Elizabeth, [REDACTED], and [REDACTED] all informed the court they support SSOSA. Regardless of the reasons for supporting the alternative sentencing structure, this court will still give great weight to that desire.
23. The State's recommendation remains as that recited in the plea agreement.

Dated this 3rd day of February, 2022.


JASON HOWARD LAURINE
WSBA #36871

SUBSCRIBED AND SWORN to before me this 3rd day of February, 2022.




Notary Public in and for the State of Washington,
Residing at Cowlitz

Therefore, this Court should vacate Mr. Roloson's sentence and remand so he can either withdraw his plea or elect specific performance. *Van Buren*, 101 Wn. App. at 208 (ordering this disposition after finding the State breached a plea agreement).

2. Because Mr. Roloson pleaded on the basis of a false and deceptive promise, his plea was involuntary and should have been withdrawn.

Even if this Court concludes the State did not breach its agreement, Mr. Roloson is still entitled to withdraw his plea. The record demonstrates that he pleaded on the basis of a false and deceptive promise, rendering it involuntary.

Under CrR 4.2(f), a trial court “shall allow a defendant to withdraw the defendant’s plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice.” An involuntary plea represents such a manifest injustice. *State v. Osborne*, 102 Wn.2d 87, 98, 684 P.2d 683 (1984). A plea is involuntary if it was “the product of or induced by coercive threat, fear, persuasion, promise, or deception.” *Woods v. Rhay*, 68 Wn.2d 601, 605, 414 P.2d 601 (1966).

Mr. Roloson only pleaded guilty because the prosecutor—on several occasions—guaranteed the victims would support a SSOSA. RP 55–56, 65; CP 58, 66, 93–94. As Mr. Roloson reasonably understood, the victims’ support for a SSOSA was crucial. RP 55; *see* RCW 9.94A.670(4) (“The court shall give great weight to the victim's opinion whether the offender should receive a treatment disposition under this section.”). He would not have pleaded guilty if he knew the victims did not support that sentence. RP 55–56, 65. At no point before sentencing did the prosecutor tell Mr. Roloson that the victims had reservations about a SSOSA and would share those reservations with the trial court. *See* CP 58–59.

But, as the trial court acknowledged, the victim statements were “certainly not in line with the Court imposing a SSOSA sentence[.]” RP 50–51. Beyond simply not advocating for a SSOSA sentence, the victims articulated why Mr. Roloson should not receive that sentence and effectively argued for a lengthy prison sentence. RP 37–47. Mr. Roloson’s shock was apparent, as he immediately moved to withdraw his plea after the victims made their

statements. RP 47. His shock was understandable, because the promise of the victims' SSOSA recommendation was a key factor in Mr. Roloson's decision to forfeit his trial rights and plead guilty. RP 55–56.

Mr. Roloson was deceived into thinking that, by pleading guilty, the victims would recommend a SSOSA. “[C]oercion may render a guilty plea involuntary, irrespective of the State’s involvement.” *State v. Frederick*, 100 Wn.2d 550, 556, 674 P.2d 136 (1983), *overruled on other grounds by Thompson v. Dep’t of Licensing*, 138 Wn.2d 783, 982 P.2d 601 (1999). It thus does not matter whether the victims deceived the prosecutor into thinking they would support a SSOSA sentence or whether the prosecutor deceived Mr. Roloson into believing as such.

Mr. Roloson pleaded based on a false and deceptive premise. His plea was thus involuntary. This Court should therefore reverse and remand so the trial court can accept Mr. Roloson’s plea of not guilty. *See State v. Krois*, 74 Wn.2d 404, 408, 445 P.2d

24 (1968) (ordering that disposition where the defendant made an involuntary plea of guilty).

3. **The trial court improperly ordered Mr. Roloson to pay the \$500 victim penalty assessment, the \$100 DNA collection fee, and a \$100 domestic violence assessment.**

Because the trial court found Mr. Roloson indigent, it was precluded from ordering him to pay the \$500 victim penalty assessment, the \$100 DNA collection fee, or a \$100 domestic violence assessment.

Due to a recent amendment, RCW 7.68.035(4) now prohibits a trial court from ordering an indigent defendant to pay the victim penalty assessment. Engrossed Substitute House Bill 1169, Chapter 449, Laws of 2023. RCW 43.43.7541 was also amended to remove the DNA collection fee requirement for indigent defendants. Laws of 2023, ch. 449, § 1.

These amendments apply prospectively to cases, like Mr. Roloson's, that are currently on direct review. *State v. Ellis*, 27 Wn. App. 2d 1, 16-17, 530 P.3d 1048 (2023); see *State v. Reed*, __ P.3d __, 2023 WL 8014314, at *1 (Wash. App. Nov. 20,

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Court of Appeals
Division II
State of Washington
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COURT OF APPEALS OF
THE STATE OF WASHINGTON
DIVISION TWO

)	
)	
STATE OF WASHINGTON,)	No. 56823-3-II
Respondent,)	
)	
v.)	MOTION TO
)	RECONSIDER
ERIC S. ROLOSON,)	
Appellant.)	
)	

**I. IDENTITY OF MOVING PARTY AND
STATEMENT OF RELIEF**

The appellant, Eric Roloson, respectfully moves this Court to reconsider its decision dated October 8, 2024, in order to serve the ends of justice pursuant to RAP 12.4.

**II. GROUNDS FOR RELIEF AND
ARGUMENT**

In his appeal, Mr. Roloson made two separate arguments to support the withdrawal of his guilty plea.

Relevant here is Mr. Roloson's second argument—that his plea was involuntary because it was induced by a misrepresentation that the victims would support a SSOSA. Br. of App. at 28–31.

With respect, the Court overlooked the law and facts in rejecting Mr. Roloson's argument. Most significantly, the Court misapplied the law by holding the plea was voluntary because the victim statements did “not result in a breach of the plea agreement.” Slip Op. at 12. That holding does not resolve whether Mr. Roloson was misinformed about whether the victims would support a SSOSA. Likewise, the Court applied the incorrect standard of review to the voluntariness argument.

Because Mr. Roloson's plea was involuntary, it was “obtained in violation of due process.” *McCarthy v. United States*, 394 U.S. 459, 466, 89 S. Ct. 1166, 22 L. Ed. 2d 418 (1969). This Court should reconsider its decision and remand so Mr. Roloson can withdraw his plea.

A. Because Mr. Roloson pleaded guilty due to the misrepresentation that the victims would support a SSOSA, his plea was involuntary.

Mr. Roloson pleaded guilty to two counts of first degree rape of a child based on the prosecutor's repeated assurances that the victims would endorse a SSOSA. RP 55–56, 65; CP 58, 66, 93–94. Mr. Roloson was specifically told the victims would recommend a SSOSA and explain why the court should grant him that treatment disposition. CP 60, 93–94; RP 56. Indeed, he turned down a lesser plea to first degree child molestation and pleaded to more significant charges based on that assurance. CP 135; RP 55. As even the trial court acknowledged, however, the victims did not effectively support a SSOSA sentence. RP 50. Instead, they asked for a life sentence in prison. RP 40, 42–43, 46–47.

In short, Mr. Roloson pleaded guilty because he thought he would receive victim support for a SSOSA. They did not support that treatment disposition, indicating he pleaded guilty based on a misrepresentation. Assessing this

situation under binding U.S. Supreme Court case law reveals his plea was involuntary.

The Court reached a different result by applying the wrong legal standards. Reconsideration is warranted.

1. *Whether a plea is involuntary is a constitutional issue that is reviewed de novo, not for an abuse of discretion.*

“Due process requires that a defendant’s guilty plea be knowing, voluntary, and intelligent.” *State v. Weyrich*, 163 Wn.2d 554, 556, 182 P.3d 965 (2008). Likewise, “a defendant gives up constitutional rights by agreeing to a plea agreement, and, because fundamental rights of the accused are at issue, due process considerations come into play.” *State v. Walsh*, 143 Wn.2d 1, 7, 17 P.3d 591 (2001). Thus, “The constitutional right to due process protects against entry of an involuntary plea.” *State v. Horntvedt*, 29 Wn. App. 2d 589, 599, 539 P.3d 869 (2023). And “a claim that a guilty plea pursuant to a plea agreement was involuntary” is a “constitutional error.” *Walsh*, 143 Wn.2d at 8.

