

DOLORES A. CARR, DISTRICT ATTORNEY
BAR NUMBER 94406
RAYMUNDO MENDOZA, DEPUTY DISTRICT ATTORNEY
BAR NUMBER 124822
County Government Center, West Wing
70 West Hedding Street
San Jose, California 95110
Telephone: (408) 299-7400

Attorneys for Plaintiff

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

ANDREW KING,

Defendant.

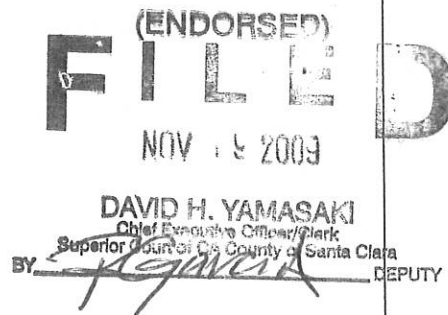
No. CC942933
CC939000

STATEMENT IN AGGRAVATION
PURSUANT TO PENAL CODE
SECTION 1170(B) AND JUDICIAL
COUNCIL RULE 437

STATEMENT OF FACTS

The defendant, King, entered no contest pleas to three counts of Penal Code Section 288(c) and seventeen counts of 288(a). The maximum term is 42 years in the state prison. The People further contend the defendant is not eligible for probation pursuant to Penal Code Section 1203.066(a)(9): the defendant occupied a position of trust to wit: "Coach".¹

¹ The demurrer was denied by the Honorable Judge Arroyo.



1 **CHARGED VICTIMS**

2
3 **Superior Court Docket: 939000**

4 **Jane Doe I: age 14**

5 The defendant, Andrew King, age 61, was the victim's swim coach at San Jose
6 Aquatics (SJA). At age eight she began swimming with SJA. SJA is a year round swim team
7 base at Gundersen High School. At age twelve the victim began to instruction from the King.
8 During the spring of 2008 the victim began to receive back massages from King. At times he
9 would massage her underneath her shirt, which made her fell uncomfortable. In August 2008,
10 King touched her breasts during the "rehabilitation massage". He would hold her breasts
11 underneath the clothing but over the bra. He did not say anything to her.

12 In December King unhooked her bra grabbed her breasts and rubbed her nipples.
13 Between December and March King touched her ten times in a similar fashion. The massages
14 took place in King's office, shed on the pool premises; no one else was present.²

15 Detective Michel of the San Jose Police Department (SJPd) arranged a pretext call by the
16 victim to King. In the call the King stated that he thought at first she liked her nipples being
17 rubbed. She asked him if he had done this to anyone else. He responded, "You're the only one
18 who has said anything." (A copy of the pretext call is attached as Exhibit A). King attempted
19 to justify his molestation of the victim on his sleep apnea.

20
21 **Superior Court Docket : CC942933**

22 This case originated from former swimmers, coached by King, who reconnected through
23 Facebook. Gretchen Doe noticed King had a Facebook page. She contacted other swimmers
24 who related sexual assaults perpetrated by King. They discussed King's inappropriate behavior.
25 In February 2009 Gretchen Doe notified the San Leandro Police Department; Detective Ramsey
26
27
28

1 was assigned to the case. Both he and SJPD were unaware of the concurrent investigations.
2 Detective Ramsey learned of the San Jose case when SJPD issued a press release.

3 **Jane Doe II**

4 Caren Doe swam for King at Chabot Aquatics. San Leandro PD received a call from Caren
5 Doe, age 35 that King had molested her when she was age 12. In 1985, age 11, she joined
6 Chabot Aquatics. He began to show an interest in Caren. In 1986 King began inappropriate
7 hugs, which then lead to inappropriate kissing and fondling. In late 1986 they had their first
8 sexual encounter: sexual intercourse, digital penetration and oral copulation. These assaults
9 occurred in San Francisco, Hayward, San Leandro Marina and (Swim Meets) in Clovis and
10 Reno. King made her feel like he was her girlfriend. She was 12-13 years of age. She had a full
11 sexual relationship with King. The assaults occurred at least once a week from age 12 until age
12 17. The assaults usually took place on his boat in the marina, or in his trailer. He made her feel
13 special: He wrote love notes and took her out to dinner.
14

15 In 1995 she called and confronted him. He admitted to being a child molester and he
16 begged her not to tell anyone. He also admitted to molesting Debra Doe.
17

