

Appendix of Exhibits

- Exhibit (1) 1988 Judgement
- Exhibit (2) SEX offender notice of Registration Requirements
- Exhibit (3) 1996 King County Judgement
- Exhibit (4) 2009 Stillwater Co. Judgement
- Exhibit (5) 2016 Stillwater Co. Judgement

1988 Judgement

Exhibit (1)

VIRGINIA:

IN THE CIRCUIT COURT OF BUCHANAN COUNTY

COMMONWEALTH OF VIRGINIA

PLAINTIFF

VS. CASE NO. 69-88 (ATTEMPTED RAPE)

JOHON ALBERT SMITH

DEFENDANT

ORDER

Came on the 3rd day of June, 1988, the Commonwealth, by its Assistant Commonwealth Attorney, Sheila P. Hale, and the Defendant, Johon Albert Smith, who is 21 years of age, having been born on the 10th day of April, 1967, and who stands indicted by a Grand Jury of this Court for the following felony, to-wit:

CASE NO. 69-88 (ATTEMPTED RAPE)

That on or about February 10, 1988, in the County of Buchanan, JOHON ALBERT SMITH unlawfully and feloniously did attempt to rape Mary Jane Justus.

VA. CODE SECTION 18.2-67.5 (A)

and came also his Attorney, Michael G. McGlothlin, heretofore appointed by this Court to represent the Defendant in this case.

And came Karen Crouse, the Court Reporter, who was sworn to faithfully perform the duties of a court reporter in this case, as the law directs, and the proceedings in this case were recorded by recording equipment pursuant to Virginia Code Section 19.2-165.

The Court finds that the Defendant was granted and given a preliminary hearing in a Court of competent jurisdiction on the aforesaid charge, prior to the return of the indictment in this case, in conformity with the provisions of Section 19.2-183 of the Code of Virginia.

Thereupon, the Defendant was arraigned on the aforesaid charge, as set out in the indictment of the aforesaid case, and after private consultation with Michael G. McGlothlin, his Attorney, and being advised by his Attorney, the Defendant entered his plea of Guilty in the aforesaid case, which plea was tendered by the Defendant in person, and the Court advised the Defendant that the Court would make inquiry concerning the Defendant's plea to the aforesaid charge, and the Court made inquiry of the Defendant concerning whether or not the Defendant fully understood the nature and effect of his plea and of the penalty that might be obtained upon his conviction, and of the waiver of a trial by jury and of appeal, and the Court being of the opinion and finding that the Defendant's plea was voluntarily and intelligently made, proceeded to hear and determine this case without the intervention of jury as provided by law, and having heard the evidence and upon the plea of Guilty by the Defendant, doth find the Defendant Guilty of the aforesaid charge.

And it being demanded of the Defendant if he had anything to say why judgment should not be pronounced against him, according to law, and nothing being offered or alleged in the delay thereof, it is accordingly, the judgment of this

Court that the said Johon Albert Smith be, and he is hereby sentenced to Five (5) years in the Virginia State Penitentiary, and that he be required to pay the cost of his prosecution in this case.

Thereupon, the Court advised the Defendant of his right to file a petition for a writ of error to the Supreme Court of Virginia as to his conviction and sentence in this case.

The Court doth further ORDER that as soon as possible after the entry of this Order that the Defendant be removed and safely conveyed, according to law, from the jail of this Court to the said Penitentiary, therein to be kept, confined and treated in the manner provided by law. It is further ORDERED by the Court that the Clerk transmit to the Superintendent of the Virginia State Penitentiary a copy of the record of the conviction and sentence in this case. And the Court doth further ORDER that the Defendant be given credit for 145 days/spent in jail awaiting trial on this charge. thru 7-6-88

The Court certifies that at all times during the trial of this case, the Defendant was personally present, and his Attorney was likewise personally present, and capably represented the Defendant in this case, for which service Michael G. McGlothlin is allowed a fee of _____.

Thereupon, the Defendant was remanded to the custody of the Sheriff of Buchanan County to await transfer to the Virginia State Penitentiary, and nothing further remaining

to be done in this case, same is hereby ORDERED stricken from the docket upon the payment of all Court costs.

The Clerk of the Court is hereby ORDERED to send a Teste Copy of this ORDER to each Counsel of Record.

Enter this ORDER this 3rd day of

June, 1988.

Nicholas E. Persin, JUDGE
Nicholas E. Persin

A Copy

Teste: Beverly S. Tiller, Clerk

Circuit Court of Buchanan

County, Virginia

Debra Elswick
Deputy Clerk

Exhibit (2)

sex offender notice of
Registration Requirements

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

JOHAN A. SMITH

Defendant.

No. 96-1-02029-6

APPENDIX J JUDGMENT AND SENTENCE - SEX OFFENDER NOTICE OF REGISTRATION REQUIREMENTS

The defendant having been convicted of a sex offense ((a) Violation of Chapter 9A.44 RCW or RCW 9A.64.020 or RCW 9.68A.090 or that is, under Chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes or (b) a felony with a finding of sexual motivation under RCW 9.94A.127, the defendant is hereby notified of sex offender registration requirements of RCW 9A.44.130-.140 and is ordered to register with the county sheriff in accordance with the following registration requirements.

REGISTRATION REQUIREMENTS

1. The defendant must register with the Sheriff of the county in Washington state where he resides. When registering, the defendant shall provide the county sheriff with the following: (a) name; (b) address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) aliases used; (h) social security number; (i) photograph; and (j) fingerprints. The defendant must register immediately upon completion of being sentenced if not sentenced to begin serving a term of confinement immediately upon completion of being sentenced. Otherwise, he must register within 24 hours of the time of his release if sentenced to the custody of the Department of Corrections, Department of Social and Health Services, a local division of youth services, a local jail, or a juvenile detention facility.
2. If defendant does not now reside in Washington, but subsequently moves to this state, he must register within 24 hours of the time he begins to reside in this state, if at the time of the move he is under the jurisdiction of the Department of Corrections, the Indeterminate Sentence Review Board, or the Department of Social and Health Services. If at the time of defendant's move to this state he is not under the jurisdiction of one of those agencies, then he must register within 30 days of the time defendant begins to reside in this state.
3. If defendant subsequently changes residences within a county in this state, he must notify the county sheriff of that change of residence in writing within 10 days of the change of residence. If defendant subsequently moves to a new county within this state, he must register all over again with the sheriff of the new county and must notify the former county sheriff (i.e. the county sheriff of his former residence) of that change of residence in writing, and defendant must complete both acts within 10 days of the change of residence.
4. It is a crime to knowingly fail to register in accordance with the above registration requirements.

I have read and understand these sex offender registration requirements.

Johan Smith
Defendant

Date: SEP 5 1996

Presented by:

[Signature]
Deputy Prosecuting Attorney

Approved as to form:

Liana D. Thomas
Defense Attorney
Liana D. Thomas 16449

[Signature]
JUDGE, KING COUNTY SUPERIOR COURT
FAITH IRELAND

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,
Plaintiff,

v.

SMITH, Johan Albert

Defendant,)

No. 96-1-02029-6

APPENDIX H
COMMUNITY PLACEMENT

The Court having found the defendant guilty of offense(s) qualifying for community placement, it is further ordered as set forth below.

4.5 Community Placement: Defendant additionally is sentenced on convictions herein, for each sex offense and serious violent offense committed on or after 1 July 1990 to community placement for two years or up to the period of earned release awarded pursuant to RCW 9.94A.150(1) and (2) whichever is longer and on conviction herein for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, to a one-year term of community placement.

Community placement is to begin either upon completion of the term of confinement or at such time as the defendant is transferred to community custody in lieu of early release.

(a) Defendant shall comply with the following conditions during the term of community placement:

- (1) Report to and be available for contact with the assigned community corrections officer as directed;
- (2) Work at Department of Corrections-approved education, employment, and/or community service;
- (3) Not consume controlled substances except pursuant to lawfully issued prescriptions;
- (4) While in community custody not unlawfully possess controlled substances;
- (5) Pay community placement fees as determined by the Department of Corrections;
- (6) Receive prior approval for living arrangements and residence location; and
- (7) Do not own, use or possess firearms or ammunitions.

The following conditions listed under 4.5(a) are hereby waived by the court: _____

(b) Defendant shall comply with the following other conditions during the term of community placement:

8. Within 30 days of being placed on supervision, complete a sexual deviancy evaluation with a therapist approved by your Community Corrections Officer and follow all treatment recommendations.