As a result, this Court reviews “the constitutional adequacy of a defendant’s plea de novo.”¹ *State v. Snider*, 199 Wn.2d 435, 444, 508 P.3d 1014 (2022). Specifically, the Court reviews whether a plea was involuntary “de novo without giving deference to the trial court’s ruling.” *State v. Buckman*, 190 Wn.2d 51, 57 n.2, 409 P.3d 193 (2018).

But this Court reviewed this issue for an abuse of discretion. Slip Op. at 10. That is the incorrect standard of review.

In *Buckman*, the Court observed, “Normally, we review CrR 7.8 motions to withdraw a guilty plea for abuse of discretion.” 190 Wn.2d at 57. That standard of review does not apply when the “request for withdraw” is “based on a claimed constitutional error,” such as involuntariness. *Id.* In that circumstance, appellate courts review de novo, not for an abuse of discretion. *Id.* at 57, 57 n.2.

¹ Mr. Roloson preserved this issue by moving to withdraw his plea immediately after the victims spoke at sentencing. RP 47; see *State v. Blanks*, 139 Wn. App. 543,

The Court thus applied the incorrect standard of review to this issue. It also applied the incorrect line of case law when it denied Mr. Roloson's claim on the merits.

2. *Even if a defendant was correctly informed of the direct consequences of their plea, their plea may still be involuntary if it was induced by a misrepresentation.*

“[A] guilty plea is a grave and solemn act to be accepted only with care and discernment[.]” *Brady v. United States*, 397 U.S. 742, 748, 90 S. Ct. 1463, 25 L. Ed. 2d 74 (1970). “A defendant who enters such a plea simultaneously waives several constitutional rights, including his privilege against compulsory self-incrimination, his right to trial by jury, and his right to confront his accusers.” *McCarthy*, 394 U.S. at 466. “For this waiver to be valid under the Due Process Clause,” it must be voluntary. *Id.* If not, the plea “has been obtained in violation of due process and is therefore void.” *Id.*

The Supreme Court in *Brady* established the standard

550, 161 P.3d 455 (2007).

for determining the voluntariness of a guilty plea: “A plea of guilty entered by one fully aware of the direct consequences must stand *unless* induced by misrepresentation (including unfulfilled or unfulfillable promises).” *Brady*, 397 U.S. at 755 (cleaned up & emphasis added).

The standard from *Brady* controls. *State v. Radcliffe*, 139 Wn. App. 214, 224, 159 P.3d 486 (2007) (“The United States Supreme Court is the final authority on the federal constitution.”). But this Court used a far different standard than the one expressed in *Brady*.

Citing *State v. Mendoza*, 157 Wn.2d 582, 591, 141 P.3d 49 (2006), this Court wrote, “a guilty plea is not involuntary if ‘the defendant was correctly informed of all of the direct consequences of his guilty plea.’” Slip Op. at 11. That is not the law.

As *Brady* established, even if a defendant was correctly informed of the direct consequences of the plea, the plea may still be involuntary if it was induced by a

misrepresentation. *Brady*, 397 U.S. at 756. Indeed, this is already reflected by Washington case law.

Similar to the standard in *Brady*, our Supreme Court observed a plea is involuntary if it was “the product of or induced by coercive threat, fear, persuasion, promise, or deception.” *Woods v. Rhay*, 68 Wn.2d 601, 605, 414 P.2d 601 (1966). And as Division Three of this Court recently observed, “A plea may be involuntary due to circumstances such as misinformation, threats, or mental coercion.” *Horntvedt*, 29 Wn. App. 2d at 599.

Our Supreme Court’s decision in *Mendoza* is not to the contrary. Instead, that decision simply indicated a plea “may be deemed involuntary when based on misinformation regarding a direct consequence of the plea.” *Mendoza*, 157 Wn.2d at 591. Nowhere in *Mendoza* did the Court indicate that was the *only* way for a plea to be involuntary.

Multiple cases in Washington highlight how a plea can be involuntary irrespective of whether the defendant was

correctly informed of direct consequences. For instance, a prosecutor's threat to add charges if the defendant does not plead guilty may render the plea involuntary. *State v.*

Swindell, 93 Wn.2d 192, 198, 607 P.2d 852 (1980). Similarly, coercion from a third party may render a plea involuntary.

State v. Frederick, 100 Wn.2d 550, 556, 674 P.2d 136 (1983).

A plea can also be involuntary if it was induced by a prosecutor's appeal to fears of racial bias. *Horntvedt*, 29 Wn.

App. 2d at 599. And a misrepresentation about a collateral consequence can render a plea involuntary. *State v. Stowe*, 71 Wn. App. 182, 188, 858 P.2d 267 (1993)

None of these decisions focus on whether the defendant was correctly informed of the direct consequences of a plea. Rather, courts focus more broadly on "the relevant circumstances surrounding" the plea. *State v. Williams*, 117 Wn. App. 390, 398, 71 P.3d 686 (2003).

As stated above, one such relevant circumstance is whether the plea was induced by a misrepresentation. *See*

Brady, 397 U.S. at 755. That is the relevant consideration in this case, yet this Court neglected to consider it.

3. *Because Mr. Roloson pleaded guilty based on a misrepresentation that the victims would support a SSOSA, his plea was involuntary.*

A guilty plea is involuntary and must be withdrawn if it was induced by a “misrepresentation (including unfulfilled or unfulfillable promises).” *Brady*, 397 U.S. at 755. That is exactly what occurred here, as Mr. Roloson’s guilty plea was induced by the misrepresentation the victims would endorse a SSOSA.

Mr. Roloson pleaded guilty with a joint recommendation for a SSOSA. RP 18. He did so believing the victims would also endorse a SSOSA and explain why he should be granted that treatment disposition. RP 18, 56, 60. He turned down an offer to plead to lesser charges because he thought he would have victim support, and he realized their opinion would be given “great weight” under RCW 9.94A.670(4). RP 55–56; CP 135. As Mr. Roloson

The court then denied a SSOSA and sentenced Mr. Roloson to 120 months to life on both counts, to be served concurrently. RP 88; CP 101–02.

The Court of Appeals affirmed, finding the court did not abuse its discretion in denying Mr. Roloson's motion to withdraw his plea. Slip Op. at 11–12. It reasoned the victim statements “did not result in a breach of the plea agreement between [Mr.] Roloson and the State.” Slip Op. at 12.

F. LAW AND ARGUMENT

Because the prosecutor's misrepresentation that the victims and their mother would support a SSOSA induced Mr. Roloson's guilty plea, his plea was involuntary.

Mr. Roloson pleaded guilty to two counts of child rape because he believed the victims and their mother would endorse a SSOSA and explain why the court should impose that treatment disposition. The opposite happened at sentencing: both victims and Ms. Roloson asked the court to impose a life sentence. The court refused to withdraw Mr. Roloson's plea and sentenced him to life in prison.

The victims' endorsement of a SSOSA was a misrepresentation, and it induced Mr. Roloson to plead guilty. Under binding United States Supreme Court precedent, his plea was involuntary and void. But the Court of Appeals misconstrued and ignored precedent when it rejected Mr. Roloson's argument. The court's mishandling of the issue reveals that this Court's guidance is required, as there is a dearth of similar cases in Washington. This Court should grant review of this significantly important constitutional issue and reverse so Mr. Roloson can withdraw his plea.

1. *Even if an accused person was correctly informed of the direct consequences of their plea, the plea may still be involuntary if it was induced by a misrepresentation.*

“[A] guilty plea is a grave and solemn act to be accepted only with care and discernment[.]” *Brady v. United States*, 397 U.S. 742, 748, 90 S. Ct. 1463, 25 L. Ed. 2d 74 (1970). “A defendant who enters such a plea simultaneously

waives several constitutional rights, including his privilege against compulsory self-incrimination, his right to trial by jury, and his right to confront his accusers.” *McCarthy v. United States*, 394 U.S. 459, 466, 89 S. Ct. 1166, 22 L. Ed. 2d 418 (1969).

Because “a defendant gives up constitutional rights by agreeing to a plea agreement, and, because fundamental rights of the accused are at issue, due process considerations come into play.” *State v. Walsh*, 143 Wn.2d 1, 7, 17 P.3d 591 (2001). “For this waiver to be valid under the Due Process Clause,” it must be voluntary. *McCarthy*, 394 U.S. at 466. If not, the plea “has been obtained in violation of due process and is therefore void.” *Id.*

The United States Supreme Court in *Brady* established that knowledge of the plea’s direct consequences is not enough: “A plea of guilty entered by one fully aware of the direct consequences must stand *unless* induced by misrepresentation (including unfulfilled or unfulfillable

promises).” *Brady*, 397 U.S. at 755 (cleaned up & emphasis added). The *Brady* standard “does not limit unfulfillable promises to those made knowingly, but merely states that the defendant’s plea is involuntary when the misrepresentation for which the defendant based his agreement on could not be fulfilled.” *Sawyer v. United States*, 279 F. Supp. 3d 883, 888 (D. Ariz. 2017); accord *United States v. Fisher*, 711 F.3d 460, 467 (4th Cir. 2013).