18 **Jane Doe III**

19 Katherine Doe swam for King at Chabot Aquatics. Katherine Doe stated she blossomed at
20 an early age and King began to pay attention to her. Specifically, she recalled in January 1989
21 while returning from a swim meet he stopped his car and kissed her. He then placed his hand
22 underneath her shirt and rubbed her breasts. She was 12 turning 13. From then until the weekend
23
24
25
26

27 ² King married one of his swimmers, who had just turned 18.
28

1 before her 13th birthday they had fairly frequent intercourse. Katherine Doe stated that the D
2 would massage her and then began kissing her. The molestations took place in private settings:
3 these acts occurred in his vehicle, boat and office. They would kiss every time they were
4 together. The first time he digitally penetrated her with his finger she bled. According to
5 Katherine, he engaged in oral copulation (2-3 times per month), digital penetration and fondling
6 (almost daily) and sexual intercourse (3-4 times a month).
7

8 King had intimate phone calls, sent love notes and made a proposal. She stopped the
9 relationship because she wanted a normal boyfriend and did not want to keep the "secret" As
10 an adult she now realizes King groomed her into thinking their relationship was "okay".
11

12 UNCHARGED VICTIMS

14 **Jane Doe IV**

15 Gretchen Doe swam for King at Chabot Aquatics. King closed his swim sessions. He
16 accompanied her on a trip to Austin for a Junior Nationals; her parents could not afford the trip.
17 In the hotel room he sat on her bed and rubbed her arm. She moved away from him. She did not
18 say anything to him or another adult. At age sixteen she was involved in a car accident, which
19 ended her swimming career.

20 During that summer, King took her to the Monterrey Aquarium. They had a fancy dinner.
21 He then invited her sailing on his boat, which was docked at the San Leandro marina. They
22 sailed alone. She went down into the cabin. King followed her and sat her on the bed. He
23 kissed her neck. She immediately sprang up and went on deck. When they docked he again
24 kissed her using his tongue. She did not tell anyone: she felt it was an isolated incident.
25
26
27
28

1 **Jane Doe V**

2 Laura Doe swam for King in Oak Harbor. Laura Doe reported in May 2005 to CPS Oak
3 Harbor, WA, that King had molested her on many occasions. King paid her to clean his home.
4 He would give her a massage and touch her. He touched her breasts and crotch; he kissed her.
5 She was 12 at the time (1995). King would start by giving her a massage unhooking her bra. He
6 then rubbed her vagina over her underwear. He would breathe heavily and then he stated "Now
7 look what you made me do" This went on between the sixth and ninth grades. She would travel
8 with him to swim meets. He would massage her in the hotel. He would push up against her in
9 the storage rooms and rub his penis against her. He would comment on other female swimmers
10 bodies and would suggest they wear tighter swim suits.³

11
12 Oak Harbor Detective Teri Gardner conducted an extensive investigation. Another
13 swimmer, Cassie Doe, noticed girls sitting on King's lap and he would slap her on the butt,
14 which made her feel uncomfortable. According to Cassie, he would state to the female
15 swimmers, "Get your sexy body in the water". She noticed Coach Andy had two favorites
16 Amanda Doe and Jennifer Doe.
17

18
19 Amanda Doe's father Mike told Gardner that King gave his daughter a dozen roses for
20 her birthday. He too noticed girls sitting on King's lap. Amanda Doe denied any inappropriate
21 touching. Jennifer Doe also denied any inappropriate touching.⁴
22
23
24
25

26 ³ King humiliated Laura Doe by placing a sign in the corner and having her sit there as a form of punishment.

27 ⁴ Other swimmers noticed that Jennifer Doe spent a lot of time with King. Jennifer Doe later went to the University
28 of Pacific; at the time of Gardner's interview King relocated to Stockton, California.

King unexpectedly resigned from his position as the Oak Harbor swim coach, citing health concerns. CPS called his employer prior to his resignation. Oak Harbor Police Department did not interview King. The case was not filed although other swimmers noticed sexual behavior by King towards female swimmers.

Jane Doe VI

In 1988 Alice Doe, age 17 at the time, reported to a school counselor inappropriate sexual conduct by King, age 37 at the time. Contra Costa Sheriff's office took the report. (No: 88-12558) Detective Sally Fleming (retired) interviewed Alice. He coached her for 2-3 years in AAU swimming, ending in 1985, age 14.

