STATE OF HAWAI`I CIRCUIT COURT OF THE FIRST CIRCUIT	JUDGMENT OF CONVICTION AND PROBATION SENTENCE NOTICE OF ENTRY	CASE NUMBER: Cr. No. WMK

STATE VS. (DEFENDANT) **DAVID SPIELMAN**	DATE OF HEARING: MAY 21, 2012	REPORT NUMBER(S): CT. 1: 10-041810 CT. 2: 09-437359
Defense Counsel:		

DEFENDANT'S PLEA: GUILTY	TRIAL: CHANGE OF PLEA
ORIGINAL CHARGE(S): COUNT 1: SEXUAL ASSAULT IN THE 3RD DEGREE (§707-732(1)(b), H.R.S.) COUNT 2: CONTINUOUS SEXUAL ASSAULT OF A MINOR UNDER THE AGE OF FOURTEEN YEARS (§707-733.5, H.R.S.)	CHARGE(S) TO WHICH DEFENDANT PLED: COUNT 1: SEXUAL ASSAULT IN THE 3RD DEGREE (§707-732(1)(b), H.R.S.) COUNT 2: SEXUAL ASSAULT IN THE 2ND DEGREE (§707-731(1)(a), H.R.S.)

DEFENDANT IS CONVICTED AND FOUND GUILTY OF: COUNT 1: SEXUAL ASSAULT IN THE 3RD DEGREE (§707-732(1)(b), H.R.S.) COUNT 2: SEXUAL ASSAULT IN THE 2ND DEGREE (§707-731(1)(a), H.R.S.)	PHOTOGRAPH (If Available)	FINGERPRINT (If Available)

FINAL JUDGMENT AND SENTENCE OF THE COURT:

RESTITUTION $400.00 to the Crime Victim Compensation Commission; Free-standing order.

CRIME VICTIM COMPENSATION FEE $210.00 ($105.00 per count).

PROBATION: (HOPE)
COUNTS 1 & 2: FIVE (5) YEARS, each

TERMS TO RUN CONCURRENTLY

SEX OFFENDER

SEE ATTACHMENT (TERMS AND CONDITIONS OF PROBATION)

I do hereby certify that this is a full, true, and correct copy of the original on file in this office.

Clerk, Circuit Court, First Circuit

Defendant shall provide specimen samples and print impressions as required by H.R.S. Chap. 844D

DATE MAY 21, 2012	JUDGE SIGNATURE	FIRST CIRCUIT COURT STATE OF HAWAII FILED MAY 21, 2012 10:27 O'clock A.M. Clerk, 11th Division

NOTICE OF ENTRY

THIS JUDGMENT HAS BEEN ENTERED AND COPIES MAILED OR DELIVERED TO ALL

DATE May 21, 2012	CLERK

[ ] ORIGINAL FILE [ ] DPA [ ] DEFENSE-David Hayakawa [ ] PROBATION [ ]POLICE [ ] HCJDC [ ] PUBLIC SAFETY [ ] HPA [ ] CASHIERS

STATE OF HAWAI'I CIRCUIT COURT OF THE FIRST CIRCUIT	TERMS AND CONDITIONS OF PROBATION	CASE NUMBER:

TO: DEFENDANT, DAVID SPIELMAN

IT IS THE ORDER OF THE COURT THAT DURING YOUR TERM OF PROBATION, YOU SHALL COMPLY IN ALL RESPECTS WITH THE FOLLOWING TERMS AND CONDITIONS:

1. You shall not commit another federal or state crime or engage in criminal conduct in any foreign jurisdiction or under military jurisdiction that would constitute a crime under Hawaii law during your deferred term or term of probation;

2. You shall report to your probation officer as ordered by the court or by your probation officer. After this hearing or upon your release from confinement, you are ordered to report immediately to:
   Adult Client Services
   777 Punchbowl Street
   Honolulu, Hawaii 96813
   (808) 539-4500;
   or upon release from any term of confinement, you are ordered to schedule an appointment with your probation officer or an Adult Client Services Branch designee within 24 working hours of release;

3. You shall not leave the island of O'ahu unless you first obtain permission to leave from your probation officer or the Court;

4. You shall report any change of address, telephone number, or employment to your probation officer before any such change;

5. You shall promptly notify your probation officer if you are arrested or questioned by a law enforcement officer; and

6. You shall permit your probation officer to visit your home and any other places specified by the Court at all reasonable times.

7. You shall make restitution for losses suffered by the victim(s) if the court has ordered restitution pursuant to §706-646, H.R.S.;

8. Your further special conditions of probation are as follows: You Shall:

   A. Follow all reasonable instructions which are given to you by your probation officer;

   B. Not own or possess any firearms or ammunition. If you have any firearms or ammunition, you must immediately turn them in to the appropriate county police department;

YOUR FURTHER SPECIAL TERMS AND CONDITIONS OF PROBATION ARE ATTACHED.

WARNING:

IF YOUR WHEREABOUTS BECOME UNKNOWN TO YOUR PROBATION OFFICER BECAUSE OF YOUR FAILURE TO KEEP HIM/HER INFORMED, THE COURT MAY ORDER YOUR ARREST. UPON ANY FAILURE TO COMPLY WITH EACH OF THE TERMS AND CONDITIONS OF YOUR PROBATION, INCLUDING SPECIAL CONDITIONS, THE COURT MAY REVOKE YOUR PROBATION AND SENTENCE YOU TO PRISON OR CHANGE OR ADD TO THE CONDITIONS OF YOUR PROBATION.