The standard from *Brady* is the “final authority” concerning whether a guilty plea complies with federal due process. *State v. Radcliffe*, 139 Wn. App. 214, 224, 159 P.3d 486 (2007). But the Court of Appeals used a far different standard than the one expressed in *Brady*.

Citing *State v. Mendoza*, 157 Wn.2d 582, 591, 141 P.3d 49 (2006), the Court of Appeals wrote, “a guilty plea is not involuntary if ‘the defendant was correctly informed of all of the direct consequences of his guilty plea.’” Slip Op. at 11.

That is not the law, under both *Brady* and Washington case law.

This Court held a plea is involuntary if it was “the product of or induced by coercive threat, fear, persuasion, promise, or deception.” *Woods v. Rhay*, 68 Wn.2d 601, 605, 414 P.2d 601 (1966). Division Three of the Court of Appeals similarly observed, “A plea may be involuntary due to circumstances such as misinformation, threats, or mental coercion.” *State v. Horntvedt*, 29 Wn. App. 2d 589, 599, 539 P.3d 869 (2023). This Court has also acknowledged that a misrepresentation does not need to be knowingly made. *E.g.*, *Mendoza*, 157 Wn.2d at 587–90 (discussing cases).

This Court’s decision in *Mendoza* did not alter any of this settled precedent. Instead, that decision simply indicated a plea “*may* be deemed involuntary when based on misinformation regarding a direct consequence of the plea.” *Mendoza*, 157 Wn.2d at 591 (emphasis added). Nowhere in

Mendoza did the Court indicate that was the only way for a plea to be involuntary.

Multiple cases in Washington highlight how a plea can be involuntary irrespective of whether the defendant was correctly informed of direct consequences. For instance, a prosecutor's threat to add charges if the defendant does not plead guilty may render the plea involuntary. *State v. Swindell*, 93 Wn.2d 192, 198, 607 P.2d 852 (1980). Similarly, coercion from a third party may render a plea involuntary. *State v. Frederick*, 100 Wn.2d 550, 556, 674 P.2d 136 (1983), *overruled on other grounds by Thompson v. State, Dep't of Licensing*, 138 Wn.2d 783, 982 P.2d 601 (1999). A plea can also be involuntary if it was induced by a prosecutor's appeal to fears of racial bias. *Horntvedt*, 29 Wn. App. 2d at 599. And a misrepresentation about a collateral consequence can render a plea involuntary. *State v. Stowe*, 71 Wn. App. 182, 188, 858 P.2d 267 (1993).

None of these decisions focus on whether the defendant was correctly informed of the direct consequences of a plea. Rather, courts focus more broadly on “the relevant circumstances surrounding” the plea. *State v. Williams*, 117 Wn. App. 390, 398, 71 P.3d 686 (2003).

As stated above, one such relevant circumstance is whether a misrepresentation induced the plea. *See Brady*, 397 U.S. at 755. That is the relevant consideration in this case, yet the Court of Appeals refused to consider this crucial issue. This Court should grant review and clarify that the *Brady* standard ultimately controls when determining the voluntariness of a plea.

2. *The Court of Appeals misread the facts and misapplied this Court’s precedent and other law.*

A guilty plea is involuntary and must be withdrawn if it was induced by a “misrepresentation (including unfulfilled or unfulfillable promises).” *Brady*, 397 U.S. at 755. That is exactly what occurred here, as the prosecutor’s

West's Revised Code of Washington Annotated
Title 9. Crimes and Punishments (Refs & Annos)
Chapter 9.94A. Sentencing Reform Act of 1981 (Refs & Annos)
Sentencing Alternatives

West's RCWA 9.94A.670

9.94A.670. Special sex offender sentencing alternative

Currentness

- (1) Unless the context clearly requires otherwise, the definitions in this subsection apply to this section only.
- (a) “Sex offender treatment provider” or “treatment provider” means a certified sex offender treatment provider or a certified affiliate sex offender treatment provider as defined in RCW 18.155.020.
- (b) “Substantial bodily harm” means bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any body part or organ, or that causes a fracture of any body part or organ.
- (c) “Victim” means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. “Victim” also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.
- (2) An offender is eligible for the special sex offender sentencing alternative if:
- (a) The offender has been convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense. If the conviction results from a guilty plea, the offender must, as part of his or her plea of guilty, voluntarily and affirmatively admit he or she committed all of the elements of the crime to which the offender is pleading guilty. This alternative is not available to offenders who plead guilty to the offense charged under *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970) and *State v. Newton*, 87 Wash.2d 363, 552 P.2d 682 (1976);
- (b) The offender has no prior convictions for a sex offense as defined in RCW 9.94A.030 or any other felony sex offenses in this or any other state;
- (c) The offender has no prior adult convictions for a violent offense that was committed within five years of the date the current offense was committed;
- (d) The offense did not result in substantial bodily harm to the victim;

(e) The offender had an established relationship with, or connection to, the victim such that the sole connection with the victim was not the commission of the crime; and

(f) The offender's standard sentence range for the offense includes the possibility of confinement for less than eleven years.

(3) If the court finds the offender is eligible for this alternative, the court, on its own motion or the motion of the state or the offender, may order an examination to determine whether the offender is amenable to treatment.

(a) The report of the examination shall include at a minimum the following:

(i) The offender's version of the facts and the official version of the facts;

(ii) The offender's offense history;

(iii) An assessment of problems in addition to alleged deviant behaviors;

(iv) The offender's social and employment situation; and

(v) Other evaluation measures used.

The report shall set forth the sources of the examiner's information.

(b) The examiner shall assess and report regarding the offender's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(i) Frequency and type of contact between offender and therapist;

(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions and affirmative conditions, which must include, to the extent known, an identification of specific activities or behaviors that are precursors to the offender's offense cycle, including, but not limited to, activities or behaviors such as viewing or listening to pornography or use of alcohol or controlled substances.

(c) The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The examiner shall be selected by the party making the motion. The offender shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(4) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this alternative, consider whether the alternative is too lenient in light of the extent and circumstances of the offense, consider whether the offender has victims in addition to the victim of the offense, consider whether the offender is amenable to treatment, consider the risk the offender would present to the community, to the victim, or to persons of similar age and circumstances as the victim, and consider the victim's opinion whether the offender should receive a treatment disposition under this section. The court shall give great weight to the victim's opinion whether the offender should receive a treatment disposition under this section. If the sentence imposed is contrary to the victim's opinion, the court shall enter written findings stating its reasons for imposing the treatment disposition. The fact that the offender admits to his or her offense does not, by itself, constitute amenability to treatment. If the court determines that this alternative is appropriate, the court shall then impose a sentence or, pursuant to RCW 9.94A.507, a minimum term of sentence, within the standard sentence range. If the sentence imposed is less than eleven years of confinement, the court may suspend the execution of the sentence as provided in this section.

(5) As conditions of the suspended sentence, the court must impose the following:

(a) A term of confinement of up to twelve months or the maximum term within the standard range, whichever is less. The court may order the offender to serve a term of confinement greater than twelve months or the maximum term within the standard range based on the presence of an aggravating circumstance listed in RCW 9.94A.535(3). In no case shall the term of confinement exceed the statutory maximum sentence for the offense. The court may order the offender to serve all or part of his or her term of confinement in partial confinement. An offender sentenced to a term of confinement under this subsection is not eligible for earned release under RCW 9.92.151 or 9.94A.728.

(b) A term of community custody equal to the length of the suspended sentence, the length of the maximum term imposed pursuant to RCW 9.94A.507, or three years, whichever is greater, and require the offender to comply with any conditions imposed by the department under RCW 9.94A.703.

(c) Treatment for any period up to five years in duration. The court, in its discretion, shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court. If any party or the court objects to a proposed change, the offender shall not change providers or conditions without court approval after a hearing.

(d) Specific prohibitions and affirmative conditions relating to the known precursor activities or behaviors identified in the proposed treatment plan under subsection (3)(b)(v) of this section or identified in an annual review under subsection (8)(b) of this section.