She excelled in swimming. As a reward King took her out to dinner, as a reward. They later kissed. The next day he called and stated now they will make love. She rode her bike to the Elegant Bib, a local restaurant. King had an apartment nearby. She entered his apartment. He gave her a contraceptive sponge. They had sexual intercourse. Over a three month period of time they had sex five times. He kept saying "I can't believe this you are only 14" and he told her: "he loved her" and "she was special". Also he hoped another swimmer Debbie Doe would not discover Alice at his apartment. Eventually, she broke it off and quit the swim team. She did not want her parents to know about her relationship with King and she also felt sorry for King. At the time she indicated she did not want the case prosecuted. Detective Fleming did not contact Alice's parents or interview the suspect, King.

Jane Doe VII

Emily Doe, age 11-13 (2002-3) started swimming for King. He routinely gave massages and touched girl's buttocks. He grazed her buttocks and put his arm around her near her breasts and made her feel uncomfortable. She and Karlee Doe told their parents about King's behavior.

1 **Jane Doe VIII**

2 Tanya Doe also swam at Chabot Aquatics. Between 1985-6 King made inappropriate
3 sexual advances. When she was 13, King initiated frequent telephone call to her. King began
4 telling her about his personal issues; she consoled him. He told her she was special, which made
5 her feel like his girlfriend. The first assault took place in his pool office. He kissed her on the
6 lips; she was flatter that an older man, 37-8 years old found her attractive. On another occasion
7 he drove her home. Her parents were not home. He kissed her goodbye, inserting his tongue
8 into her mouth. She noticed at a meet in Reno, girls only were rotating through his room; he
9 was again giving massages. Another incident occurred in King's hotel room. He fondled her
10 vagina over her clothing. When she had a boyfriend, King became competitive with her
11 boyfriend.

12 **Jane Doe IX**

13 Debra Doe swam for King beginning in 1980-1. She was 11-12 years old at the time.
14 King began taking an interest in her, eventually knowing everything about her. He made
15 comment on her body: she was getting curvy, sexy. Like other victims, she too blossomed early.
16 King again gained her and her family's trust. King kissed her and fondled her breast and vagina
17 at least once a week. As she became a better swimmer, her time spent with King increased.

18 King escalated his behavior. At age 13 he digitally penetrated her vagina with his fingers,
19 he orally copulated her. These acts occurred 1-2 times a month. In 1983 she continued to
20 improve her swimming, which again resulted in more time alone with King. The digital
21 penetration and oral copulation continued. He showed her a magazine clipping of a couple with
22 a large age difference. He continued to tell her the age difference was no big deal. He again
23 spoke of marriage. On one occasion she performed oral copulation on King.

24 At age 14, the sex contacts occurred 3 to 4 times a month. King also confided about his
25 marital problems to her. Around Christmas of 1983 the sexual contacts increased to 2-3 times a
26 week. At age 15 she qualified for the Nationals in Florida. King chaperoned her. King had
27 sexual intercourse with her. She had a boyfriend and King became jealous. She thought this
28

1 was odd since king was married at the time. King also suggested that she go on the "pill". He
2 asserted not only would it prevent a pregnancy but it would also aid her swimming.

3 After Florida, she also qualified for an international swim meet; however her parents did
4 not allow her to compete. King became angry with her and her parents. King was looking
5 forward to the trip: they could be a normal couple.

6 At age 16, she confided in another swimmer about King's abuse. Shortly thereafter King
7 proposed to her. He also wrote love letters and a song to her. He had just separated from his
8 wife, a former swimmer. She "freaked out" She gave up swimming. King constantly
9 badgered her into believe that without him she would never qualify for the Olympics. He also
10 told her that if she told anyone he would be fired and she would no longer be able to swim
11 competitively.

12 She missed swimming and later returned to Chabot Aquatics but under the condition that
13 King would no longer have sexual contacts.

14 15 **Jane Doe X**

16 Mary Doe swam for King from 1980-4, age 13-17. Initially king commented on her
17 body: "Nice butt, ass" He then sought to build her trust. He took her to dinner and gave her
18 alcohol. King treated like a friend and told her about his marital problems. This made her feel
19 closer to King. He told her he loved her. King placed his hand on her waist and buttocks. He
20 then started kissing her. Initially it was a peck but they progressed to longer kisses. At the time
21 she thought she could handle the situation. She told King she had a boyfriend. In 1984 she
22 went to college. King continued to write letters regarding his marriage. At the end of her
23 interview she remembered walking into King's hotel room during an away meet. He was
24 watching a pornographic video with another swimmer; he invited them to watch too.