9. Do not initiate or prolong physical contact with children for any reason.

10. Avoid places where minors are known to congregate without the specific permission of the sexual deviancy counselor or the Community Corrections Officer.

11. Inform the Community Corrections Officer of any romantic relationships to verify there are no victim-age children involved, and that the adult is aware of your conviction history and conditions of supervision.

12. Hold no position of authority or trust involving children.

13. If directed by your sexual deviancy treatment specialist or Community Corrections Officer, obtain a mental health evaluation from a qualified provider and complete all treatment recommendations.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

SMITH, Johan Albert

Defendant,)

No. 96-1-02029-6

APPENDIX H
COMMUNITY PLACEMENT
(Continued)

14. Do not use or possess illegal or controlled substances without the written prescription of a licensed physician and to verify compliance, submit to testing and reasonable searches of your person, residence and vehicle.
15. Do not purchase, possess, or use alcohol (beverage or medicinal), and submit to testing and reasonable searches *based upon reasonable suspicion* of your person, residence, property and vehicle by the Community Corrections Officer to monitor compliance.
16. Do not change residence without the approval of your Community Corrections Officer.
17. ~~Obey all laws.~~
18. Maintain Community Corrections Officer approved employment and notify your employer regarding your history of sexual deviancy and rules and regulations regarding children and legal status.
19. ~~Pay for counseling costs for Heather Wittek.~~ *Set by separate order.*
20. Do not have direct or indirect contact with Heather Wittek, her family or any minor age children without the approval of your Community Corrections Officer.
21. Within 30 days of sentencing, submit to DNA and HIV testing as required by law.
22. Do not possess or peruse pornographic materials unless given prior approval by your sexual deviancy treatment specialist and/or Community Corrections Officer. Pornographic materials are to be defined by the therapist and/or Community Corrections Officer.
23. Do not attend X-rated movies, peep shows or adult book stores without the approval of the sexual deviancy treatment specialist or Community Corrections Officer.

Date: SEP 5 1996

Wendy Ireland
JUDGE, KING COUNTY SUPERIOR COURT FAITH IRELAND

APPENDIX H - COMMUNITY PLACEMENT

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

JOHAN A. SMITH

Defendant.

No. 96-1-02029-6

APPENDIX J JUDGMENT AND SENTENCE - SEX OFFENDER NOTICE OF REGISTRATION REQUIREMENTS

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REGISTRATION REQUIREMENTS

1. The defendant must register with the Sheriff of the county in Washington state where he resides. When registering, the defendant shall provide the county sheriff with the following: (a) name; (b) address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) aliases used; (h) social security number; (i) photograph; and (j) fingerprints. The defendant must register immediately upon completion of being sentenced if not sentenced to begin serving a term of confinement immediately upon completion of being sentenced. Otherwise, he must register within 24 hours of the time of his release if sentenced to the custody of the Department of Corrections, Department of Social and Health Services, a local division of youth services, a local jail, or a juvenile detention facility.
2. If defendant does not now reside in Washington, but subsequently moves to this state, he must register within 24 hours of the time he begins to reside in this state, if at the time of the move he is under the jurisdiction of the Department of Corrections, the Indeterminate Sentence Review Board, or the Department of Social and Health Services. If at the time of defendant's move to this state he is not under the jurisdiction of one of those agencies, then he must register within 30 days of the time defendant begins to reside in this state.
3. If defendant subsequently changes residences within a county in this state, he must notify the county sheriff of that change of residence in writing within 10 days of the change of residence. If defendant subsequently moves to a new county within this state, he must register all over again with the sheriff of the new county and must notify the former county sheriff (i.e. the county sheriff of his former residence) of that change of residence in writing, and defendant must complete both acts within 10 days of the change of residence.
4. It is a crime to knowingly fail to register in accordance with the above registration requirements.

I have read and understand these sex offender registration requirements.

Johan Smith
Defendant

Date: SEP - 5 1996

Presented by:

[Signature]
Deputy Prosecuting Attorney

Approved as to form:

[Signature]
Defense Attorney
Heena R. Thomas 16449

[Signature]

JUDGE, KING COUNTY SUPERIOR COURT
FAITH IRELAND



City of Seattle
Norman B. Rice, Mayor

King County
Gary Locke, Executive

Seattle-King County Department of Public Health

Alonzo L. Plough, Ph.D., MPH, Director

FILED

96 SEP 13 PM 2:43

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

DOCUMENTATION SLIP

The individual named below has completed HIV antibody pre-test counseling, HIV antibody testing, and HIV antibody post-test counseling. Post-testing counseling was completed on 9-12-96.

NAME: Johan A Smith DOB: 4-10-67

CAUSE #: 96-1-02029-6

STAFF SIGNATURE/TITLE: Lauri Kraemer

Lauri Kraemer, PHN
JAIL HEALTH SERVICES HIV PROGRAM

b:\crtord2.doc(d10.cw)

SLP

NO. 96-1-02029-6

Plaintiff,

96 SEP 13 AM 11:24 FELONY WARRANT OF COMMITMENT

V.

KING COUNTY
SUPERIOR COURT C
SEATTLE, WA

JOHAN A SMITH

Defendant.

1. () COUNTY JAIL
2. ~~XXX~~ DEPARTMENT OF CORRECTIONS
3. () OTHER - CUSTODY
4. () WESTERN STATE HOSPITAL
(Sexual Offender)

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF KING COUNTY

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of King, that the defendant be punished as specified in the Judgment and Sentence ~~(order xxxxxxxx long xxxxxx long paragraph)~~
~~Criminal Justice Division~~, a full true and correct copy of which is attached hereto.

- () 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in King County Jail; or pursuant to RCW 9A.190(3), if the defendant is committed or returned for incarceration in a state facility or another felony, take and deliver the defendant to the proper officers of the Department of Corrections.)
- (XX) 2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and
- YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody.)
- () 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement or placement not covered by Sections 1 and 2 above and 4 below.)
- () 4. The defendant is committed for up to thirty (30) DAYS evaluation at Western State Hospital to determine amenability to sexual offender treatment.

YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the State pending delivery to the proper officers of the Department of Social and Health Services.

YOU, THE PROPER OFFICERS OF THE SECRETARY OF THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES, ARE COMMANDED to receive the defendant for evaluation as ordered in the Judgment and Sentence.

Dated: September 9, 1996

Direction of the Honorable

FAITH IRELAND

M. JANICE MICHELS

CLEVELAND

$$3y =$$

Deputy Clerk

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

JOHAN A. SMITH

Defendant.

No. 96-1-02029-6

JUDGMENT AND SENTENCE

96 SEP -9 AM 7:25
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

I. HEARING

1.1 The defendant, the defendant's lawyer, LEONA THOMAS, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: Wanda Wilch, Paul Wilch, (previously Heather Wilch 8/96)

1.2 The state has moved for dismissal of count(s) _____

II. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report(s) and case record to date, and there being no reason why judgment should not be pronounced, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on (date): 07-19-96 by plea of:

Count No.: I Crime: ASSAULT IN THE 2ND DEGREE
RCW 9A.36.020 1 D Crime Code 00346
Date of Crime 03-15-96 Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code _____
Date of Crime _____ Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code _____
Date of Crime _____ Incident No. _____

☐ Additional current offenses are attached in Appendix A.

SPECIAL VERDICT/FINDING(S):

- (a) ☐ A special verdict/finding for being armed with a Firearm was rendered on Count(s): _____
- (b) ☐ A special verdict/finding for being armed with a Deadly Weapon other than a Firearm was rendered on Count(s): _____
- (c) ☒ A special verdict/finding was rendered that the defendant committed the crimes(s) with a sexual motivation in Count(s): I
- (d) ☐ A special verdict/finding was rendered for Violation of the Uniform Controlled Substances Act offense taking place ☐ in a school zone ☐ in a school ☐ on a school bus ☐ in a school bus route stop zone ☐ in a public park ☐ in public transit vehicle ☐ in a public transit stop shelter in Count(s): _____
- (e) ☐ Vehicular Homicide ☒ Violent Offense (D.W.I. and/or reckless) or ☐ Nonviolent (disregard safety of others)
- (f) ☐ Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score (RCW 9.94A.400(1)(a)) are: _____

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

COMMITMENT ISSUED SEP 8 9 1996
COPY TO SENTENCING GUIDELINES COMMISSION SEP 0 9 1996

PRESENTING STATEMENT & INFORMATION ATTACHED

2.3 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360):

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
(a) Attempted Rape		Adult	09-88	Burkeham County, Virginia
(b)				
(c)				
(d)				

- ☐ Additional criminal history is attached in Appendix B.
☐ Prior convictions (offenses committed before July 1, 1986) served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(6)(c)):
☐ One point added for offense(s) committed while under community placement for count(s)

2.4 SENTENCING DATA:

SENTENCING DATA	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE	ENHANCEMENT	TOTAL STANDARD RANGE	MAXIMUM TERM
Count I	8 3	IV	1		13-17 months	10 YRS AND/OR \$20,000
Count						
Count						

Additional current offense sentencing data is attached in Appendix C.

