

SAN DIEGO COUNTY PROBATION DEPARTMENT
ADULT SERVICES
PROBATION OFFICER'S REPORT

FILED
STEPHEN THUNBERG
Clerk of the Superior Court
SC-13

JUL 11 2000

By: J. MORSE, Deputy

THE PEOPLE OF THE STATE OF CALIFORNIA

v.

RN: GARDNER, JOHN

CN: GARDNER, JOHN ALBERT

AKA:

ADDRESS [REDACTED] RANCHO BERNARDO, CALIFORNIA 92127		COURT NO. SCD 151675		DEPT. & JUDGE SDSC 31 P. DEDDEH				
BIRTH DATE 4-9-1979		AGE 21	RACE CAUCASIAN	SEX MALE	HT 6-2	WT 210	EYES BROWN	HAIR BROWN
DRIVER'S LIC. NO. [REDACTED]		INS. NO.		OTHER ID DATA				
DATE OFFENSE COMMITTED 3-16-2000		DATE CONVICTED 5-31-2000		HOW GUILTY PLEA		CUSTODY STATUS BAIL BOND		
INVESTIGATING ARRESTING AGENCY SAN DIEGO POLICE DEPARTMENT		DATE COMPLAINT FILED 3-20-2000			SDSO SYSTEM NO. [REDACTED]			
CII NO. 12050913		FBI NO. [REDACTED]		ARREST REPORT NO. 00016877		SDSO BOOKING NO. 00118401A		
DA FILE NO. AAE 32001		HEARING DATE/TIME 7-17-2000 @ 1:30 PM		ATTORNEY W. HALSEY: RETAINED				
PROBATION OFFICER D. POWELL:mjn		PROB CASE NO. A 818746						
TEL. NO. [REDACTED]		PO TEL. NO. [REDACTED]						
BIRTHPLACE/CITIZENSHIP CULVER CITY, CALIFORNIA								

CONVICTED OF:

- * Count One: 288(a) PC, Lewd/Lascivious Acts with Child Under 14 Years, as a lesser included offense of 288(b)(1) PC, Forcible Lewd Act Upon Child;
- * Count Two: 288(a) PC, Lewd/Lascivious Acts with Child Under 14 Years, as a lesser included offense of 288(b)(1) PC, Forcible Lewd Act Upon Child;
- * Count Four: 236/237(a) PC, False Imprisonment by Violence, Menace, Fraud, Deceit.

PRE-PLEA AGREEMENT:

"Dismiss balance of information; no deals regarding sentencing"

RECOMMENDATION: CONTINUANCE

RELATED COURT DATA:

The defendant entered a plea of guilty with Harvey and Arbuckle Waivers. In accordance with the pre-plea agreement, the following were dismissed:

- * Count Three: 288(b)(1) PC, Forcible Lewd Act Upon Child;
- * Count Five: 647.6(a) PC, Child Molesting.

THE OFFENSE:

SOURCES OF INFORMATION for this Section

DISTRICT ATTORNEY'S FILE;
POLICE REPORT.

On 3-16-2000, San Diego Police Department officers responded to a call regarding the molestation and beating of a 13-year-old girl by a 20-year-old male. Responding officers spoke with the victim, [REDACTED], who complained of head, neck, and abdominal pain. She said she was dizzy and had just vomited. Paramedics were called to assess her.

The victim told officers that she had "ditched" school that day because some girls had wanted to beat her up. She said that she had known the defendant for over a year and had a friendly relationship with him. She said that during their struggle, she may have scratched the defendant's hands or arms. Between 7:45 and 8:00 o'clock that morning, she had been waiting for a school bus. Just before the bus arrived, she saw the defendant who was standing by his car in a nearby parking lot. She had been to a local Taco Bell and nearby waterfall several times in the past with the defendant in a group of friends. She had been inside of his house twice. On this morning, she had walked over with her friend E. C. to say hello. The defendant offered them a ride to school and they accepted. It was then that the victim saw two girls with whom she was having difficulties and announced that she was not going to school. Erin said that she was going and got out of the car. The defendant told the victim that she could come over to his house and watch movies if she wanted.

On March 17, after the victim's release from the hospital, she additionally told officers that after leaving school on the day of the Instant Offense, she went to the defendant's house and they selected a video of "Patch Adams" to watch. The defendant wanted to give the victim a massage but she said that she didn't need one. The defendant insisted and picked the victim up off of her chair and placed her on the floor and began to massage her. She kept telling the defendant she didn't really want to do that but he continued. The defendant then picked her up off the floor and put her on the couch and she continued to say that she did not want to do this.

The defendant lay atop the victim and began rubbing against her. She could feel that he had an erection. He kissed her on the mouth, neck, and breasts. He pulled up her shirt and sucked on her nipples. He pulled her pants down to the mid-thigh area and kept trying to get them off. He again picked her up and carried her upstairs to his bedroom, placed her on his bed, and again lay on top of her. The victim said that she did not want to stay there and they both went back downstairs.

Once downstairs, the defendant began taking off the victim's pants and she told him to stop; that she wanted to go back to school. The defendant asked her if he had scared her and she said that he had and that she really did not want to do this. The defendant said that he could not take it any longer and then threw the victim onto the couch. He got on top of her and began "humping" her again. The victim was telling the defendant to stop, to leave her alone. She grabbed his shoulders and tried to pull him off but was unable to do so. The victim's pants were undone. The defendant stuck a finger under her panties and touched her "private area in the front."

The defendant then covered the victim's mouth. She could not breathe and said she thought she would die. The defendant began hitting her lots of times, all over her head. He hit her real hard in the face. She kept asking him to please stop. She said that she would do anything if he would just stop, but he just kept going. She couldn't remember how many times he struck her. She thought that his penis might have been out at one point.

When she was able to get up, her pants were unzipped but said "nothing happened" indicating that they had not had sexual intercourse. She said everything was a blur. The defendant hugged her when it was over and said that he was sorry; that he didn't know what he had been thinking. The victim had only one shoe but was able to get out of the house. She ran to a nearby house with an open garage and told the people inside what had happened. They called the police. The victim said that she could not believe what had happened because she had trusted the defendant so much. She remembered that she had left a shoe, her wallet, backpack, and books in the defendant's house.

The officer who subsequently arrested the defendant a short time later at a nearby gas station first observed the defendant as he sprayed his hands from a can of "Odor Eaters" and then rubbed them together as if to wash them. Upon arrest, the defendant spontaneously stated, "What's wrong? The car isn't stolen. I was just on my way to Mira Mesa to see my girlfriend. Oh yeah, just so you know, I have a butterfly knife in the center console of my car."

The victim suffered a cut to the right side of her bottom lip, contusions under her left eye, and bruising around her left eyelid. There were numerous bruises on the left side of her head and a bruise behind her left ear. The inner portion of her left thumb and palm area was red and bruised. There was a red mark behind the right side of her neck.

After admonishment, the defendant denied that the victim had been at his house. When asked if a 13-year-old girl had been at his house earlier, the defendant said that he had given ~~her~~ a ride to school. He said that she is a neighbor who lives nearby. He did not know her last name. When asked