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SCOTT G. WEBER, CLERK  
CLARK COUNTY

BRIAN PATRICK CONRY, P.C.  
WSBA #32392  
534 SW Third Ave., Suite 711  
Portland, Oregon 97204  
TEL (503) 274-4430  
FAX (503) 274-0414  
bpconry@gmail.com

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

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	Clark County Circuit Court
	)	Case No. [REDACTED]
vs.	)	
	)	
[REDACTED]	)	<b>ORDER VACATING</b>
	)	<b>UNCONSTITUTIONALLY</b>
Defendant.	)	<b>OBTAINED CONVICTION</b>

This case came before the above entitled court on October 7, 2011 before the Honorable Judge Nichols for a motion to vacate judgment hearing. The Defendant appearing by counsel, Brian Patrick Conry, and Plaintiff State of Washington appearing by Dustin Richardson, Deputy Prosecuting Attorney for Clark County; based on the stipulation of the parties, and the records and files herein and the Court being fully advised in the premises;

THE COURT HEREBY FINDS that inasmuch as Defendant's constitutional rights were violated in the prior proceedings, in that he was advised by neither his attorney nor the court that his plea and conviction for Communication with a Minor for an Immoral Purpose, would legally require he be deported from the United States. Defendant's plea was therefore not knowing and intelligent. Criminal defense counsel was

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[Signature]

1 constitutionally ineffective for failure to advise Defendant of the required immigration  
2 consequences of his plea.

3 Accordingly, based upon Padilla v. Kentucky, 130 S. Ct. 1473 (2010), State v.  
4 Sandoval, 171 Wn.2d 163, 170, 249, P.3d 1015 (2011), and under Article 1, Section  
5 22 of the Washington Constitution, and under the Sixth and Fourteenth Amendments of  
6 the Constitution of the United States; and CR 7.8 et seq, CrR 4.1 and 4.2, RCW  
7 10.73.090,  
8

9 IT IS THEREFORE ADJUDGED that the motion to vacate judgment challenging  
10 Defendant's convictions for Communication with a Minor for an Immoral Purpose, case  
11 Number [REDACTED], Superior Court for Clark County, is hereby granted due to the  
12 constitutionally ineffective assistance of criminal defense counsel, Thomas Foley.  
13

14 It is THEREFORE ORDERED that Petitioner's motion to vacate judgment is  
15 hereby GRANTED and his conviction in Clark County Case Number 06-1-20463-0 is  
16 hereby VACATED.  
17

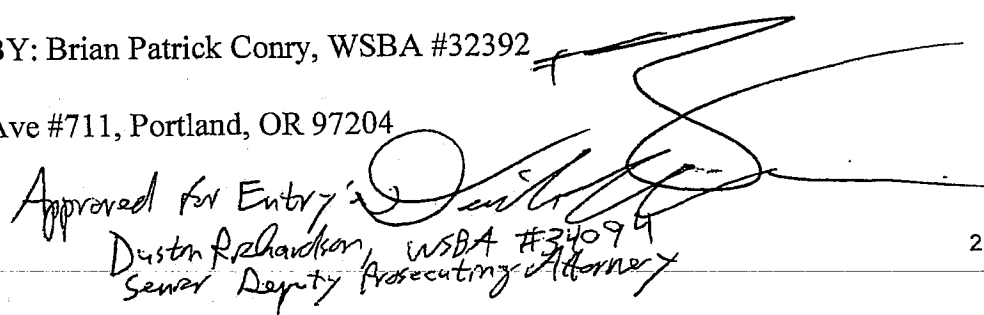
18  
19 DATED this 7 day of November, 2011.  
20

21  
22 

23 HON. Nichols  
24 Circuit Court Judge

25 SUBMITTED BY: Brian Patrick Conry, WSBA #32392

26 534 SW Third Ave #711, Portland, OR 97204

  
Approved for Entry's  
Dustin Richardson, WSBA #34094  
Senior Deputy Prosecuting Attorney