2.5 EXCEPTIONAL SENTENCE:

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

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.
☐ The Court DISMISSES Count(s) _____

IV. ORDER

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

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- ☐ Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
☐ Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.142(2), sets forth those circumstances in attached Appendix E.
☐ Restitution to be determined at future hearing on (Date) _____ at _____ m. ☒ Date to be set.
☐ Defendant waives presence at future restitution hearing(s).
☒ Defendant shall pay Victim Penalty Assessments pursuant to RCW 7.68.035 in the amount of \$100 if all crime(s) date prior to 6-6-96 and \$500 if any crime date in the Judgment is after 6-5-96.

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

- (a) ☒ \$557.50, Court costs; ☐ Court costs are waived;
(b) ☐ \$ _____, Recoupment for attorney's fees to King County Public Defense Programs, 2015 Smith Tower, Seattle, WA 98104; ☒ Recoupment is waived (RCW 10.01.160);
(c) ☐ \$ _____, Fine; ☐ \$1,000, Fine for VUCSA; ☐ \$2,000, Fine for subsequent VUCSA; ☐ VUCSA fine waived (RCW 69.50.430);
(d) ☐ \$ _____, King County Interlocal Drug Fund; ☐ Drug Fund payment is waived;
(e) ☐ \$ _____, State Crime Laboratory Fee; ☐ Laboratory fee waived (RCW 43.43.690);
(f) ☐ \$ _____, Incarceration costs; ☐ Incarceration costs waived (9.94A.145(2));
(g) ☐ \$ _____, Other cost for: _____

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 657.50. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:
☐ Not less than \$ _____ per month; ☒ On a schedule established by the defendant's Community Corrections Officer. ☐ : _____ The Defendant shall remain under the Court's jurisdiction and the supervision of the Department of Corrections for up to ten years from date of sentence or release from confinement to assure payment of financial obligations.

4.4 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing ☒ Immediately; ☐ (Date): _____ by _____ m.

17 months on Count 1 _____ months on Count _____ months on Count _____
_____ months on Count _____ months on Count _____ months on Count _____

ENHANCEMENT time due to special deadly weapon/firearm finding of _____ months is included for Counts _____

The terms in Count(s) _____ are concurrent/consecutive.
The sentence herein shall run concurrently/consecutively with the sentence in cause number(s) _____
_____ but consecutive to any other cause not referred to in this Judgment.

Credit is given for 10 days served 10 days as determined by the King County Jail solely for conviction under this cause number pursuant to RCW 9.94A.120(15).

4.5 ☒ NO CONTACT: For the maximum term of 10 years, defendant shall have no contact with Heather Wittick or any person in contact with minor
Violation of this no contact order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony.

4.6 BLOOD TESTING: (sex offense, violent offense, prostitution offense, drug offense associated with the use of hypodermic needles) Appendix G is a blood testing and counseling order that is part of and incorporated by reference into this Judgment and Sentence.

4.7 COMMUNITY PLACEMENT, RCW 9.94A.120(9): Community Placement is ordered for any of the following eligible offenses: any "sex offense", any "serious violent offense", second degree assault, any offense with a deadly weapon finding, any CH. 69.50 or 69.52 RCW offense, for the maximum period of time authorized by law. All standard and mandatory statutory conditions of community placement are ordered.
☒ Appendix H (for additional nonmandatory conditions) is attached and incorporated herein.

4.8 ☐ WORK ETHIC CAMP: The court finds that the defendant is eligible for work ethic camp and is likely to qualify under RCW 9.94A.137 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the Department shall convert the period of work ethic camp confinement at a rate of one day of work ethic camp to three days of total standard confinement and the defendant shall be released to community custody for any remaining time of total confinement. The defendant shall comply with all mandatory statutory requirements of community custody set forth in RCW 9.94A.120(9)(b).
☐ Appendix K for additional special conditions, RCW 9.94A.120(9)(c), is attached and incorporated herein.

4.9 ☒ SEX OFFENDER REGISTRATION (sex offender crime conviction): Appendix J is attached and incorporated by reference into this Judgment and Sentence.

4.10 ☐ ARMED CRIME COMPLIANCE, RCW 9.94A.103,105. The state's plea/sentencing agreement is ☐ attached as follows: 17

State recommended 15 months community placement
DNA, HIV testing, No contact with victim, Costs, fees, restitution
The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

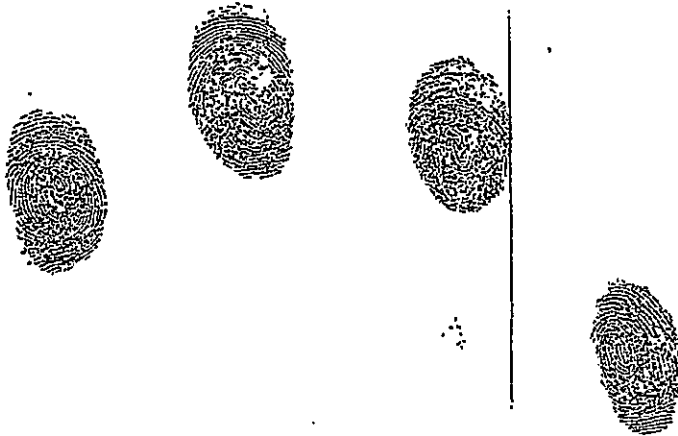
Date: SEP 5 1996

Judge Faith Ireland
Print Name: FAITH IRELAND

Presented by: [Signature]
Deputy Prosecuting Attorney, Office WSBA ID #91002

Approved as to form:
[Signature]
Attorney for Defendant, WSBA # 16449
Leona A. Thomas

FINGERPRINTS



RIGHT HAND
FINGERPRINTS OF:

JOHAN ALBERT SMITH

DATED: SEP 5 1996

Faith Ireland
JUDGE, KING COUNTY SUPERIOR COURT
FAITH IRELAND

DEFENDANT'S SIGNATURE:

DEFENDANT'S ADDRESS:

Johan Smith (Doc)
707 37th St S.E. #60
AUBURN WA 98002

ATTESTED BY:

M. JANICE MICHELS, SUPERIOR COURT CLERK

BY:

[Signature]
DEPUTY CLERK

CERTIFICATE

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

CLERK

BY:

DEPUTY CLERK

OFFENDER IDENTIFICATION

S.I.D. NO.

DATE OF BIRTH: APRIL 10, 1967

SEX: M

RACE: WHITE

Exhibit (3)

1996 King County Judgement

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

JOHAN A. SMITH

Defendant.

No. 96-1-02029-6

JUDGMENT AND SENTENCE

95 SEP -9 AM 7:25

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

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Date of Crime _____ Incident No. _____

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RCW _____ Crime Code _____
Date of Crime _____ Incident No. _____

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(b) ☒ A special verdict/finding for being armed with a Deadly Weapon other than a Firearm was rendered on Count(s): _____
(c) ☒ A special verdict/finding was rendered that the defendant committed the crimes(s) with a sexual motivation in Count(s): I
(d) ☐ A special verdict/finding was rendered for Violation of the Uniform Controlled Substances Act offense taking place ☐ in a school zone ☐ in a school ☐ on a school bus ☐ in a school bus route stop zone ☐ in a public park ☐ in a public transit vehicle ☐ in a public transit stop shelter in Count(s): _____
(e) ☐ Vehicular Homicide ☒ Violent Offense (D.W.I. and/or reckless) or ☐ Nonviolent (disregard safety of others)
(f) ☐ Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score (RCW 9.94A.400(1)(a)) are: _____

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

EXH

COPY TO SENTENCING GUIDELINES COMMISSION SEP 09 1996

PRESENTING STATEMENT & INFORMATION ATTACHED

FAX HIV & DNA

- 2.3 CRIMINAL HISTORY: Prior convictions constituting criminal history for purpose of calculating the offender score are (RCW 9.94A.360):

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
(a) Attempted Rape		Adult	09-88	Burhanan County, Virginia
(b)				
(c)				
(d)				

- ☐ Additional criminal history is attached in Appendix B.
☐ Prior convictions (offenses committed before July 1, 1986) served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(6)(c)):
☐ One point added for offense(s) committed while under community placement for count(s):

2.4 SENTENCING DATA:

SENTENCING DATA	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE	ENHANCEMENT	TOTAL STANDARD RANGE	MAXIMUM TERM
Count I	3	IV	1		13-17 months	10 YRS AND/OR \$20,000
Count						
Count						

Additional current offense sentencing data is attached in Appendix C.

