

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

State of Alaska,

Plaintiff,

CASE NO: 4FA-09-02553CR

vs.

Arie Vance Henry,

Defendant.

**JUDGMENT AND ORDER  
OF COMMITMENT / PROBATION**

DOB: 03/28/1990  
DOV: 07/18/2009  
APSIN: 7238572

ATN: 111511116  
OLN: 7154601

Charges:

<u>CTN</u>	<u>Offense</u>	<u>Date of Offense:</u>
003:	AS11.41.420(a)(3): Sex Assault 2- Penetrate Incap Victim	07/18/2009

The following charges were dismissed pursuant to Criminal Rule 43(a):

<u>CTN</u>	<u>Offense</u>	<u>Date of Offense:</u>
001:	AS11.41.410(a)(1): Sex Assault 1- Penetrate w/o Consent	07/18/2009
002:	AS11.41.410(a)(1): Sex Assault 1- Penetrate w/o Consent	07/18/2009
004:	AS11.41.420(a)(3): Sex Assault 2- Penetrate Incap Victim	07/18/2009

DV offense per AS 18.66.990(3) and (5):  Yes  No

PLEA:  Not Guilty  Guilty  No Contest

Defendant came before the court on 11/8/10, with counsel, William Satterberg, and the Assistant District Attorney, Scott Mattern, present, was found and adjudged:  
 GUILTY OF CTN 003.

Any appearance or performance bond in this case:  
 is exonerated.

**SENTENCE**

JAIL: IT IS ORDERED that the defendant is hereby committed to the care and custody of the Commissioner of the Department of Corrections to serve:  
CTN Period  
003: 8 years with 3 suspended suspended. Any unsuspended time is to be served 12/15/10 at 7:45 a.m. Defendant is to be credited for time already served in this case. Defendant is eligible for discretionary parole.

Sentencing is pursuant to AS 12.55.125(i)(3).

POLICE TRAINING SURCHARGE: IT IS ORDERED that defendant pay to the court the following surcharge pursuant to AS 12.55.039 within 10 days:  
CTN: Surcharge:  
003: \$100

INITIAL JAIL SURCHARGE. Defendant was arrested and taken to a correctional facility or is being ordered to serve a term of imprisonment. Therefore, IT IS ORDERED that defendant

immediately pay a correctional facilities surcharge of \$100 per case to the Department of Law Collections Unit, 1031 W. 4<sup>th</sup> Ave., Suite 200, Anchorage, AK 99501 AS 12.55.041(b)(1).

**SUSPENDED JAIL SURCHARGE.** Defendant is being placed on probation. Therefore, IT IS ORDERED that the defendant pay an additional \$100 correctional facility surcharge. This surcharge is suspended and must only be paid if defendant's probation is revoked and, in connection with the revocation, defendant is arrested and taken to a correctional facility or jail time is ordered served. AS 12.55.041(c).

**DNA IDENTIFICATION.** If this conviction is for a "crime against a person" as defined in AS 44.41.035(j), or a felony under AS 11 or AS 28.35, the defendant is ordered to provide samples for the DNA Registration System when requested to do so by a health care professional acting on behalf of the state, and to provide oral samples when requested by a correctional, probation, parole, or peace officer, AS 12.55.015(h).

**PROBATION:** IT IS ORDERED that, after serving any term of incarceration imposed, the defendant is placed on probation for **10 years** under the following conditions:

**GENERAL CONDITIONS OF PROBATION:**

These General Conditions of Probation are being imposed upon the defendant in this case, and shall be included as a part of the judgment or order, to be issued by this court.

1. Comply with all direct court orders listed above by the deadlines stated.
2. Report to the Department of Corrections Probation Office on next business day following the date of sentencing, or, if time is to be served prior to probation, report to the Department of Corrections Probation Office on the next business day following release from an institution.
3. Secure the prior written permission of a probation officer of the Department of Corrections before changing employment or residence or leaving the region of residence to which assigned.
4. Make a reasonable effort to secure and maintain steady employment. Should you become unemployed, notify a probation officer of the Department of Corrections as soon as possible.
5. Report in person between the first day and the tenth day of each month, or as otherwise directed, to your assigned officer of the Department of Corrections. Complete in full a written report when your probation officer is out of the office to ensure credit for that visit. You may not report by mail unless you secure prior permission to do so from your probation officer.
6. At no time have under your control a concealed weapon, a firearm, a switchblade, a gravity knife, or any dangerous weapon. Do not possess, receive, ship or transport a firearm and do not reside in a dwelling where there is a firearm capable of being concealed on a person, or where a prohibited weapon is present.
7. Do not knowingly associate with a person who is on probation or parole or a person who has a record of a felony conviction unless prior written permission to do so has been granted by a probation officer of the Department of Corrections.
8. Make a reasonable effort to support your legal dependents.
9. Do not consume intoxicating liquor.
10. Comply with all municipal, state, and federal laws.
11. Report all purchases, sales, and trades of motor vehicles belonging to you, together with current motor vehicle license numbers for those vehicles, to your probation officer.
12. Abide by any special instructions given by the Court or any of its duly authorized officers, including probation officers of the Department of Corrections.