YOU ARE FURTHER INFORMED THAT YOU ARE PROHIBITED FROM OWNING OR POSSESSING ANY FIREARM OR AMMUNITION PURSUANT TO HRS § 134-7.

THE TERMS AND CONDITIONS OF PROBATION HAVE BEEN EXPLAINED TO ME; I FULLY UNDERSTAND THEM, AGREE TO ABIDE BY THEM IN EVERY WAY AND UNDERSTAND THE CONSEQUENCES. I HAVE RECEIVED A COPY OF THESE TERMS AND CONDITIONS OF PROBATION.

DATE	DEFENDANT'S SIGNATURE	SIGNATURE OF PROBATION OFFICER

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8. Special Conditions Of Probation

YOU SHALL:

A. Follow all reasonable instructions which are given to you by your probation officer;

B. Not own or possess any firearms or ammunition. If you have any firearms or ammunition, you must immediately turn them in to the appropriate county police department;

C. Provide buccal swab samples and print impressions of each hand and, if required by the collecting agency's rules or internal regulations, blood specimens required for law enforcement identification analysis;

D. Pay monetary assessment of $500 or the actual cost of the DNA analysis, whichever is less, to the DNA registry special fund;

E. Serve a term of imprisonment of EIGHTEEN (18) MONTHS with credit for time served. Mittimus to issue forthwith;

F. Work full time or attend educational/vocational training as approved by your probation officer throughout the period of probation;

G. Pay restitution in the amount of $400.00 to the Crime Victim Compensation Commission. Restitution shall be a free-standing order.;

H. Pay to the crime victim compensation fund $210.00 ($105.00 per count);

I. Pay a probation services fee in the amount of $150.00;

J. Pay the restitution, crime victim compensation fee, probation services fee, DNA assessment, and possible extradition costs at the rate of at least $35.00 per month. Payment shall be applied to the foregoing obligations in the same order as they are listed in this paragraph. Any modifications in the manner of payment must be approved by the court;

K. Not possess, use, or consume any alcohol, unprescribed or illegal drug nor possess any drug-related paraphernalia, or be in the presence of anyone using any illegal drugs;

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8. Special Conditions Of Probation

L. Submit to urinalysis and/or other alcohol/drug testing protocol, at your own expense as directed by your probation officer. **Any positive finding(s), a failure to provide a valid specimen within two hours of instruction, the use of a tampering device or a specimen determined to be adulterated or inconsistent with human urine by laboratory testing may be considered prima facie evidence of probation violation;**

M. Submit to drug/alcohol assessment at your own expense as directed by your probation officer;

N. Obtain and maintain substance abuse treatment as directed by your probation officer until clinically discharged with the concurrence of your probation officer. You shall be responsible for payment for such treatment;

O. Submit at reasonable times to a search of your person, residence, vehicle, or other sites and property under your control by any probation officer, with or without a warrant, based on reasonable suspicion that illicit substance(s) or other contraband (which may include firearms and/or ammunition and/or inappropriate materials as clinically defined by your therapist) may be in the place(s) of a search. Any illicit substance(s) or contraband found or observed in such a search may be seized;

P. Obtain and maintain mental health treatment or services, including medication and/or tests if ordered, as directed by your probation officer, until clinically discharged with the concurrence of your probation officer. You shall be responsible for payment for such treatment;

Q. Not contact or attempt to contact, directly or indirectly, the victim, nor any other party significantly related to the victim, without the prior knowledge and authorization of your probation officer;

R. Sign a Waiver of Extradition;

S. As determined by your probation officer, participate in and complete service plan(s) in relation to your Level of Service Inventory - Revised and other assessment results on emotional/personal issues, attitude orientation, low self control, drugs and/or alcohol dependence, companions and family/marital relationships;

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8. Special Conditions Of Probation

T. Participate satisfactorily in the Hawaii Sex Offender Treatment Program (HSOTP) with the provision that you obtain and maintain sex offender treatment, as approved by your probation officer, at your own expense until clinically discharged with the concurrence of your probation officer. Monthly progress reports are to be submitted to your probation officer by your therapist. If your probation officer deems you to be financially unable to pay, you shall participate in treatment with a Judiciary contracted therapist with payment to be made in accordance with the Adult Client Services payment formula;

U. Refrain from purchasing or possessing or accessing via the Internet or other electronic database, inappropriate audio or visual materials as clinically defined by your primary therapist; nor shall you frequent any place where such material is available to you;

V. Abide by any curfew, travel, and leisure time restrictions imposed by your probation officer;

W. Refrain from hitchhiking and picking up hitchhikers;

X. Not contact or attempt to contact, directly or indirectly, any minor child nor reside in the same residence with minor children without the permission of your probation officer;

Y. Obtain and maintain a residence as approved by your probation officer;

Z. Pay for and submit to electronic monitoring as deemed appropriate by your probation officer; and

AA. Pay all incurred extradition costs to the Department of Finance, State of Hawaii, upon being extradited to Hawaii under the Interstate Compact for Adult Offender Supervision or as requested by the Adult Client Services Branch.