2.5 EXCEPTIONAL SENTENCE:

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

III. JUDGMENT

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

- ☐ The Court DISMISSES Count(s) _____

IV. ORDER

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

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- ☐ Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
☐ Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.142(2), sets forth those circumstances in attached Appendix E.
☐ Restitution to be determined at future hearing on (Date) _____ at _____ m. ☒ Date to be set.
☐ Defendant waives presence at future restitution hearing(s).
☒ Defendant shall pay Victim Penalty Assessments pursuant to RCW 7.68.035 in the amount of \$100 if all crime(s) date prior to 6-6-96 and \$500 if any crime date in the Judgment is after 6-5-96.

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

- (a) ☒ \$557.50, Court costs; ☐ Court costs are waived;
(b) ☐ \$ _____, Recoupment for attorney's fees to King County Public Defense Programs, 2015 Smith Tower, Seattle, WA 98104; ☒ Recoupment is waived (RCW 10.01.160);
(c) ☐ \$ _____, Fine; ☐ \$1,000, Fine for VUCSA; ☐ \$2,000, Fine for subsequent VUCSA; ☐ VUCSA fine waived (RCW 69.50.430);
(d) ☐ \$ _____, King County Interlocal Drug Fund; ☐ Drug Fund payment is waived;
(e) ☐ \$ _____, State Crime Laboratory Fee; ☐ Laboratory fee waived (RCW 43.43.690);
(f) ☐ \$ _____, Incarceration costs; ☐ Incarceration costs waived (9.94A.145(2));
(g) ☐ \$ _____, Other cost for: _____

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 657.50. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:

- ☐ Not less than \$ _____ per month; ☒ On a schedule established by the defendant's Community Corrections Officer. ☐ _____ The Defendant shall remain under the Court's jurisdiction and the supervision of the Department of Corrections for up to ten years from date of sentence or release from confinement to assure payment of financial obligations.

4.4 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing: ☒ Immediately; ☐ (Date): _____ by _____ m.

17 months on Count I _____ months on Count _____ months on Count _____
_____ months on Count _____ months on Count _____ months on Count _____

ENHANCEMENT time due to special deadly weapon/firearm finding of _____ months is included for Counts _____

The terms in Count(s) _____ are concurrent/consecutive.

The sentence herein shall run concurrently/consecutively with the sentence in cause number(s) _____
_____ but consecutive to any other cause not referred to in this Judgment.

Credit is given for 10 days served 10 days as determined by the King County Jail solely for conviction under this cause number pursuant to RCW 9.94A.120(15).

4.5 ☒ NO CONTACT: For the maximum term of 10 years, defendant shall have no contact with Heather Wittick or anyone in contact with victim
Violation of this no contact order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony.

4.6 BLOOD TESTING: (sex offense, violent offense, prostitution offense, drug offense associated with the use of hypodermic needles) Appendix G is a blood testing and counseling order that is part of and incorporated by reference into this Judgment and Sentence.

4.7 COMMUNITY PLACEMENT, RCW 9.94A.120(9): Community Placement is ordered for any of the following eligible offenses: any "sex offense", any "serious violent offense", second degree assault, any offense with a deadly weapon finding, any CH. 69.50 or 69.52 RCW offense, for the maximum period of time authorized by law. All standard and mandatory statutory conditions of community placement are ordered.

☒ Appendix H (for additional nonmandatory conditions) is attached and incorporated herein.

4.8 ☐ WORK ETHIC CAMP: The court finds that the defendant is eligible for work ethic camp and is likely to qualify under RCW 9.94A.137 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the Department shall convert the period of work ethic camp confinement at a rate of one day of work ethic camp to three days of total standard confinement and the defendant shall be released to community custody for any remaining time of total confinement. The defendant shall comply with all mandatory statutory requirements of community custody set forth in RCW 9.94A.120(9)(b).

☐ Appendix K for additional special conditions, RCW 9.94A.120(9)(c), is attached and incorporated herein.

4.9 ☒ SEX OFFENDER REGISTRATION (sex offender crime conviction): Appendix J is attached and incorporated by reference into this Judgment and Sentence.

4.10 ☐ ARMED CRIME COMPLIANCE, RCW 9.94A.103,105. The state's plea/sentencing agreement is ☐ attached as follows: State recommended 15 months; community placement

DNA, HIV test, No contact with victim, Risk Red. reduction
The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

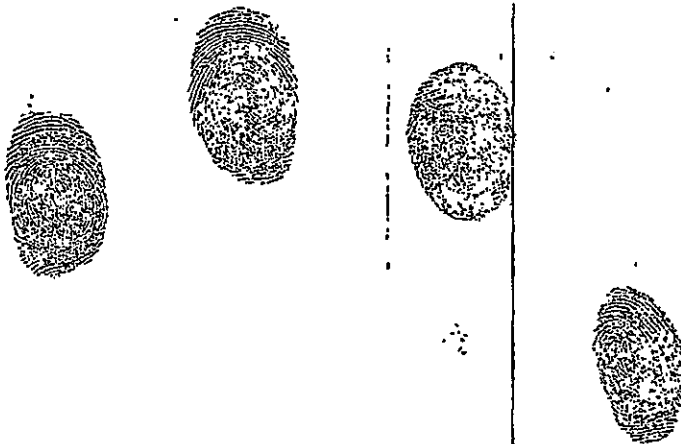
Date: SEP 5 1996

Judge Faith Ireland
Print Name: FAITH IRELAND

Presented by: [Signature]
Deputy Prosecuting Attorney, Office WSBA ID #91002

Approved as to form: [Signature]
Attorney for Defendant, WSBA # 16449
Leona A. Thomas

FINGERPRINTS



RIGHT HAND
FINGERPRINTS OF:

JOHAN ALBERT SMITH

DATED: SEP 5 1996

Faith Ireland
JUDGE, KING COUNTY SUPERIOR COURT
FAITH IRELAND

DEFENDANT'S SIGNATURE: Johan Smith (DOC)

DEFENDANT'S ADDRESS: 707 37th St S.E. #60

AUBURN WA 98002

ATTESTED BY:

M. JANICE MICHELS, SUPERIOR COURT CLERK

BY: [Signature]

DEPUTY CLERK

CERTIFICATE

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

CLERK

BY: _____

DEPUTY CLERK

OFFENDER IDENTIFICATION

S.I.D. NO.

DATE OF BIRTH: APRIL 10, 1967

SEX: M

RACE: WHITE

FAX HIV & DNA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

JOHAN A. SMITH

Defendant.

No. 96-1-02029-6

APPENDIX G
ORDER FOR BLOOD TESTING
AND COUNSELING

(1) ☒ HIV TESTING AND COUNSELING:

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense committed after March 23, 1988. RCW 70.24.340):

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 296-4848 to make arrangements for the test to be conducted within 30 days.

(2) ☒ DNA IDENTIFICATION:

(Required for defendant convicted of sexual offense or violent offense. RCW 43.43.754):

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

If both (1) and (2) are checked, two independent blood samples shall be taken.

Date:

SEP 5 1996



JUDGE, King County Superior Court

FAITH IRELAND

Exhibit (4)

2009 Stillwater County
Judgement

19 May 2009

FILED

MAY 19 2009

SANDRA M. FOX, CLERK

By *[Signature]* Deputy

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MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT, STILLWATER COUNTY

STATE OF MONTANA,

Plaintiff,

vs.

JOHAN SMITH,

Defendant.

Cause No. DC 08-23

Judge Blair Jones

SENTENCE AND JUDGMENT

The matter came before the Court for a sentencing hearing on the 1st day of May, 2009. The Defendant, Johan Smith, personally appeared in open court together with his counsel, John L. Mohr. The State of Montana appeared by and through John I. Petak, III, Stillwater County Attorney.

The Defendant previously appeared before the Court on the 3rd day of November, 2008, and entered a plea of guilty to Failure to Register as Sexual or Violent Offender (Felony), in violation of Sections 46-23-504 through 46-23-507, Montana Code Annotated. The said offense was committed in Stillwater County, Montana, from on or about March 1, 2008 through July 31, 2008.