(6) As conditions of the suspended sentence, the court may impose one or more of the following:

(a) Crime-related prohibitions;

- (b) Require the offender to devote time to a specific employment or occupation;
 - (c) Require the offender to remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
 - (d) Require the offender to report as directed to the court and a community corrections officer;
 - (e) Require the offender to pay all court-ordered legal financial obligations as provided in RCW 9.94A.030;
 - (f) Require the offender to perform community restitution work; or
 - (g) Require the offender to reimburse the victim for the cost of any counseling required as a result of the offender's crime.
- (7) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment.
- (8)(a) The sex offender treatment provider shall submit quarterly reports on the offender's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, offender's compliance with requirements, treatment activities, the offender's relative progress in treatment, and any other material specified by the court at sentencing.
- (b) The court shall conduct a hearing on the offender's progress in treatment at least once a year. At least fourteen days prior to the hearing, notice of the hearing shall be given to the victim. The victim shall be given the opportunity to make statements to the court regarding the offender's supervision and treatment. At the hearing, the court may modify conditions of community custody including, but not limited to, crime-related prohibitions and affirmative conditions relating to activities and behaviors identified as part of, or relating to precursor activities and behaviors in, the offender's offense cycle or revoke the suspended sentence.
- (9) At least fourteen days prior to the treatment termination hearing, notice of the hearing shall be given to the victim. The victim shall be given the opportunity to make statements to the court regarding the offender's supervision and treatment. Prior to the treatment termination hearing, the treatment provider and community corrections officer shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community custody conditions. The court may order an evaluation regarding the advisability of termination from treatment by a sex offender treatment provider who may not be the same person who treated the offender under subsection (5) of this section or any person who employs, is employed by, or shares profits with the person who treated the offender under subsection (5) of this section unless the court has entered written findings that such evaluation is in the best interest of the victim and that a successful evaluation of the offender would otherwise be impractical. The offender shall pay the cost of the evaluation. At the treatment termination hearing the court may: (a) Modify conditions of community custody, and either (b) terminate treatment, or (c) extend treatment in two-year increments for up to the remaining period of community custody.

(10)(a) If a violation of conditions other than a second violation of the prohibitions or affirmative conditions relating to precursor behaviors or activities imposed under subsection (5)(d) or (8)(b) of this section occurs during community custody, the department shall either impose sanctions as provided for in RCW 9.94A.633(1) or refer the violation to the court and recommend revocation of the suspended sentence as provided for in subsections (7) and (9) of this section.

(b) If a second violation of the prohibitions or affirmative conditions relating to precursor behaviors or activities imposed under subsection (5)(d) or (8)(b) of this section occurs during community custody, the department shall refer the violation to the court and recommend revocation of the suspended sentence as provided in subsection (11) of this section.

(11) The court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence if: (a) The offender violates the conditions of the suspended sentence, or (b) the court finds that the offender is failing to make satisfactory progress in treatment. All confinement time served during the period of community custody shall be credited to the offender if the suspended sentence is revoked.

(12) If the offender violates a requirement of the sentence that is not a condition of the suspended sentence pursuant to subsection (5) or (6) of this section, the department may impose sanctions pursuant to RCW 9.94A.633(1).

(13) The offender's sex offender treatment provider may not be the same person who examined the offender under subsection (3) of this section or any person who employs, is employed by, or shares profits with the person who examined the offender under subsection (3) of this section, unless the court has entered written findings that such treatment is in the best interests of the victim and that successful treatment of the offender would otherwise be impractical. Examinations and treatment ordered pursuant to this subsection shall only be conducted by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW unless the court finds that:

(a) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; or

(b)(i) No certified sex offender treatment providers or certified affiliate sex offender treatment providers are available for treatment within a reasonable geographical distance of the offender's home; and

(ii) The evaluation and treatment plan comply with this section and the rules adopted by the department of health.

(14) If the offender is less than eighteen years of age when the charge is filed, the state shall pay for the cost of initial evaluation and treatment.

Credits

[2009 c 28 § 9, eff. Aug. 1, 2009; 2008 c 231 § 31, eff. Aug. 1, 2009; 2006 c 133 § 1, eff. June 7, 2006. Prior: 2004 c 176 § 4, eff. July 1, 2005; 2004 c 38 § 9, eff. July 1, 2004; 2002 c 175 § 11; 2001 2nd sp.s. c 12 § 316; 2000 c 28 § 20.]

OFFICIAL NOTES

Effective date--2009 c 28: See note following RCW 2.24.040.

Intent--Application--Application of repealers--Effective date--2008 c 231: See notes following RCW 9.94A.701.

Severability--2008 c 231: See note following RCW 9.94A.500.

Severability--Effective date--2004 c 176: See notes following RCW 9.94A.515.

Effective date--2004 c 38: See note following RCW 18.155.075.

Effective date--2002 c 175: See note following RCW 7.80.130.

Intent--Severability--Effective dates--2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Application--2001 2nd sp.s. c 12 §§ 301-363: See note following RCW 9.94A.030.

Technical correction bill--2000 c 28: See note following RCW 9.94A.015.

West's RCWA 9.94A.670, WA ST 9.94A.670

Current with all effective legislation of the 2025 Regular Session of the Washington Legislature. Some statute sections may be more current, see credits for details.

West's Revised Code of Washington Annotated
Constitution of the State of Washington (Refs & Annos)
Article 1. Declaration of Rights (Refs & Annos)

West's RCWA Const. Art. 1, § 35

§ 35. Victims of Crimes--Rights

Currentness

Effective law enforcement depends on cooperation from victims of crime. To ensure victims a meaningful role in the criminal justice system and to accord them due dignity and respect, victims of crime are hereby granted the following basic and fundamental rights.

Upon notifying the prosecuting attorney, a victim of a crime charged as a felony shall have the right to be informed of and, subject to the discretion of the individual presiding over the trial or court proceedings, attend trial and all other court proceedings the defendant has the right to attend, and to make a statement at sentencing and at any proceeding where the defendant's release is considered, subject to the same rules of procedure which govern the defendant's rights. In the event the victim is deceased, incompetent, a minor, or otherwise unavailable, the prosecuting attorney may identify a representative to appear to exercise the victim's rights. This provision shall not constitute a basis for error in favor of a defendant in a criminal proceeding nor a basis for providing a victim or the victim's representative with court appointed counsel.

Credits

Adopted by Amendment 84 (Laws 1989, S.J.R. No. 8200, approved Nov. 7, 1989), eff. Dec. 7, 1989.

West's RCWA Const. Art. 1, § 35, WA CONST Art. 1, § 35
Current through Nov. 5, 2024, General Election.

End of Document

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West's Revised Code of Washington Annotated
 Title 9. Crimes and Punishments (Refs & Annos)
 Chapter 9.94A. Sentencing Reform Act of 1981 (Refs & Annos)
 Sentencing

West's RCWA 9.94A.510

9.94A.510. Table 1--Sentencing grid

Currentness

TABLE 1

Sentencing Grid

SERIOUSNESS											
LEVEL		OFFENDER SCORE									
		0	1	2	3	4	5	6	7	8	9 or more
XVI	Life sentence without parole/death penalty for offenders at or over the age of eighteen. For offenders under the age of eighteen, a term of twenty-five years to life.										
XV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y	
	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-	
	320	333	347	361	374	388	416	450	493	548	
XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y	
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-	
	220	234	244	254	265	275	295	316	357	397	
XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y	
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-	
	164	178	192	205	219	233	260	288	342	397	
XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m	
	93-	102-	111-	120-	129-	138-	162-	178-	209-	240-	
	123	136	147	160	171	184	216	236	277	318	
XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m	

	78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
	102	114	125	136	147	158	194	211	245	280
X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
	68	75	82	89	96	102	130	144	171	198
IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
	31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
	41	48	54	61	68	75	102	116	144	171
VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
	21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
	27	34	41	48	54	61	89	102	116	144
VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
	15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
	20	27	34	41	48	54	75	89	102	116
VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
	12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
	14	20	27	34	41	48	61	75	89	102
V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
	6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
	12	14	17	20	29	43	54	68	82	96
IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
	3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
	9	12	14	17	20	29	43	57	70	84
III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
	3	8	12	12	16	22	29	43	57	68
II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57

I		3m	4m	5m	8m	13m	16m	20m	2y2m
0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
Days	Days	5	6	8	12	14	18	22	29

Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent standard sentence ranges in months, or in days if so designated. 12+ equals one year and one day.

