

A O E

Elder rape

— Dismissed After
Preliminary Hearing

2013

RENE DAVIDSON COURTHOUSE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
CLERKS DOCKET AND MINUTES

DOCKET NAME _____ DEPT. 011 CRT. DATE/TIME 6/17/13 09:00

EVENT NAME E [REDACTED] A [REDACTED] RPT. NO. 12-055164 DOCK NO. 583037

PROC. PX CEN. 2353587 PFN. BJI524 A DAY 11/21/12 SJ DATE 12/24/13
COUNTS AAG-OPD ACITY OA

CHARGES 1)F261(A)(2)+ PC 4)F288(C)(2) PC
2)F289(A)(1)A+ PC
3)F368(B)(1)+ PC

STAT BB BAIL \$320,000.00 TOTAL DAYS IN CUSTODY: 2
BAIL \$320,000.00 STAT. BB BOND DT. 11/29/12 BOND CO. 01213 DOB 04/07/68
BAIL _____ STAT. _____ BOND DT. _____ BOND CO. _____ BAC _____
FINE/REST. _____ DATE PAID _____ REC. NO. _____ TIME WAIVED TH

PROCEEDING

JUDGE CARRIE M. PANETTA DEP. D.A. COLLEEN MCCONNELL
DEP. CLERK KAREN FOSS/ALEX MUNOZ DEP. ATTY. BRIAN BERSON Not Present
REPORTER TINA MCCONNELL OTHERS _____

Defendant (Def): Present In Custody Pro Per Not Present Excused PC977 on file Failed to Appear
 Interpreter: _____ present Certified Sworn -Language Interpreted: _____
 Deft duly arraigned Deft advised as to constitutional rights Advisement of Rights Filed Deft waives formal arraignment
Defendant served: Information / Indictment / Complaint / Petition
Protective Order (PC136.2): Issued Modified Terminated Served Stay away from _____ yards
 At least _____ yards
 Referred to Public Defender (PubDef) PubDef files conflict Financially ineligible PubDef Appointed Private Atty apptd
Waiver of Rights and Plea form filed Plea Withdrawn Change of Plea
 Plea Entered: Not Guilty / Guilty / No Contest Found Guilty as to count(s) _____
Plea to a lesser included/reasonably related offense: Guilty No Contest of Count _____ to the charge of _____
Clauses: Dismissed Admitted Denied Sentencing Purposes Only
Priors: Stricken Admitted Denied Sentencing Purposes Only
 Time waived for: Preliminary Exam 10 / 60 days Trial Sentence Time not waived Time waiver withdrawn
Probation: Conditional Sentence: Granted for _____ years / months See attached conditions Denied
Probation Violation: Deft Denies Violation Hrg Waived Matter Submitted Deft Admits/Found Not Found in Violation
 Revoked Restored Modified Extended to _____ Continue same terms & conditions Terminated
 Petition / Motion by _____ for _____ Granted Denied Withdrawn
Referred to: Probation Dept. Financial Hearing Officer _____
Bail: Forfeited in Open Court While Court was in Session Forfeiture Set Aside Reinstated Exonerated
 Summary Judgment Entered Warrant: Bench Warrant Issued Bail Set at \$ _____ Bench Warrant Recalled
 Bench Warrant Withheld Bench Warrant Withdrawn No Cite Release Night Svc Deft OR'd Deft Remanded

PTD: (NO FILE)

PEOPLES MOTION TO DISMISS THIS CASE IS GRANTED
DEFENDANT RELEASED IN THIS ACTION ONLY

FUTURE COURT DATES: 11/25/15 POCO
VALATE
 Cont: Date: _____ Time: _____ Dept. _____ Proc.: _____ Date: _____ Time: _____ Dept. _____ Proc.: _____

CORPUS Codes: _____

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA,
RENE C. DAVIDSON COURTHOUSE

PEOPLE OF THE STATE OF CALIFORNIA

NO. 583037
1ST AMENDED
COMPLAINT

v.

A [REDACTED] O [REDACTED] E [REDACTED]

PFN: BJI524

CEN: 2353587

ENDORSED
FILED
ALAMEDA COUNTY

MAR 01 2013

CLERK OF THE SUPERIOR COURT
By Terri Turner, Deputy

Defendant(s).

RESTITUTION

The Undersigned, being sworn says, on Information and belief, that A [REDACTED] O [REDACTED] E [REDACTED] did, in the County of Alameda, State of California, on or about November 1, 2012, commit a Felony, to wit: FORCIBLE RAPE, a violation of section 261(a)(2) of the PENAL CODE of California, in that said defendant(s) did unlawfully have and accomplish an act of sexual intercourse with a person, to wit: JANE DOE 1, not his/her spouse, against said person's will, by means of force, violence, duress, menace and fear of immediate and unlawful bodily injury on said person and another.

"NOTICE: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c) and a violent felony within the meaning of Penal Code section 667.5(c)."

"NOTICE: Conviction of this offense will require the court to order you to submit to a blood test for evidence of antibodies to the probable causative agent of Acquired Immune Deficiency Syndrome (AIDS). Penal Code section 1202.1."

"NOTICE: Conviction of this offense will require you to register pursuant to Penal Code section 290. Section 290 requires lifetime registration as a sex offender. Willful failure to register is a crime."

"NOTICE: Conviction of this offense will require you to provide specimens and samples pursuant to Penal Code section 296. Willful refusal to provide the specimens and samples is a crime."