19 622.

At the change of plea, the Defendant and his counsel presented a written *ACKNOWLEDGMENT OF WAIVER OF RIGHTS BY PLEA OF GUILTY* form to the Court. The Court thereupon made due and diligent inquiry of the Defendant regarding the voluntariness of the Defendant's entry of the guilty plea in this cause, the Defendant's understanding of his Constitutional rights, and the consequences of a waiver of said rights. The Court accepted the Defendant's guilty plea, making specific findings that the Defendant's guilty plea was, in fact, voluntary and the Defendant was not subject to any force, threats, nor any promises (other than the plea agreement) in making the guilty plea. In addition, at the time of the Defendant's entry of the guilty plea, the Defendant had a full understanding of his legal and Constitutional rights.

WHEREFORE, IT IS ADJUDGED AND DECREED that the said Defendant is guilty of the above-stated offense.

Following the entry of the Defendant's guilty plea, the Court ordered that a Pre-Sentence Investigation Report be prepared and provided to the Court and counsel for the parties. The Court and the attorneys for the parties received the Pre-Sentence Investigation Report and the Court allowed counsel to comment on and make additions, deletions, or corrections to the report upon the record. The Court has reviewed the Pre-Sentence Investigation Report and been fully advised of the facts of the case. In addition, the Court has duly considered all testimony and evidence submitted at hearing, together with the sentencing recommendations and arguments advised by counsel for the State and for the Defendant, and the statement offered by the Defendant, if any. In arriving at the sentence imposed herein, the Court has not considered any information which does not accord the Defendant full due process of

19 1003

law. Counsel for the parties have each advised the Court that there is no legal reason why sentence should not be pronounced against the said Defendant. Having therefore considered all mitigating circumstances offered on behalf of the Defendant either personally or through his counsel of record and no reason having appeared to the Court why judgment should not be pronounced in this cause;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED and it is the sentence and judgment of this Court that upon the Defendant's plea of guilty to the offense of **Failure to Register as Sexual or Violent Offender (Felony)**, the Defendant, Johan Smith, is hereby committed to the Department of Corrections for a term of five (5) years, with two (2) years of said commitment suspended, with the recommendation that the Defendant complete a sex-offender treatment program. The Defendant is designated a Level II sex offender.

IT IS FURTHER ORDERED that during the period of community supervision, the Defendant must comply in all respects with the following terms and conditions:

1. The Defendant is placed under the supervision of the Department of Corrections, subject to all rules and regulations of the Adult Probation & Parole Bureau.
2. The Defendant will not change place of residence without first obtaining permission from the Probation & Parole Officer. The residence must be approved by the Probation & Parole Officer. The Defendant will make the home open and available for the Probation & Parole Officer to visit as required per policy. The Defendant will not own dangerous/vicious animals such as guard dogs, use perimeter security doors, or refuse to open the door of the residence when requested.

19 424

3. The Defendant shall not leave the assigned district without first obtaining written permission from the Probation & Parole Officer.

4. The Defendant shall seek and maintain employment or a program approved by the BOPP or the Probation & Parole Officer. The Defendant must obtain permission from the Probation & Parole Officer prior to any change of employment. The Defendant will inform his employer of his status on probation or parole.

5. The Defendant will personally report to the Probation/Parole Officer as directed. The Defendant will submit written monthly reports on forms provided. The Defendant will be available to the Probation & Parole Officer as requested.

6. The Defendant will not own, possess, or be in control of any firearms or deadly weapons, including black powder, as defined by state or federal law. The Defendant will not possess chemical agents such as O.C. spray.

7. The Defendant will obtain permission from the Probation & Parole Officer before financing or purchasing a vehicle, property, or engaging in business. The Defendant will not go into debt without the Probation & Parole Officer's permission. Restitution, child support, fines, and fees will be the Defendant's priority financial obligations.

8. Upon reasonable suspicion, as ascertained by the Probation & Parole Officer, the Defendant's person, vehicle, and/or residence may be searched at any time, day or night, without a warrant by a Probation & Parole Officer, ISP Officer or a Law Enforcement Officer (at the direction of the Probation & Parole/ISP Officer). The Defendant may also be searched at his place of employment. Any illegal property or contraband will be seized and may be destroyed.

9. The Defendant shall comply with all city, county, state, federal laws, ordinances, and conduct himself as a good citizen. The Defendant shall report any arrests or contacts with law enforcement to the Probation & Parole Officer within 72 hours. The Defendant will at all times be cooperative and truthful in all his communications and dealings with the Probation & Parole Officer.

10. The Defendant will not possess or use illegal drugs or any drugs unless prescribed by a licensed physician. The Defendant will not be in control of or under the influence of illegal drugs, nor will the Defendant have in his possession any drug paraphernalia.

11. The Defendant shall pay supervision fees pursuant to Section 46-23-1031, M.C.A. If convicted of a drug offense and placed on Intensive Supervision, then the Defendant may be ordered to pay \$50 per month as per 45-9-202 (2) (d) (ii). All supervision fee payments will be made by money order or cashiers check and sent to the Department of Corrections, Collection Unit, P.O. Box 201350, Helena, MT 59620.

12. The Defendant shall not possess or consume intoxicants/alcohol, nor enter any place intoxicants are the chief item of sale. The Defendant will submit to Breathalyzer testing or bodily fluid testing for drugs or alcohol as requested by the Probation & Parole Officer.

13. The Defendant shall pay to the Department of Corrections a \$50 fee at the time that the PSI report is completed unless the court determines that the Defendant is not able to pay the fee within a reasonable time as per 46-18-111, M.C.A. The Defendant is to submit this payment to the Department of Corrections, Collection Unit, P.O. Box 201350, Helena, MT 59620.

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14. The Defendant will pay all fines and fees as ordered and directed by the Court.

15. The Defendant shall pay the greater of \$20 or 10% of the fine levied for each felony charge and \$15 for each misdemeanor charge to the Clerk of Court as provided for in Section 46-18-236, M.C.A.

16. The Defendant shall pay an additional \$50 for each misdemeanor and felony charge under Title 45, 61-8-401, Driving Under the Influence of Alcohol or Drugs or 61-8-406, Operation Of A Noncommercial Vehicle By Person With Alcohol Concentration Of .08 Or More-Operation Of Commercial Vehicle By Person With Alcohol Concentration of .04 or More as provided for in Section 46-18-236, M.C.A.

17. The Defendant shall pay a surcharge to the County Clerk of Court in the amount of \$10.00 for each count, pursuant to Section 3-1-3 17, M.C.A.

18. The Defendant shall be given credit against the fine for time served in jail prior to sentencing as per 46-18-403, M.C.A.

19. The Defendant shall successfully complete Cognitive Principles & Restructuring (CP&R) or similar cognitive and behavioral modification program and follow all treatment recommendations.

20. The Defendant will not enter any casinos or play any games of chance.

21. The Defendant will not knowingly associate with probationers, parolees, prison inmates, or persons in the custody of any law enforcement agency without prior approval from the Probation & Parole Officer. The Defendant will not associate with persons as ordered by the Court or BOPP.

22. The Defendant will submit to DNA testing as required by Title 44, Chapter 6, Part I, M.C.A.

23. The Defendant will enter and successfully complete sex offender treatment with a MSOTA clinical member or associate member with supervision, or equivalent, who is approved by the State and the Probation & Parole Officer and at the Defendant's own expense. The Defendant shall abide by all treatment rules and recommendations of the treatment provider.

24. The Defendant will register as a Sexual Offender in compliance with Title 46, Chapter 23, Part 5 M.C.A. and give appropriate notice of any address change.

25. The Defendant will obtain a psychosexual evaluation by a MSOTA certified or department approved treatment provider, at the Defendant's own expense, and follow all recommendations of said evaluation.

26. The Defendant will undergo annual HIV testing for the next five (5) years and make the results of each test available to the Probation & Parole Officer and the victim(s).

27. The Defendant will not have contact with any individual under the age of eighteen (18), unless accompanied by an approved and appropriately trained, responsible adult who is aware of the Defendant's sexual conviction and approved by the Probation & Parole Officer and sex offender treatment provider. The Defendant shall sign a "No Contact" contract and abide by all conditions of the contract.