Credits

[2014 c 130 § 1, eff. June 1, 2014; 2002 c 290 § 10. Prior: 2000 c 132 § 2; 2000 c 28 § 11; prior: 1999 c 352 § 2; 1999 c 324 § 3; prior: 1998 c 235 § 1; 1998 c 211 § 3; prior: 1997 c 365 § 3; 1997 c 338 § 50; 1996 c 205 § 5; 1995 c 129 § 2 (Initiative Measure No. 159); (1994 sp.s. c 7 § 512 repealed by 1995 c 129 § 19 (Initiative Measure No. 159)); 1992 c 145 § 9; 1991 c 32 § 2; 1990 c 3 § 701; prior: 1989 c 271 § 101; 1989 c 124 § 1; 1988 c 218 § 1; 1986 c 257 § 22; 1984 c 209 § 16; 1983 c 115 § 2. Formerly RCW 9.94A.310.]

OFFICIAL NOTES

Application--2014 c 130: “Sections 1 through 9 of this act apply to all sentencing hearings conducted on or after June 1, 2014, regardless of the date of an offender's underlying offense.” [2014 c 130 § 12.]

Effective date--2014 c 130: “This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 1, 2014.” [2014 c 130 § 16.]

Effective date--2002 c 290 §§ 7-11 and 14-23: See note following RCW 9.94A.515.

Intent--2002 c 290: See note following RCW 9.94A.517.

Technical correction bill--2000 c 28: See note following RCW 9.94A.015.

Effective date--1998 c 211: See note following RCW 46.61.5055.

Finding--Evaluation--Report--1997 c 338: See note following RCW 13.40.0357.

Severability--Effective dates--1997 c 338: See notes following RCW 5.60.060.

Findings and intent--1995 c 129: “(1) The people of the state of Washington find and declare that:

(a) Armed criminals pose an increasing and major threat to public safety and can turn any crime into serious injury or death.

(b) Criminals carry deadly weapons for several key reasons including: Forcing the victim to comply with their demands; injuring or killing anyone who tries to stop the criminal acts; and aiding the criminal in escaping.

(c) Current law does not sufficiently stigmatize the carrying and use of deadly weapons by criminals, and far too often there are no deadly weapon enhancements provided for many felonies, including murder, arson, manslaughter, and child molestation and many other sex offenses including child luring.

(d) Current law also fails to distinguish between gun-carrying criminals and criminals carrying knives or clubs.

(2) By increasing the penalties for carrying and using deadly weapons by criminals and closing loopholes involving armed criminals, the people intend to:

(a) Stigmatize the carrying and use of any deadly weapons for all felonies with proper deadly weapon enhancements.

(b) Reduce the number of armed offenders by making the carrying and use of the deadly weapon not worth the sentence received upon conviction.

(c) Distinguish between the gun predators and criminals carrying other deadly weapons and provide greatly increased penalties for gun predators and for those offenders committing crimes to acquire firearms.

(d) Bring accountability and certainty into the sentencing system by tracking individual judges and holding them accountable for their sentencing practices in relation to the state's sentencing guidelines for serious crimes." [1995 c 129 § 1 (Initiative Measure No. 159).]

Short title--1995 c 129: "This act shall be known and cited as the hard time for armed crime act." [1995 c 129 § 21 (Initiative Measure No. 159).]

Severability--1995 c 129: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 129 § 22 (Initiative Measure No. 159).]

Captions not law--1995 c 129: "Captions as used in this act do not constitute any part of the law." [1995 c 129 § 23 (Initiative Measure No. 159).]

Finding--Intent--Severability--Effective dates--Contingent expiration date--1994 sp.s. c 7: See notes following RCW 43.70.540.

Application--1989 c 271 §§ 101-111: "Sections 101-111 of this act apply to crimes committed on or after July 1, 1989." [1989 c 271 § 114.]

Severability--1989 c 271: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 271 § 606.]

Severability--1986 c 257: See note following RCW 9A.56.010.

Effective date--1986 c 257 §§ 17-35: See note following RCW 9.94A.030.

Effective dates--1984 c 209: See note following RCW 9.94A.030.

West's RCWA 9.94A.510, WA ST 9.94A.510

Current with all effective legislation of the 2025 Regular Session of the Washington Legislature. Some statute sections may be more current, see credits for details.

West's Revised Code of Washington Annotated
 Title 9. Crimes and Punishments (Refs & Annos)
 Chapter 9.94A. Sentencing Reform Act of 1981 (Refs & Annos)
 Sentencing

West's RCWA 9.94A.515

9.94A.515. Table 2--Crimes included within each seriousness level (*Effective April 1, 2025*)

Currentness

TABLE 2

CRIMES INCLUDED WITHIN EACH
SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(3))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)

	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
	Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
X	Child Molestation 1 (RCW 9A.44.083)
	Criminal Mistreatment 1 (RCW 9A.42.020)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))
	Malicious explosion 3 (RCW 70.74.280(3))
	Sexually Violent Predator Escape (RCW 9A.76.115)
IX	Abandonment of Dependent Person 1 (RCW 9A.42.060)
	Assault of a Child 2 (RCW 9A.36.130)
	Explosive devices prohibited (RCW 70.74.180)
	Hit and Run--Death (RCW 46.52.020(4)(a))
	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
	Malicious placement of an explosive 2 (RCW 70.74.270(2))
	Robbery 1 (RCW 9A.56.200)
	Sexual Exploitation (RCW 9.68A.040)
VIII	Arson 1 (RCW 9A.48.020)
	Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
	Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
	Manslaughter 2 (RCW 9A.32.070)
	Promoting Prostitution 1 (RCW 9A.88.070)
	Theft of Ammonia (RCW 69.55.010)
VII	Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b))
	Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b))

Burglary 1 (RCW 9A.52.020)

Child Molestation 2 (RCW 9A.44.086)

Civil Disorder Training (RCW 9A.48.120)

Custodial Sexual Misconduct 1 (RCW 9A.44.160)

Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))

Drive-by Shooting (RCW 9A.36.045)

False Reporting 1 (RCW 9A.84.040(2)(a))

Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)

Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))

Introducing Contraband 1 (RCW 9A.76.140)

Malicious placement of an explosive 3 (RCW 70.74.270(3))

Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))

Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)

Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))

Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))

Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))

Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225)

Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)

VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))

Bribery (RCW 9A.68.010)

Incest 1 (RCW 9A.64.020(1))

Intimidating a Judge (RCW 9A.72.160)

Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)

	Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
	Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
	Rape of a Child 3 (RCW 9A.44.079)
	Theft of a Firearm (RCW 9A.56.300)
	Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))
	Unlawful Storage of Ammonia (RCW 69.55.020)
V	Abandonment of Dependent Person 2 (RCW 9A.42.070)
	Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
	Air bag diagnostic systems (RCW 46.37.660(2)(c))
	Air bag replacement requirements (RCW 46.37.660(1)(c))
	Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
	Child Molestation 3 (RCW 9A.44.089)
	Criminal Mistreatment 2 (RCW 9A.42.030)
	Custodial Sexual Misconduct 2 (RCW 9A.44.170)
	Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
	Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070)
	Extortion 1 (RCW 9A.56.120)
	Extortionate Extension of Credit (RCW 9A.82.020)
	Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
	Incest 2 (RCW 9A.64.020(2))
	Kidnapping 2 (RCW 9A.40.030)
	Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))
	Perjury 1 (RCW 9A.72.020)
	Persistent prison misbehavior (RCW 9.94.070)
	Possession of a Stolen Firearm (RCW 9A.56.310)
	Rape 3 (RCW 9A.44.060)

	Rendering Criminal Assistance 1 (RCW 9A.76.070)
	Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))
	Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
	Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
	Sexually Violating Human Remains (RCW 9A.44.105)
	Stalking (RCW 9A.46.110)
	Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
IV	Arson 2 (RCW 9A.48.030)
	Assault 2 (RCW 9A.36.021)
	Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
	Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))
	Assault by Watercraft (RCW 79A.60.060)
	Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
	Cheating 1 (RCW 9.46.1961)
	Commercial Bribery (RCW 9A.68.060)
	Counterfeiting (RCW 9.16.035(4))
	Driving While Under the Influence (RCW 46.61.502(6))
	Endangerment with a Controlled Substance (RCW 9A.42.100)
	Escape 1 (RCW 9A.76.110)
	Hate Crime (RCW 9A.36.080)
	Hit and Run--Injury (RCW 46.52.020(4)(b))
	Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))
	Identity Theft 1 (RCW 9.35.020(2))
	Indecent Exposure to Person Under Age 14 (subsequent sex offense) (RCW 9A.88.010)
	Influencing Outcome of Sporting Event (RCW 9A.82.070)
	Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))

Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))

Residential Burglary (RCW 9A.52.025)

Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Threats to Bomb (RCW 9.61.160)

Trafficking in Catalytic Converters 1 (RCW 9A.82.190)

Trafficking in Stolen Property 1 (RCW 9A.82.050)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))

Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))

Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))

Unlawful transaction of insurance business (RCW 48.15.023(3))

Unlicensed practice as an insurance professional (RCW 48.17.063(2))

Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))

Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))

Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)

Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))

III Animal Cruelty 1 (RCW 16.52.205)

Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))

Assault of a Child 3 (RCW 9A.36.140)

Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))

Burglary 2 (RCW 9A.52.030)

Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

Criminal Gang Intimidation (RCW 9A.46.120)

Custodial Assault (RCW 9A.36.100)

Cyber Harassment (RCW 9A.90.120(2)(b))

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

False Reporting 2 (RCW 9A.84.040(2)(b))

Harassment (RCW 9A.46.020)

Hazing (RCW 28B.10.901(2)(b))

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

Malicious Injury to Railroad Property (RCW 81.60.070)

Manufacture of Untraceable Firearm with Intent to Sell (RCW 9.41.190)

Manufacture or Assembly of an Undetectable Firearm or Untraceable Firearm (RCW 9.41.325)

Mortgage Fraud (RCW 19.144.080)

Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)

Organized Retail Theft 1 (RCW 9A.56.350(2))

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun, Bump-Fire Stock, Undetectable Firearm, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

Promoting Prostitution 2 (RCW 9A.88.080)

Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))

Securities Act violation (RCW 21.20.400)

Tampering with a Witness (RCW 9A.72.120)

Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))

Theft of Livestock 2 (RCW 9A.56.083)

Theft with the Intent to Resell 1 (RCW 9A.56.340(2))

Trafficking in Catalytic Converters 2 (RCW 9A.82.200)

	Trafficking in Stolen Property 2 (RCW 9A.82.055)
	Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))
	Unlawful Imprisonment (RCW 9A.40.040)
	Unlawful Misbranding of Fish or Shellfish 1 (RCW 77.140.060(3))
	Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
	Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
	Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
	Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
	Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
II	Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
	Computer Trespass 1 (RCW 9A.90.040)
	Counterfeiting (RCW 9.16.035(3))
	Electronic Data Service Interference (RCW 9A.90.060)
	Electronic Data Tampering 1 (RCW 9A.90.080)
	Electronic Data Theft (RCW 9A.90.100)
	Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
	Escape from Community Custody (RCW 72.09.310)
	Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)
	Health Care False Claims (RCW 48.80.030)
	Identity Theft 2 (RCW 9.35.020(3))
	Improperly Obtaining Financial Information (RCW 9.35.010)
	Malicious Mischief 1 (RCW 9A.48.070)
	Organized Retail Theft 2 (RCW 9A.56.350(3))
	Possession of Stolen Property 1 (RCW 9A.56.150)
	Possession of a Stolen Vehicle (RCW 9A.56.068)

Possession, sale, or offering for sale of seven or more unmarked catalytic converters (RCW 9A.82.180(5))

Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))

Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)

Theft 1 (RCW 9A.56.030)

Theft of a Motor Vehicle (RCW 9A.56.065)

Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at \$5,000 or more) (RCW 9A.56.096(5)(a))

Theft with the Intent to Resell 2 (RCW 9A.56.340(3))

Trafficking in Insurance Claims (RCW 48.30A.015)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))

Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))

Unlawful Practice of Law (RCW 2.48.180)

Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))

Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))

Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))

Voyeurism 1 (RCW 9A.44.115)

I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)

False Verification for Welfare (RCW 74.08.055)

Forgery (RCW 9A.60.020)

Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)

Malicious Mischief 2 (RCW 9A.48.080)

Mineral Trespass (RCW 78.44.330)

Possession of Stolen Property 2 (RCW 9A.56.160)

Reckless Burning 1 (RCW 9A.48.040)

Spotlighting Big Game 1 (RCW 77.15.450(3)(b))

Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))

Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)

Theft 2 (RCW 9A.56.040)

Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))

Theft of Rental, Leased, Lease-purchased, or Loaned
Property (valued at \$750 or more but less than \$5,000) (RCW
9A.56.096(5)(b))

Transaction of insurance business beyond the scope of licensure
(RCW 48.17.063)

Unlawful Fish and Shellfish Catch Accounting (RCW
77.15.630(3)(b))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

Unlawful Possession of Fictitious Identification (RCW
9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW
9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW
9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

Unlawful Releasing, Planting, Possessing, or Placing Deleterious
Exotic Wildlife (RCW 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW 9.91.144)

Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or Time 1 (RCW
77.15.550(3)(b))

Credits

[2024 c 301 § 29, eff. April 1, 2025; 2024 c 55 § 1, eff. June 6, 2024. Prior: 2023 c 196 § 3, eff. July 23, 2023; 2023 c 7 § 3, eff. July 23, 2023; 2022 c 231 § 13, eff. July 1, 2022; (2022 c 231 § 12 expired July 1, 2022); 2021 c 215 § 99, eff. July 1, 2022; 2020 c 344 § 4, eff. June 11, 2020; prior: 2019 c 271 § 7, eff. July 28, 2019; 2019 c 243 § 5, eff. July 1, 2019; 2019 c 64 § 3, eff. July 28, 2019; 2019 c 46 § 5009, eff. July 28, 2019; prior: 2018 c 236 § 721, eff. June 7, 2018; 2018 c 7 § 7, eff. July 1, 2019; prior: 2017 c 335 § 4, eff. July 23, 2017; 2017 c 292 § 3, eff. July 23, 2017; 2017 c 272 § 10, eff. July 23, 2017; 2017 c 266 § 8, eff. July 23, 2017; prior: 2016 c 213 § 5, eff. June 9, 2016; 2016 c 164 § 13, eff. June 9, 2016; 2016 c 6 § 1, eff. June 9, 2016; 2015 c 261 § 11, eff. July 24, 2015; prior: 2013 c 322 § 26, eff. July 28, 2013; 2013 c 290 § 8, eff. July 28, 2013; 2013 c 267 § 2, eff. July 28, 2013; 2013 c 153 § 2, eff. Jan. 1, 2014; prior: 2012 c 176 § 3; 2012 c 162 § 1, eff. June 7, 2012; prior:

2010 c 289 § 11, eff. June 10, 2010; 2010 c 227 § 9, eff. June 10, 2010; prior: 2008 c 108 § 23, eff. June 12, 2008; 2008 c 38 § 1, eff. June 12, 2008; prior: 2007 c 368 § 14, eff. July 22, 2007; 2007 c 199 § 10, eff. July 22, 2007; prior: 2006 c 277 § 6, eff. June 7, 2006; 2006 c 228 § 9, eff. June 7, 2006; 2006 c 191 § 2, eff. June 7, 2006; 2006 c 139 § 2, eff. June 7, 2006; 2006 c 128 § 3, eff. June 7, 2006; 2006 c 73 § 12, eff. July 1, 2007; prior: (2006 c 125 § 5 repealed by 2006 c 126 § 7); 2005 c 458 § 2, eff. July 24, 2005; 2005 c 183 § 9, eff. July 24, 2005; prior: 2004 c 176 § 2, eff. July 1, 2005; 2004 c 94 § 3, eff. July 1, 2004; (2004 c 94 § 2 expired July 1, 2004); prior: 2003 c 335 § 5, eff. July 1, 2004; (2003 c 335 § 4 expired July 1, 2004); 2003 c 283 § 33, eff. July 1, 2004; (2003 c 283 § 32 expired July 1, 2004); 2003 c 267 § 3, eff. July 1, 2004; (2003 c 267 § 2 expired July 1, 2004); 2003 c 250 § 14, eff. July 1, 2004; (2003 c 250 § 13 expired July 1, 2004); 2003 c 119 § 8, eff. July 1, 2004; (2003 c 119 § 7 expired July 1, 2004); 2003 c 53 § 56, eff. July 1, 2004; 2003 c 52 § 4, eff. July 1, 2004; (2003 c 52 § 3 expired July 1, 2004); prior: 2002 c 340 § 2; 2002 c 324 § 2; 2002 c 290 § 7; (2002 c 290 § 2 expired July 1, 2003); 2002 c 253 § 4; 2002 c 229 § 2; 2002 c 134 § 2; 2002 c 133 § 4; prior: 2001 2nd sp.s. c 12 § 361; 2001 c 300 § 4; 2001 c 217 § 12; 2001 c 17 § 1; prior: 2001 c 310 § 4; 2001 c 287 § 3; 2001 c 224 § 3; 2001 c 222 § 24; 2001 c 207 § 3; 2000 c 225 § 5; 2000 c 119 § 17; 2000 c 66 § 2; prior: 1999 c 352 § 3; 1999 c 322 § 5; 1999 c 45 § 4; prior: 1998 c 290 § 4; 1998 c 219 § 4; 1998 c 82 § 1; 1998 c 78 § 1; prior: 1997 c 365 § 4; 1997 c 346 § 3; 1997 c 340 § 1; 1997 c 338 § 51; 1997 c 266 § 15; 1997 c 120 § 5; prior: 1996 c 302 § 6; 1996 c 205 § 3; 1996 c 36 § 2; prior: 1995 c 385 § 2; 1995 c 285 § 28; 1995 c 129 § 3 (Initiative Measure No. 159); prior: (1994 sp.s. c 7 § 510 repealed by 1995 c 129 § 19 (Initiative Measure No. 159)); 1994 c 275 § 20; 1994 c 53 § 2; prior: 1992 c 145 § 4; 1992 c 75 § 3; 1991 c 32 § 3; 1990 c 3 § 702; prior: 1989 2nd ex.s. c 1 § 3; 1989 c 412 § 3; 1989 c 405 § 1; 1989 c 271 § 102; 1989 c 99 § 1; prior: 1988 c 218 § 2; 1988 c 145 § 12; 1988 c 62 § 2; prior: 1987 c 224 § 1; 1987 c 187 § 4; 1986 c 257 § 23; 1984 c 209 § 17; 1983 c 115 § 3. Formerly RCW 9.94A.320.]