SPECIAL CONDITIONS OF PROBATION

**Conditions Specific to Registration:**

1. Upon release from incarceration register as a sex offender with the State of Alaska Department of Public Safety in accordance with the registration requirements under AS 12.63.010 and AS 12.63.020.

**Conditions Specific to Programming/Treatment:**

2. The probationer shall obtain a sex offender evaluation/risk assessment from a DOC approved sex offender treatment provider to determine the need for sex offender monitoring / counseling / treatment and follow all recommendations.

3. The probationer shall actively participate in Alaska Department of Corrections approved programming as directed by the probation officer. The probationer shall sign and abide by all conditions of the treatment program, which will include regular periodic polygraph examinations and may include plethysmograph assessment, and physiological and/or psychological testing, as well as other methods of ongoing assessment. The probationer shall continue active participation and attendance in Alaska Department of Corrections approved sex offender programming to the probation officer's satisfaction. The probationer shall obtain prior permission of the probation officer before voluntarily discontinuing sex offender programming. If released, removed or terminated from treatment (temporarily or permanently) for any reason, the probationer shall notify the probation officer on the next working day.

4. The probationer shall sign releases of information to authorize the exchange of verbal and written information between the assessment provider, treatment provider, polygraph examiner and Alaska Department of Corrections staff members. Additionally, during the course of supervision and treatment, the probationer shall authorize the exchange of information with other individuals who are identified by the probation officer as having an essential role in supervision and treatment in the community, including, but not limited to medical/mental health/psychiatric providers, substance abuse treatment providers, physiological assessment technicians, and clinicians providing treatment to victims and/or family members.

5. The probationer shall, if decided appropriate by his probation officer and sex offender treatment provider, enter and successfully complete any other Department-approved programs, including but not limited to substance abuse treatment and domestic violence programming. The probationer shall sign releases of information to enable other programs to exchange verbal and written information with the probation officer and sex offender treatment provider. The probationer shall, if determined necessary by an appropriate mental health or substance abuse professional, enroll in a residential mental health or substance abuse program for a length of time determined necessary by the appropriate professionals.

6. The probationer shall comply with use of prescribed medications.

**Conditions Specific to Managing Access to Victim and Potential Victims:**

7. The probationer shall have no contact with his victim, R.D. Contact includes but is not limited to no in-person contact, no written correspondence, no taped conversations, no electronic contact (internet or e-mail), no telephonic contact, no stalking, no harassment and no communication of any nature through a third party, without the prior written permission of the probation officer and the sex offender treatment provider. The probationer shall not enter onto the premises, travel past, or loiter near the victim's residence, place of employment, or other places frequented by the victim.

8. The probationer shall not knowingly have any contact with a person under sixteen (16) years old, unless in the immediate presence of another adult who knows the circumstances of his crime (including the assault cycle of the crime, if appropriate). This adult must be approved by a probation officer, who must provide prior written permission in order for contact to occur. This restriction regarding in-person contact with minors includes employment, recreational and residential situations, and subsistence

activities, unless the contact with a minor has been approved in writing by the probation officer. This restriction does not prohibit incidental contact in public locations and does not prohibit conversations in public with a minor employee of a business. Contact includes but is not limited to no in-person contact, no written correspondence, no taped conversations, no electronic contact (internet or e-mail), no telephonic contact, no stalking, no harassment and no communication of any nature through a third party, without the prior written permission of the probation office and the sex offender treatment provider.

9. The probationer shall not enter places where children congregate and shall not line in areas adjacent to schools or places frequented by children.

**Conditions Specific to Preventing Use of Disinhibitors and/or Specific to the Offense:**

10. The probationer shall not at any time possess, have on their person, have in their residence, or in their vehicle any sexually explicit material including but not limited to: books, movies, videos, magazines, printed matter, computer disks or files, any encryption devices or computer mechanisms or other electronic devices that can hold this type of visual or audio material without prior written permission of the probation officer.

11. The probationer shall not at any time possess, have on their person, have in their residence or vehicle, any material that acts as a stimulus for his abusive cycle or that acts as a stimulus to arouse him in an abusive fashion. Having such stimulus shall be identified as a violation of the treatment and supervision process.

12. The probationer shall observe limitations on driving privileges as established by his probation officer. Examples of driving prohibitions include, but are not limited to, the following: not picking up hitchhikers, not driving at night, and not driving alone. The probationer may be required by his probation officer to maintain a driving log specifying mileage, time of departure and arrival, destination, persons with offender.

13. Upon the request or at the direction of a probation officer, submit to a search of his personal computer, residence or any vehicle under their control by a probation officer or other law enforcement officers for the presence of sexually explicit material. The probationer shall provide the probation officer any and all passwords used on the computer.

14. The probationer shall not open or maintain an account with any internet provider, and is expressly forbidden from accessing the internet from anyone else's account, without the prior written permission of the probation officer.