28. The Defendant shall not frequent places where children congregate. This includes, but is not limited to: schools, parks, playgrounds, malls, movies, fairs, parades, swimming pools, carnivals, arcades, parties, family functions, holiday

festivities, or any other place or function where children are present or reasonably expected to be present unless accompanied by an approved and appropriately trained, responsible adult who is aware of the Defendant's sexual conviction and approved by the Probation & Parole Officer and sex offender treatment provider. The Defendant shall obtain permission from the Probation & Parole Officer prior to going to any of the above places.

29. The Defendant will not access or have in his possession or under his control any material that describes or depicts human nudity, the exploitation of children, consensual sex acts, non-consensual sex acts, sexual acts involving force or violence, including but not limited to; computer programs, computer links, photographs, drawings, video tapes, audio tapes, magazines, books literature, writings, etc. without prior written approval of the Probation & Parole Officer and therapist. The Defendant will not frequent adult books stores, topless bars, massage parlors or use the services of prostitutes.

30. The Defendant will not view television shows or motion pictures, which are geared toward the Defendant's sex offending cycle, or as a stimulus to arouse deviant thoughts or fantasies, (i.e., shows based on sexualization of underage girls or boys, etc.).

31. The Defendant shall not have access to the Internet without prior permission from the Probation & Parole Officer and sex offender therapist. If the Internet access is allowed, the Defendant must allow the Department of Corrections to install rating control software and conduct random searches of the hard drive for pornography

or other inappropriate material; nor shall the Defendant have on any computer he may own, any software that is intended for data elimination, encryption or hiding data.

32. The Defendant's chaperone/supervisor must sign a statement of responsibility and be approved by both the Probation & Parole Officer and the treatment provider.

33. The Defendant shall not be involved in any type of employment, service or recreational pursuit that involves the supervision of children. Under no circumstances should the Defendant be in a position of power and authority over children.

34. The Defendant's employment must be approved by the Probation & Parole Officer and appropriate notification provided to the employer.

35. Pursuant to MCA 46-18-255(1), the Defendant shall be subject to reasonable employment or occupational prohibitions and restrictions designed to protect the class or classes of persons containing the likely victims of further offenses.

36. The Defendant's residence, changes and any co-habitants must have prior approval of the Probation & Parole Officer. The Defendant will not reside in a residence where there are any children under the age of 18 without the written approval of the therapist and Probation & Parole Officer.

37. The Defendant shall not access "900" number telephone sex lines and shall have a "900" number block on the Defendant's telephone.

38. The Defendant will not have a cell phone, or such other technology/device, with photo, video, or Internet capabilities allowed. If a cell phone is used, all bills and records will be made available to the Probation & Parole Officer.

39. The Defendant shall remain in Aftercare or Relapse Prevention Class for the entirety of the Defendant's supervision unless released at the discretion of the Probation & Parole Officer and therapist.

40. The Defendant shall re-enter treatment at any time if deemed appropriate by the Probation & Parole Officer and therapist.

41. The Defendant will not date, live with, or otherwise be aligned with any person with children under the age of 18 without the express prior approval of the therapist and Probation & Parole Officer. If this approval is granted, they shall both be involved with the Defendant's treatment to the extent that the treatment provider recommends.

The reasons for the sentence and judgment of the Court are as follows:

1. The sentence will assist in the Defendant's rehabilitation.
2. The sentence is imposed to protect society.
3. The sentence is in accord with the plea agreement between the parties.

Any bond posted in this cause is hereby exonerated.

The Defendant is granted credit for time served of two hundred seventy-four (274) days.

NOTICE PURSUANT TO SECTION 46-18-116, MCA

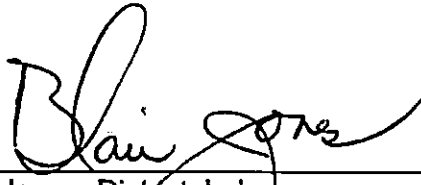
If a written judgment and an oral pronouncement of sentence or other disposition conflict, the Defendant or the prosecutor in the county in which the sentence was imposed may, within 120 days after filing of the written judgment, request that the Court modify the written judgment to conform to the oral pronouncement. The Court shall modify the written judgment to conform to the oral pronouncement at a hearing, and the

19 431

Defendant must be present at the hearing unless the Defendant waives the right to be present or elects to proceed pursuant to Section 46-18-115, M.C.A. The Defendant and the prosecutor waive the right to request modification of the written judgment if a request for modification of the written judgment is not filed within 120 days after the filing of the written judgment in the sentencing court.

DONE IN OPEN COURT on the 1st day of May, 2009.

DATED this 18th day of May, 2009.



Blair Jones, District Judge

Exhibit (5)
2016 Stillwater County
Judgement

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FILED

JUN 21 2016

SANDRA M. FOX, CLERK

BY

DEPUTY

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MONTANA TWENTY-SECOND JUDICIAL DISTRICT, STILLWATER COUNTY

STATE OF MONTANA,

Plaintiff,

vs.

JOHAN ALBERT SMITH,

Defendant.

Cause No. DC 15 - 14

Judge Blair Jones

SENTENCE AND JUDGMENT

This matter came before the Court for a sentencing hearing on the 26th day of May, 2016. The Defendant, Johan Albert Smith, personally appeared in open Court together with his counsel, Gregory Paskell. The State of Montana was represented by Nancy L. Rohde, County Attorney for Stillwater County.

The Defendant previously appeared before the Court on the 19th day of November, 2015, and entered a plea of guilty to the following charge: **Failure to Register as a Sexual Offender (Felony)** in violation of §46-23-504(1)(c), MCA. The said offense was committed in Stillwater County on or about mid-February 2015 to March 26, 2015.

➔ On April 8, 2015, the State of Montana filed its Notice to Have Defendant Designated as a Persistent Felony Offender. The Court granted the State's request and designated the Defendant as a Persistent Felony Offender.

1 At the change of plea hearing, the Defendant and his counsel presented a written
2 *ACKNOWLEDGMENT OF WAIVER OF RIGHTS AND PLEA OF GUILTY* form to the Court. The Court
3 thereupon made due and diligent inquiry of the Defendant regarding the voluntariness of the
4 Defendant's entry of the guilty plea in this cause, the Defendant's understanding of his
5 Constitutional rights, and the consequences of a waiver of said rights. The Court accepted the
6 Defendant's guilty plea, making specific findings that the Defendant voluntarily entered the
7 guilty plea and was not subject to any force, threats, nor any promises (other than the plea
8 agreement) in making the guilty plea. In addition, at the time of the Defendant's entry of the
9 guilty plea, the Defendant had a full understanding of his legal and Constitutional rights.
10

11 **WHEREFORE, IT IS ADJUDGED AND DECREED** that the said Defendant is guilty
12 of the above-stated offense.
13

14 Following the entry of the Defendant's guilty plea, the Court ordered that a Pre-Sentence
15 Investigation be prepared and provided to the Court and counsel for the parties. The Court and
16 the attorneys for the parties received the Pre-Sentence Investigation Report and the Court
17 allowed counsel to comment on and make additions, deletions or corrections to the report upon
18 the record. The Court has reviewed the Pre-Sentence Investigation Report and been fully
19 advised of the facts of the case. In addition, the Court has duly considered all testimony and
20 evidence submitted at hearing, together with the sentencing recommendations and arguments
21 advanced by counsel for the State and for the Defendant, and the statement offered by the
22 Defendant, if any. In arriving at the sentence imposed herein, the Court has not considered any
23 information which does not accord the Defendant full due process of law. Counsel for the
24 parties have each advised the Court there is no legal reason why sentence should not be
25 pronounced against the said Defendant. Having therefore considered all mitigating
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1 circumstances offered on behalf of the Defendant either personally or through his counsel of
2 record and no reason having appeared to the Court why judgment should not be pronounced in
3 this cause;

4
5 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

6 As to the offense of Count I: Failure to Register as a Sexual Offender (Felony) and
7 the Defendant's designation as a Persistent Felony Offender, it is the sentence and judgment of
8 this Court that the Defendant, Johan A. Smith, shall serve a term of twenty-five (25) years, with
9 none of the term suspended in a prison designated by the Montana Department of Corrections.
10

11 **IT IS FURTHER ORDERED** that the Defendant shall be ineligible for parole until he
12 has successfully completed the Sexual Offender Program (SOP) Phases 1 and 2 within the prison
13 sexual offender treatment program.