OFFICIAL NOTES

Reviser's note: This section was amended by 2024 c 55 § 1 and by 2024 c 301 § 29, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--Findings--Intent--2024 c 301: See notes following RCW 9A.82.180.

Short title--2023 c 196: See note following RCW 28B.10.901.

Short title--2023 c 7: See note following RCW 9A.44.160.

Effective date--2022 c 231 §§ 8, 9, 11, 13, and 15: See note following RCW 7.105.010.

Expiration date--2022 c 231 §§ 7, 10, 12, 14, 16, and 17: See note following RCW 9.94A.030.

Effective date--2022 c 268; 2021 c 215: See note following RCW 7.105.900.

Finding--2020 c 344: See note following RCW 9A.84.040.

Effective date--2019 c 243: See note following RCW 9.41.010.

Explanatory statement--2019 c 64: See note following RCW 1.20.110.

Effective dates--2018 c 7: See note following RCW 9.41.010.

Finding--Intent--2017 c 266: See note following RCW 9A.42.020.

Finding--Application of consumer protection act--2016 c 213: See note following RCW 46.37.640.

Findings--Intent--Short title--2016 c 164: See RCW 9A.90.010 and 9A.90.020.

Effective date--2013 c 153: See note following RCW 9A.56.360.

Findings--2008 c 108: See RCW 19.144.005.

Findings--Intent--Short title--2007 c 199: See notes following RCW 9A.56.065.

Intent--Severability--Effective date--2006 c 125: See notes following RCW 9A.44.190.

Effective date--2006 c 73: See note following RCW 46.61.502.

Severability--2004 c 176: “If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.” [2004 c 176 § 8.]

Effective date--2004 c 176: “Sections 2 through 6 of this act take effect July 1, 2005.” [2004 c 176 § 9.]

Expiration date--2004 c 94 § 2: “Section 2 of this act expires July 1, 2004.” [2004 c 94 § 8.]

Severability--Effective dates--2004 c 94: See notes following RCW 9A.90.120.

Effective date--2003 c 335 § 5: “Section 5 of this act takes effect July 1, 2004.” [2003 c 335 § 8.]

Expiration date--2003 c 335 § 4: “Section 4 of this act expires July 1, 2004.” [2003 c 335 § 7.]

Effective date--2003 c 283 § 33: “Section 33 of this act takes effect July 1, 2004.” [2003 c 283 § 37.]

Expiration date--2003 c 283 § 32: “Section 32 of this act expires July 1, 2004.” [2003 c 283 § 36.]

Effective date--2003 c 267 § 3: “Section 3 of this act takes effect July 1, 2004.” [2003 c 267 § 9.]

Expiration date--2003 c 267 § 2: “Section 2 of this act expires July 1, 2004.” [2003 c 267 § 8.]

Effective date--2003 c 250 § 14: “Section 14 of this act takes effect July 1, 2004.” [2003 c 250 § 17.]

Expiration date--2003 c 250 § 13: “Section 13 of this act expires July 1, 2004.” [2003 c 250 § 16.]

Severability--2003 c 250: See note following RCW 48.01.080.

Effective date--2003 c 119 § 8: “Section 8 of this act takes effect July 1, 2004.” [2003 c 119 § 10.]

Expiration date--2003 c 119 § 7: “Section 7 of this act expires July 1, 2004.” [2003 c 119 § 9.]

Intent--Effective date--2003 c 53: See notes following RCW 2.48.180.

Effective date--2003 c 52 § 4: “Section 4 of this act takes effect July 1, 2004.” [2003 c 52 § 6.]

Expiration date--2003 c 52 § 3: “Section 3 of this act expires July 1, 2004.” [2003 c 52 § 5.]

Study and report--2002 c 324: See note following RCW 9A.56.070.

Effective date--2002 c 290 §§ 7-11 and 14-23: “Sections 7 through 11 and 14 through 23 of this act take effect July 1, 2003.” [2003 c 379 § 10; 2002 c 290 § 31.]

Effective date--2002 c 290 §§ 2 and 3: “Sections 2 and 3 of this act take effect July 1, 2002, and apply to crimes committed on or after July 1, 2002.” [2002 c 290 § 29.]

Expiration date--2002 c 290 § 2: “Section 2 of this act expires July 1, 2003.” [2003 c 379 § 9; 2002 c 290 § 30.]

Intent--2002 c 290: See note following RCW 9.94A.517.

Effective date--2002 c 229: See note following RCW 9A.42.100.

Effective date--2002 c 134: See note following RCW 69.50.440.

Effective date--2002 c 133: See note following RCW 69.55.010.

Intent--Severability--Effective dates--2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Application--2001 2nd sp.s. c 12 §§ 301-363: See note following RCW 9.94A.030.

Purpose--Effective date--2001 c 310: See notes following RCW 2.48.180.

Effective dates--2001 c 287: See note following RCW 9A.76.115.

Purpose--Effective date--2001 c 224: See notes following RCW 9A.68.060.

Purpose--Effective date--2001 c 222: See notes following RCW 9A.82.001.

Captions not law--2001 c 217: See note following RCW 9.35.005.

Purpose--Effective date--2001 c 207: See notes following RCW 18.130.190.

Severability--2000 c 225: See note following RCW 69.55.010.

Effective date--2000 c 119 § 17: “Section 17 of this act takes effect July 1, 2000.” [2000 c 119 § 30.]

Application--2000 c 119: See note following RCW 10.31.100.

Alphabetization--1999 c 352: “The code reviser shall alphabetize the offenses within each seriousness level in RCW 9.94A.320, including any offenses added in the 1999 legislative session.” [1999 c 352 § 6.]

Application--1999 c 352 §§ 3-5: “The amendments made by sections 3 through 5, chapter 352, Laws of 1999 shall apply to offenses committed on or after July 25, 1999, except that the amendments made by chapter 352, Laws of 1999 to seriousness level V in RCW 9.94A.320 shall apply to offenses committed on or after July 1, 2000.” [1999 c 352 § 7.]

Application--Effective date--Severability--1998 c 290: See notes following RCW 69.50.401.

Application--1998 c 78: “This act applies to crimes committed on or after July 1, 1998.” [1998 c 78 § 2.]

Severability--Effective dates--1997 c 338: See notes following RCW 5.60.060.

Finding--Evaluation--Report--1997 c 338: See note following RCW 13.40.0357.

Findings--Intent--Severability--1997 c 266: See notes following RCW 28A.600.455.

Severability--1996 c 302: See note following RCW 9A.42.010.

Effective date--1995 c 285: See RCW 48.30A.900.

Findings and intent--Short title--Severability--Captions not law--1995 c 129: See notes following RCW 9.94A.510.

Contingent expiration date--1994 sp.s. c 7: See note following RCW 43.70.540.