NOTICE: It is further alleged that said defendant(s) is/are ineligible for probation or suspension of sentence pursuant to Penal Code section 1203.065(a).

VIOLENT CRIME ON THE VULNERABLE CLAUSE AS TO DEFENDANT A [REDACTED] E [REDACTED]

It is further alleged as to count one, that the defendant A [REDACTED] O [REDACTED] E [REDACTED], is in violation of Penal Code section 667.9(a) in that the victim in the above offense, JANE DOE 1, was 86 year old dependent adult and said disability and condition was known and reasonably should have been known to the defendant.

SPEC ALLEG - NOTICE OF STATE PRISON ELIGIBILITY- VIOLENT FELONY CLAUSE AS TO DEFENDANT A [REDACTED] E [REDACTED]

It is further alleged that the above offense is a violent felony within the meaning of Penal Code section 667.5(c) and that pursuant to Penal Code section 1170(h)(3) an executed sentence for the offenses herein charged shall be served in the state prison.

SEX OFFENSES-SEPARATE VICTIMS OR OCCASIONS CLAUSE AS TO DEFENDANT A [REDACTED]

E [REDACTED]

It is further alleged that the said defendant comes within the purview of Penal Code Section 667.6(c) because the above offense is one of several/many committed against JANE DOE 1.

SECOND COUNT

The Undersigned further deposes and says on Information and belief, that said A [REDACTED] O [REDACTED] E [REDACTED] did, in the County of Alameda, State of California, on or about November 1, 2012, commit a Felony, to wit: SEXUAL PENETRATION BY FOREIGN OBJECT, a violation of section 289(a)(1)(A) of the PENAL CODE of California, in that said defendant(s) committed an act of sexual penetration against the will of JANE DOE 1 by means of force, violence, duress, menace and fear of immediate and unlawful bodily injury on JANE DOE 1 and another person.

"NOTICE: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c) and a violent felony within the meaning of Penal Code section 667.5(c)."

"NOTICE: Conviction of this offense will require you to register pursuant to Penal Code section 290. Section 290 requires lifetime registration as a sex offender. Willful failure to register is a crime."

"NOTICE: Conviction of this offense will require you to provide specimens and samples pursuant to Penal Code section 296. Willful refusal to provide the specimens and samples is a crime."

NOTICE: It is further alleged that said defendant(s) is/are ineligible for probation or suspension of sentence pursuant to Penal Code section 1203.065(a).

VIOLENT CRIME ON THE VULNERABLE CLAUSE AS TO DEFENDANT A [REDACTED] E [REDACTED]

It is further alleged as to count two, that the defendant A [REDACTED] O [REDACTED] E [REDACTED] is in violation of Penal Code section 667.9(a) in that the victim in the above offense, JANE DOE 1, was 86 year old dependent adult and said disability and condition was known and reasonably should have been known to the defendant.

SEX OFFENSES-SEPARATE VICTIMS OR OCCASIONS CLAUSE AS TO DEFENDANT A [REDACTED] E [REDACTED]

is further alleged that the said defendant comes within the purview of Penal Code Section 667.6(c) because the above offense is one of several/many committed against JANE DOE 1.

SPEC ALLEG - NOTICE OF STATE PRISON ELIGIBILITY- VIOLENT FELONY CLAUSE AS TO DEFENDANT A [REDACTED] E [REDACTED]

It is further alleged that the above offense is a violent felony within the meaning of Penal Code section 667.5(c) and that pursuant to Penal Code section 1170(h)(3) an executed sentence for the offenses herein charged shall be served in the state prison.

THIRD COUNT

The Undersigned further deposes and says on Information and belief, that said A [REDACTED] O [REDACTED] E [REDACTED] did, in the County of Alameda, State of California, on or about November 1, 2012, commit a Felony, to wit: ELDER OR DEPENDENT ADULT ABUSE, a violation of section 368(b)(1) of the PENAL CODE of California, in that said defendant(s) did, under circumstances and conditions likely to produce great bodily harm and death, knowingly and willfully cause and permit JANE DOE 1, an elder and dependent adult, to suffer, and inflicted thereon, unjustifiable physical pain and mental suffering and, having the care and custody of said person, willfully caused and permitted her to be placed in a situation in which her health was endangered.

SPEC ALLEG - NOTICE OF STATE PRISON ELIGIBILITY CLAUSE AS TO DEFENDANT A [REDACTED] E [REDACTED]

The defendant is hereby notified that the above felony offense is not governed by Penal Code section 1170(h) and that an executed sentence for the offenses herein charged shall be served in the state prison pursuant to Penal Code section 1170.1(a).

FOURTH COUNT

Undersigned further deposes and says on Information and belief, that said A [REDACTED] O [REDACTED] E [REDACTED] did, in the County of Alameda, State of California, on or about November 1, 2012, commit a Felony, to wit: LEWD ACT ON DEPENDENT ADULT, a violation of section 288(c)(2) of the PENAL CODE of California, in that said defendant(s) did, while being a caretaker, commit an act described in section 288(a) upon JANE DOE 1, a dependent adult, with the intent described in that section.

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by Penal Code Section 1054.3.

Complainant therefore prays that a warrant issue and that said defendant(s) be dealt with according to law.

Subscribed and sworn to before me,
Wednesday, February 27, 2013

/s/ Oakland PD-12-055164

CHERYL M. PONCINI
Deputy District Attorney
State Bar #67168 msd
Alameda County, California