14 The Court imposes the parole restriction for several reasons. First, the Court has
15 considered that the Defendant remains an untreated sexual offender. This is the second
16 conviction for the same crime in this community. It is clearly not in the community's best
17 interests to have the Defendant remain within the community as an untreated sexual offender.
18 Additionally, Mr. Michael Sullivan, LCSW, reported that the Defendant is not an appropriate
19 candidate for community-based placement and further recommends that the Defendant complete
20 the sex-offender treatment program Phases 1 and II prior to any parole consideration.
21

22 For all of these reasons, the Court finds the parole restriction is necessary and appropriate
23 to provide protection and safety for the community.
24

25 **IT IS FURTHER ORDERED** that the Court designates the Defendant, Johan A. Smith,
26 as a Level II Sexual Offender with a moderate-risk to re-offend.)

27 **IT IS FURTHER ORDERED** that the Defendant shall receive credit for time served of
28

1 Four Hundred Twenty-Seven (427) days toward the sentence and judgment imposed in this
2 matter.

3 When it may be appropriate for the Defendant to be placed on community based
4 supervision, the Court recommends that the Defendant comply in all respects with the following
5 terms and conditions:
6

7 1. The Defendant shall be placed under the supervision of the Department of
8 Corrections, subject to all rules and regulations of the Adult Probation and Parole Bureau.

9 2. The Defendant must obtain prior written approval from his/her supervising
10 officer before taking up residence in any location. The Defendant shall not change his/her place
11 of residence without first obtaining written permission from his/her supervising officer or the
12 officer's designee. The Defendant must make the residence open and available to an officer for a
13 home visit or for a search upon reasonable suspicion. The Defendant will not own dangerous or
14 vicious animals and will not use any device that would hinder an officer from visiting or
15 searching the residence.
16

17 3. The Defendant must obtain permission from his/her supervising officer or the
18 officer's designee before leaving his/her assigned district.
19

20 4. The Defendant must seek and maintain employment or maintain a program
21 approved by the Board of Pardons and Parole or the supervising officer. Unless otherwise
22 directed by his/her supervising officer, the Defendant must inform his/her employer and any
23 other person or entity, as determined by the supervising officer, of his/her status on probation,
24 parole, or other community supervision.
25

26 5. Unless otherwise directed, the Defendant must submit written monthly reports to
27 his/her supervising officer on forms provided by the probation and parole bureau. The
28

1 Defendant must personally contact his/her supervising officer or designee when directed by the
2 officer.

3
4 6. The Defendant is prohibited from using, owning, possessing, transferring, or
5 controlling any firearm, ammunition (including black powder), weapon, or chemical agent such
6 as oleoresin capsicum or pepper spray.

7 7. The Defendant must obtain permission from his/her supervising officer before
8 engaging in a business, purchasing real property, purchasing an automobile, or incurring debt.

9
10 8. Upon reasonable suspicion that the Defendant has violated the conditions of
11 supervision, the probation and parole officer may search the person, vehicle, and residence of the
12 Defendant, and the Defendant must submit to such search. A probation and parole officer may
13 authorize a law enforcement agency to conduct a search, provided the probation and parole
14 officer determines reasonable suspicion exists that the Defendant has violated the conditions of
15 supervision.

16
17 9. The Defendant must comply with all municipal, county, state, and federal laws
18 and ordinances and shall conduct himself/herself as a good citizen. The Defendant is required,
19 within 72 hours, to report any arrest or contact with law enforcement to his/her supervising
20 officer or designee. The Defendant must be cooperative and truthful in all communications and
21 dealings with any probation and parole officer and with any law enforcement agency.

22
23 10. The Defendant is prohibited from using or possessing alcoholic beverages and
24 illegal drugs. The Defendant is required to submit to bodily fluid testing for drugs or alcohol on
25 a random or routine basis and without reasonable suspicion. *this charge is not alcohol related*

26 11. The Defendant is prohibited from gambling.

27 12. The Defendant shall pay all fines, fees, and restitution ordered by the sentencing
28

1 court.

2 13. The Defendant shall pay the following fees and/or charges which are statutorily
3 mandated:

4 a. The Probation and Parole Officer shall determine the amount of supervision fees
5 (§ 46-23-1031, MCA) to be paid each month in the form of money order or cashier's check to
6 the Department of Corrections Collection Unit, P.O. Box 201350, Helena, MT 59620 (\$50 per
7 month if the Defendant is sentenced under §45-9-202, MCA, dangerous drug felony offense and
8 placed on ISP). The DOC shall take a portion of the Defendant's inmate account if the
9 Defendant is incarcerated.
10

11 b. Surcharge of \$15 for each misdemeanor. [§46-18-236(1)(a), MCA]

12 c. Surcharge of the greater of \$20 or 10% of the fine for each felony offense. [§46-
13 18-236(1)(b), MCA]
14

15 d. Surcharge for victim and witness advocate programs of \$50 for each
16 misdemeanor or felony charge under Title 45, Crimes; §61-8-401 (DUI); or §61-8-406 (DUI).
17 [§46-18-236(1)(c), MCA]
18

19 e. \$10.00 per count for court information technology fee. (§3-1-317, MCA)

20 f. Costs of assigned counsel, paid to clerk of court: ((§46-18-113, MCA) *Don't HAVE*

21 i. \$250 for one or more misdemeanor charges and no felony charges or \$800
22 for one or more felony charges.
23

24 g. A \$50 fee at the time a PSI report is completed, unless the court determines the
25 Defendant is not able to pay the fee within a reasonable time (§46-18-111, MCA). The
26 Defendant shall submit this payment to the Department of Corrections Collection Unit, P.O. Box
27 201350, Helena, MT 59620. The Defendant did not pay the PSI fee.
28

1 h. The Defendant shall pay costs of legal fees and expenses defined in §25-10-201,
2 MCA, plus costs of jury service, prosecution, and pretrial, probation, or community service
3 supervision, or \$100 per felony case or \$50 per misdemeanor case, whichever is greater. (§46-
4 18-232, MCA).

5
6 14. If the Defendant is convicted of a crime listed in §46-23-502(9), MCA, he/she ^{need}
7 shall register as a sex offender. [§46-18-201(7), MCA]

8 15. The Defendant, convicted of a felony offense, shall submit to DNA testing. (§44-
9 6-103, MCA)

10 16. The Defendant, required to register as a sexual or violent offender under ^{need} §46-23-
11 504, MCA, shall submit to DNA testing. (§44-6-103, MCA)

12 17. The Defendant shall be given credit against the time for time served in jail prior to
13 conviction. (§46-18-403, MCA) ^{need}

14 18. The Defendant shall not be given credit against the fine for time served in jail
15 prior to conviction. (§46-18-403, MCA)

16 19. The Defendant will surrender to the Court any registry identification card issued
17 under the Medical Marijuana Act. [§46-18-202(1)(f), MCA] ^{need}

18 why (20) 20. The Defendant shall obtain a chemical dependency evaluation by a state-approved
19 evaluator. The Defendant shall pay for the evaluation and follow all of the evaluator's treatment
20 recommendations.

21 why (21) 21. The Defendant shall obtain a mental health evaluation/assessment by a state-
22 approved evaluator. The Defendant shall pay for the evaluation and follow all of the evaluator's
23 treatment recommendations.

24 why (22) 22. The Defendant shall successfully complete Cognitive Principles and Restructuring
25

1 (CP&R) or similar cognitive and behavioral modification program.

2 23. The Defendant shall not possess or use an electronic device or scanner capable of
3 listening to law enforcement communications.

4 24. The Defendant shall abide by a curfew as determined necessary and appropriate
5 by the Probation and Parole Officer.

6 25. The Defendant shall complete any community service ordered by the Court or the
7 Probation & Parole Officer.

8 26. The Defendant shall not enter any bars. *this has nothing to do*
9 *with my crime*

10 27. The Defendant shall not enter any casinos.

11 28. The Defendant shall not knowingly associate with probationers, parolees, prison
12 inmates, or persons in the custody of any law enforcement agency without prior approval from
13 the Probation & Parole Officer. The Defendant shall not associate with persons as ordered by
14 the court or BOPP. *Same as 26*

15 29. The Defendant shall no knowingly have any contact, oral, written, electronic or
16 through a third party, with the victim(s) unless such contact is voluntarily initiated by the
17 victim(s) through the Department of Corrections. DOC staff may notify victims about the
18 availability of opportunities for facilitated contact with their offenders without being considered
19 "third parties."

20 30. The Defendant shall attend self-help meetings at the direction of the Probation
21 and Parole Officer.

22 31. The Defendant shall advise all medical personnel of addiction history/conviction,
23 including all prescribed narcotics and/or medical marijuana.