Finding--Intent--Severability--Effective dates--1994 sp.s. c 7: See notes following RCW 43.70.540.

Short title--Effective date--1994 c 275: See notes following RCW 46.04.015.

Effective date--1989 2nd ex.s. c 1: See note following RCW 9A.52.025.

Finding--Intent--1989 c 271 §§ 102, 109, and 110: See note following RCW 9A.36.050.

Application--1989 c 271 §§ 101-111: See note following RCW 9.94A.510.

Severability--1989 c 271: See note following RCW 9.94A.510.

Application--1989 c 99: “This act applies to crimes committed after July 1, 1989.” [1989 c 99 § 2.]

Effective date--1989 c 99: “This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1989.” [1989 c 99 § 3.]

Effective date--Savings--Application--1988 c 145: See notes following RCW 9A.44.010.

Effective date--Application--1987 c 224: “This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1987. It shall apply to crimes committed on or after July 1, 1987.” [1987 c 224 § 2.]

Severability--1986 c 257: See note following RCW 9A.56.010.

Effective date--1986 c 257 §§ 17-35: See note following RCW 9.94A.030.

Effective dates--1984 c 209: See note following RCW 9.94A.030.

West's RCWA 9.94A.515, WA ST 9.94A.515

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West's Revised Code of Washington Annotated
Title 9. Crimes and Punishments (Refs & Annos)
Chapter 9.94A. Sentencing Reform Act of 1981 (Refs & Annos)
Sentencing

West's RCWA 9.94A.507

9.94A.507. Sentencing of sex offenders

Currentness

(1) An offender who is not a persistent offender shall be sentenced under this section if the offender:

(a) Is convicted of:

(i) Rape in the first degree, rape in the second degree, rape of a child in the first degree, child molestation in the first degree, rape of a child in the second degree, or indecent liberties by forcible compulsion;

(ii) 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, or burglary in the first degree; or

(iii) An attempt to commit any crime listed in this subsection (1)(a); or

(b) Has a prior conviction for an offense listed in *RCW 9.94A.030(31)(b), and is convicted of any sex offense other than failure to register.

(2) An offender convicted of rape of a child in the first or second degree or child molestation in the first degree who was seventeen years of age or younger at the time of the offense shall not be sentenced under this section.

(3)(a) Upon a finding that the offender is subject to sentencing under this section, the court shall impose a sentence to a maximum term and a minimum term.

(b) The maximum term shall consist of the statutory maximum sentence for the offense.

(c)(i) Except as provided in (c)(ii) of this subsection, the minimum term shall be either within the standard sentence range for the offense, or outside the standard sentence range pursuant to RCW 9.94A.535, if the offender is otherwise eligible for such a sentence.

(ii) If the offense that caused the offender to be sentenced under this section was rape of a child in the first degree, rape of a child in the second degree, or child molestation in the first degree, and there has been a finding that the offense was predatory under RCW 9.94A.836, the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater. If the offense that caused the offender to be sentenced under this section was 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 there has been a finding that the victim was under the age of fifteen at the time of the offense under RCW 9.94A.837, the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater. If the offense that caused the offender to be sentenced under this section 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 there has been a finding under RCW 9.94A.838 that the victim was, at the time of the offense, developmentally disabled, mentally disordered, or a frail elder or vulnerable adult, the minimum sentence shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater.

(d) The minimum terms in (c)(ii) of this subsection do not apply to a juvenile tried as an adult pursuant to RCW 13.04.030(1) (e) (i) or (v). The minimum term for such a juvenile shall be imposed under (c)(i) of this subsection.

(4) A person sentenced under subsection (3) of this section shall serve the sentence in a facility or institution operated, or utilized under contract, by the state.

(5) 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.

(6)(a) As part of any sentence under this section, the court shall also require the offender to comply with any conditions imposed by the board under RCW 9.95.420 through 9.95.435.

(b) An offender released by the board under RCW 9.95.420 is subject to the supervision of the department until the expiration of the maximum term of the sentence. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, department, or board, and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

Credits

[2008 c 231 § 33, eff. Aug. 1, 2009. Prior: 2006 c 124 § 3, eff. July 1, 2006; (2006 c 124 § 2 expired July 1, 2006); 2006 c 122 § 5, eff. July 1, 2006; (2006 c 122 § 4 expired July 1, 2006); 2005 c 436 § 2, eff. July 24, 2005; 2004 c 176 § 3, eff. July 1, 2005; prior: 2001 2nd sp.s. c 12 § 303. Formerly RCW 9.94A.712.]

OFFICIAL NOTES

Reviser's note: *(1) The reference to RCW 9.94A.030(31)(b) was apparently in error.

(2) This section was recodified pursuant to the direction found in section 56(4), chapter 231, Laws of 2008.

(3) 2005 c 436 § 6 (an expiration date section) was repealed by 2006 c 131 § 2.

Intent--Application--Application of repealers--Effective date--2008 c 231: See notes following RCW 9.94A.701.

Severability--2008 c 231: See note following RCW 9.94A.500.

Expiration date--2006 c 124 § 2: “Section 2 of this act expires July 1, 2006.” [2006 c 124 § 4.]

Effective date--2006 c 124: See note following RCW 9.94A.030.

Effective date--2006 c 122 §§ 5 and 7: “Sections 5 and 7 of this act take effect July 1, 2006.” [2006 c 122 § 9.]

Expiration date--2006 c 122 §§ 4 and 6: “Sections 4 and 6 of this act expire July 1, 2006.” [2006 c 122 § 8.]

Effective date--2006 c 122 §§ 1-4 and 6: See note following RCW 9.94A.836.

Severability--Effective date--2004 c 176: See notes following RCW 9.94A.515.

Intent--Severability--Effective dates--2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Application--2001 2nd sp.s. c 12 §§ 301-363: See note following RCW 9.94A.030.

West's RCWA 9.94A.507, WA ST 9.94A.507

Current with all effective legislation of the 2025 Regular Session of the Washington Legislature. Some statute sections may be more current, see credits for details.

West's Revised Code of Washington Annotated
Title 9A. Washington Criminal Code (Refs & Annos)
Chapter 9A.20. Classification of Crimes (Refs & Annos)

West's RCWA 9A.20.021

9A.20.021. Maximum sentences for crimes committed July 1, 1984, and after

Currentness

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

(5) The fines in this section apply to adult offenders only.

Credits

[2015 c 265 § 16, eff. July 24, 2015; 2011 c 96 § 13, eff. July 22, 2011. Prior: 2003 c 288 § 7, eff. July 27, 2003; 2003 c 53 § 63, eff. July 1, 2004; 1982 c 192 § 10.]

OFFICIAL NOTES

Finding--Intent--2015 c 265: See note following RCW 13.50.010.

Findings--Intent--2011 c 96: “The legislature finds that a maximum sentence by a court in the state of Washington for a gross misdemeanor can, under federal law, result in the automatic deportation of a person who has lawfully immigrated to the United States, is a victim of domestic violence or a political refugee, even when all or part of the sentence to total confinement is suspended. The legislature further finds that this is a disproportionate outcome, when compared to a person who has been convicted of certain felonies which, under the state's determinate sentencing law, must be sentenced to less than one year and, hence, either have no impact on that person's residency status or will provide that person an opportunity to be heard in immigration proceedings where the court will determine whether deportation is appropriate. Therefore, it is the intent of the legislature to cure this inequity by reducing the maximum sentence for a gross misdemeanor by one day.” [2011 c 96 § 1.]

Intent--Effective date--2003 c 53: See notes following RCW 2.48.180.

West's RCWA 9A.20.021, WA ST 9A.20.021

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West's Revised Code of Washington Annotated
Title 9a. Washington Criminal Code (Refs & Annos)
Chapter 9A.44. Sex Offenses (Refs & Annos)

West's RCWA 9A.44.073

9A.44.073. Rape of a child in the first degree

Currentness

(1) A person is guilty of rape of a child in the first degree when the person has sexual intercourse with another who is less than twelve years old and the perpetrator is at least twenty-four months older than the victim.

(2) Rape of a child in the first degree is a class A felony.

Credits

[2021 c 142 § 2, eff. April 26, 2021; 1988 c 145 § 2.]

OFFICIAL NOTES

Effective date--2021 c 142: See note following RCW 9A.44.050.

Effective date--Savings--Application--1988 c 145: See notes following RCW 9A.44.010.

West's RCWA 9A.44.073, WA ST 9A.44.073

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