15. The probationer shall not enter any establishment whose primary business is the sale of sexually explicit material and shall not enter any establishment where nude dancing or posing is part of the entertainment. This includes, but is not limited to strip clubs, massage parlors, adult book stores, adult video stores, phone services and internet sites.

16. The probationer shall not consume or possess alcohol or illegal substances. The probationer shall inform his probation officer of any and all medications prescribed by medical personnel.

17. The probationer shall not enter bars, taverns, businesses and/or establishments where the primary function is to serve or sell alcoholic beverages or illegal substances.

**Conditions Specific to Residence:**

18. The probationer's residence shall be subject to the approval of his probation officer, and if decided appropriate, limited to communities with an adult probation office and/or an approved sex offender treatment provider.

19. The probationer shall not reside in a dwelling in which a minor under the age of sixteen (16) is residing or staying without the written permission of his probation officer, his sex offender treatment provider and the parent/guardian of the minor.

20. The probation shall advise all members of the household in which he is residing of his criminal history, even when the residence is temporary. The probation officer may discuss the circumstances of the offender's criminal history with any household member.

**Conditions Specific to Employment/School/Volunteering:**

21. The probationer shall obtain and maintain verifiable full-time employment or engage in seasonal subsistence activities unless enrolled in a full-time educational program or a residential treatment program approved by the probation officer with proof of participation to be provided to the supervising probation officer. The probationer shall provide proof of income when requested by the probation officer.

22. The probationer shall not accept employment, educational programming, or engage in any volunteer community activity, to include subsistence activities where minors under sixteen (16) years of age are present without the prior written permission of the probation officer.

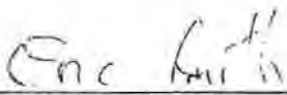
**Conditions Specific to Managing Social Contacts:**

23. The probation shall not associate with other felons unless they are in a treatment program together and have a specific assignment from the approved treatment provider that requires collaborative work.

24. The probation shall inform all persons with whom he has a significant relationship, or with whom he is closely affiliated, of the probationer's sexual offending history. Persons required to be informed will be determined in consultation with the approved treatment provider and the probation officer.

11/8/10  
Effective Date

Clerk: DSullivan

  
\_\_\_\_\_  
Judge Eric Smith  
Superior Court Judge  
Chair Person, Three-Judge Sentencing

**NOTICE TO DEFENDANT**

You are advised that according to the law, the court may at any time revoke your probation for cause or modify the terms or conditions of your probation. You are subject to arrest by a probation officer with or without a warrant if the officer has cause to believe that you have violated a condition of your probation. You are further advised that it is your responsibility to make your probation officer aware of your adherence to all conditions of probation set forth above.

Sentence Appeal. If you are ordered to serve more than two years in jail, you may appeal the sentence to the court of appeals on the ground that it is excessive. Your appeal must be filed within 30 days of the date of distribution stated below. If you are sentenced to serve two years or less in jail, you may seek review of your sentence by filing a petition for review in the Supreme Court. To do this, you must file a notice of intent to file a petition for sentence review within 10 days of the date of distribution stated below. See Appellate Rules 215 and 403(h) for more information on time limits, procedures and possible consequences of seeking review of your sentence.

**REGISTRATION REQUIREMENT.** Because you have been convicted of one of the offenses listed in AS 12.63.100, you must register as described in the attached form (CR-471, Sex Offender and Child Kidnapper Registration Requirements).

I certify that on \_\_\_\_\_ a copy of this judgment was sent to:

DA  
 Defense Atty: \_\_\_\_\_

Clerk: \_\_\_\_\_

I certify that on 11-29-10 a copy of this judgment was sent to:

<input checked="" type="checkbox"/> DA	<input type="checkbox"/> Exhibit Clerk
<input checked="" type="checkbox"/> Def Atty <u>Sutcliffe</u>	<input checked="" type="checkbox"/> Adult Probation
<input checked="" type="checkbox"/> Def thru <u>atby</u>	<input checked="" type="checkbox"/> DPS - R & I - Anchorage
<input type="checkbox"/> Police/AST	<input checked="" type="checkbox"/> DPS - Fingerprint Section
<input checked="" type="checkbox"/> Jail	<input type="checkbox"/> DMV - Juneau (lic. action)
<input type="checkbox"/> VPSO/Village Council at _____	
<input checked="" type="checkbox"/> Collections Unit (for cost of imprisonment/restitution)	
<input type="checkbox"/> _____	<input checked="" type="checkbox"/> <u>Judge Stephens / Judge Tom's.</u>

Clerk: JK

**WRIT OF EXECUTION**

**To Department of Law Collections Unit:** You are commanded to satisfy the above restitution order, including interest and costs, by seizing the defendant's Alaska Permanent Fund Dividend. This writ terminates upon full payment of the restitution, including interest and costs. This writ does not become effective until the defendant fails to make any required payment.

I certify that a copy of this writ was sent to the Department of Law Collections Unit.

(SEAL)

J. Curtis, 11-29-10  
 Deputy Clerk                      Date