24 32. The Defendant shall inform the Probation & Parole Officer of all prescriptions
25
26
27
28

1 obtained from medical personnel prior to filling them. The Defendant shall take all prescription
2 medications as prescribed and in the manner in which they were prescribed.

3 33. The use of marijuana will be detrimental to the Defendant's rehabilitation and to
4 the safety of the community. The Defendant is, therefore, prohibited from obtaining a medical
5 marijuana registry card without prior authorization from the sentencing court.
6

7 34. The Defendant shall comply with all sanctions given as a result of an intervention,
8 on-site (preliminary), or disciplinary hearing.

9 35. The Defendant shall enter and successfully complete sexual offender treatment
10 with a clinical provider who is a member of good standing with MSOTA or its equivalent, and
11 who is approved by the Probation and Parole Officer. The Defendant shall pay for the costs of
12 the treatment and abide by all treatment rules and recommendations of the provider.
13

14 36. The Defendant shall obtain a psychosexual evaluation by a clinical provider who
15 is a member in good standing with MSOTA or its equivalent and who is approved by the
16 Probation and Parole Officer. The Defendant shall pay the costs of the evaluation and follow all
17 recommendations of said evaluation.
18

19 37. The Defendant shall undergo annual HIV testing for the next five years and make
20 the results available to the Probation and Parole Officer and the victim(s). §46-18-256, MCA

21 38. The Defendant shall not knowingly have contact, oral written, electronic, or a
22 through a third party, with the victim(s) or the immediate family unless such contact is
23 voluntarily initiated by the victim(s) through the Department of Corrections and approved by the
24 victim's therapist, Defendant's therapist, and the Probation and Parole Officer. DOC staff may
25 notify victims about the availability of opportunities for facilitated contact with their offenders
26 without being considered "third parties." *there is no victim*
27 *in this case*
28

39. The Defendant shall not have contact with any individual under the age of 18 unless accompanied by an appropriately trained, responsible adult who is aware of the defendant's sexual conviction and is approved by the Probation and Parole Officer and sexual offender treatment provider. The Defendant shall sign a "No Contact" contract and abide by all conditions of the contract.

40. The Defendant shall not frequent places where children congregate unless accompanied by an appropriately trained, responsible adult who is aware of the Defendant's sexual conviction and is approved by the Probation and Parole Officer and sexual offender treatment provider. This includes, but is not limited to, schools, parks, playgrounds, malls, movies, fairs, parade, swimming pools, carnivals, arcades, parties, family functions, holiday festivities, or any other place or function where children are present or can reasonably be expected to be present. The Defendant shall obtain permission from the Officer prior to going to any of the above places.

41. The Defendant shall not access or have in his/her possession or under his/her control any material that describes or depicts human nudity, the exploitation of children, consensual sexual acts, non-consensual sexual acts, sexual acts involving force or violence, including but not limited to computer programs, computer links, photographs, drawing, video tapes, audio tapes, magazines, books, literature, writings, etc., without prior written approval of the Probation and Parole Officer and therapist. The Defendant shall not frequent adult book stores, topless bars, massage parlors, or use the services of prostitutes.

42. The Defendant shall not view television shows or motion pictures geared toward his sexual offending cycle, or as a stimulus to arouse deviant thoughts or fantasies (i.e., shows based on sexualization of underage girls or boys, etc.) 41 and 42 dont have

41 and 42 dont have sex crime here

1 43. The Defendant shall not have access to the internet without prior permission from
2 Probation and Parole Officer and sexual offender therapist, nor can the Defendant have on any
3 computer he owns, any software that is intended for data elimination, encryption or hiding data.
4 If internet access is allowed, the Defendant must allow the Department to install rating control
5 software and conduct random services of the hard drive for pornography or other inappropriate
6 data.
7

8 44. The defendant shall not possess or use any computer or other devise with access
9 to any online computer service including, but not limited to "Cloud" data storage, without the
10 prior written approval of the Probation and Parole Officer. The Defendant shall allow the
11 Probation and Parole Officer to make unannounced examinations of his computer, hardware, and
12 software, which may include the retrieval and copying of all data from his computer and
13 computing and data storage devices. The Defendant shall allow the Probation and Parole Officer
14 to install software to restrict the Defendant's computer access or to monitor the Defendant's
15 computer access. The Defendant shall not possess encryption or steganography software. The
16 Defendant shall not utilize software designed to eliminate traces of internet activity. The
17 Defendant shall provide records of all passwords, internet service, and user identifications (both
18 past and present) to the Probation and Parole Officer and immediately report changes. The
19 Defendant shall sign releases to allow the Probation and Parole Officer to access phone, wireless,
20 internet, and utility records.
21
22
23

24 45. The Court shall designate the Defendant as a Level 2 sexual offender based on the
25 psychosexual evaluation and other pertinent documentation. (§46-23-509, MCA) need

26 46. The Defendant's chaperone/supervisor shall sign a statement of responsibility and
27 be approved by both the Probation and Parole Officer and the treatment provider.
28

1 47. The Defendant shall not be involved in any type of employment, service, or
2 recreational pursuit which involves the supervision of children. Under no circumstances should
3 the Defendant be a position of power and authority over children.
4

5 48. The Defendant shall be subject to reasonable employment or occupational
6 prohibitions and restrictions designed to protect the class or classes of persons containing the
7 likely victims of further offenses. [§46-18-255(1), MCA]
8

9 49. The Defendant's residence, changes, and any co-habitants must have prior
10 approval of the Probation and Parole Officer. The Defendant shall not reside in a residence
11 where there are any children under the age of 18 without the written approval of the therapist and
12 the Officer.

13 50. The Defendant shall not access "900" number telephone sex lines and shall have a
14 "900" number block on his phone.
15

16 51. The Defendant shall not have a cell phone, or such other technology/device with
17 photo, video, or internet capabilities.

18 52. If cell phone use is allowed, all bills and records shall be made available to the
19 Probation and Parole Officer.

20 53. The Defendant shall remain in Aftercare or Relapse Prevention Class for the
21 entirety of his supervision unless released at the discretion of the Probation and Parole Officer
22 and therapist.
23

24 54. The Defendant shall reenter treatment at any time if deemed appropriate by the
25 Probation and Parole Officer and therapist.

26 (55.) The Defendant shall submit to annual polygraph testing. *have problem*
27 *with*

28 56. The Defendant shall not date, live with, or otherwise be aligned with any person

1 with children under the age of 18 without the express prior approval of the therapist and the
2 Probation and Parole Officer. If this approval is granted, they shall both be involved with the
3 Defendant's treatment to the extent recommended by the treatment provider.
4

5 (57.) The Defendant shall enter and remain in an aftercare treatment program for the
6 entirety of the probationary period. The Defendant shall pay for the cost of the out-patient
7 alcohol treatment during the term of probation. *alcohol was not part of these 2 crimes*

8 58. The Defendant shall submit to random or routine drug and/or alcohol testing.
9 (§61-8-731, MCA)
10

11 59. The Defendant shall complete a chemical dependency education course. (§61-8-
12 732, MCA)

13 60. The PSI report shall be released by the Department to certain persons, such as
14 treatment providers, mental health providers, and/or medical providers, as needed for the
15 Defendant's rehabilitation.
16

17 **The reasons for the sentence and judgment of the Court are as follows:**

- 18 1. The sentence is imposed to protect the community from further offending conduct.
19 (2.) The sentence imposed under the PFO statute allows the Court to expand the sentencing.
20 *have to question*
21 3. The sentence imposed provides some rehabilitative options with regard to the sexual
22 offender and substance abuse treatment programs available to the Defendant.
23 4. The sentence imposed and the parole restriction are very important because it is clearly
24 not in the community's best interest to have the Defendant remain in the community without
25 being treated in a sexual offender program.

26 Any bond posted in this cause is hereby exonerated.
27
28

If a written judgment and an oral pronouncement of sentence or other disposition conflict, the Defendant or the prosecutor in the county in which the sentence was imposed may, within 120 days after filing of the written judgment, request that the Court modify the written judgment to conform to the oral pronouncement. The Court shall modify the written judgment to conform to the oral pronouncement at a hearing, and the Defendant must be present at the hearing unless the Defendant waives the right to be present or elects to proceed pursuant to Section 46-18-115, MCA. The Defendant and the prosecutor waive the right to request modification of the written judgment if a request for modification of the written judgment is not filed within 120 days after the filing of the written judgment in the sentencing court.

DATED this 20th day of June, 2016.

cc: Nancy L. Rohde
Gregory Paskell
P & P