1 **Jane Doe XI**

2 Jennifer Doe also swam for King. King again commented on the body of the female
3 swimmers. In 1987, age 17, during an away meet she went to King's hotel room to fill out some
4 paper work. King told her to sit on the bed. He sat next to her and then pushed her back onto the
5 bed. He then kissed her. She immediately jumped up and told King it was not "okay". She
6 told him to take her home or she would tell her father.

7
8 **Jane Doe XII**

9 Laurie Doe swam for King from age twelve to seventeen. When she was eighteen she
10 had returned home from college (summer 1983). She went to King's home to speak to him about
11 qualifying for the Olympics. King opened the door and told her she was cute. He then lunged at
12 her and kissed her using his tongue. He then commented she was a good kisser. Within a few
13 moments his wife Diana came home, which interrupted King.

14 Later she heard a rumor that King was with Debra Doe. She questioned King about his
15 relationship with Debra Doe. King responded: He loved Debra and would dig ditches to be next
16 to her. Debra was 14 at the time. She then confronted Debra who denied any sexual
17 involvement with King.

18
19 **Jane Doe XIII**

20 Stephanie Doe joined King's swim team as a freshman in college, age 18 (1986). He
21 made comments to her: Her breasts were too big and "more than a mouthful was a waste." He
22 would check the tightness of her swimsuit by placing his had between the suit and her body. His
23 hand inevitably touched her breasts. At times he would have her bend over, while he was
24 working on her swimming form. He would then touch her buttocks. No substantial sexual
25 conduct occurred with Stephanie Doe.

1 **Jane Doe XIV**

2 She learned of this case through the press. Lynn Doe swam for King from 1978 until
3 1986. She was ten years old when she began swimming for King. She too blossomed early.
4 Unfortunately, her brother died the previous year and her home life was troubled. King acted as
5 a father figure to her. King began to ask when "Charlie", meaning her period, arrived. King
6 gave her hot oil rub downs. During these rub downs he began to fondle her vagina, eventually
7 he penetrated her vagina with his fingers; she was ten years old. While in his office, nicknamed
8 the dungeon, King had Lynn sit on his lap. He would then insert his fingers into her vagina.
9 King told her this would make her feel better. He would also rub her breasts.

10 The sexual contacts escalated to sexual intercourse. While sitting on King's lap he pulled
11 her swimsuit aside and inserted his penis into her vagina. She cried. It hurt so much that she
12 could not make a noise. King rocked her back and forth. King had substantial sexual conduct
13 with Lynn Doe from that day. He would have sexual intercourse at least once a month and
14 digital penetration 2-3 times a month. She was touched or rubbed on a daily basis. King had
15 her orally copulated him on two occasions. He orally copulated her too. Except for the time she
16 swam on the high school team, King sexually abused her. At an away meet, King put on a
17 pornographic video for her and other swimmers to watch. At another away meet, she stayed in
18 King's room. King had sexual intercourse with her.

19 At the age of 14 King impregnated her. She went to Planned Parenthood and had an
20 abortion. King was very close to her family and bought her gifts. At one point when she was 13
21 or 14 King proposed marriage. The last incident occurred when king coached at Chabot
22 Aquatics. King invited her to see his new office. She went with a friend. When they were
23 alone King picked her up and started kissing her. He forcibly rubbed his body against his.

24
25 **Jane Doe XV**

26 Taylor Doe swam for King at San Jose Aquatics. Taylor was given rub downs by King.
27 Taylor commented, "I don't think he means to touch us inappropriately" She never saw him
28

1 give boys a massage, just girls. At times he would place his arm around her hips. During the
2 rub downs he would rub the sides of her chest, eventually touching the sides of her breasts. She
3 would move forward to keep his fingers off her breasts. She believed the King was not
4 intentionally touching her breasts. When asked if King would have touched her breast if she did
5 not move away, she responded, "It's possible, I mean, he is a guy."⁵

6 7 **GENERAL SENTENCING OBJECTIVES**

8 In enacting Penal Code Section 1170 et seq., the Legislature stated that, "the purpose of
9 imprisonment for crime is punishment." Penal Code Section 1170(a)(1) By so stating, the
10 Legislature made clear that the primary objective for a sentencing court is to impose appropriate
11 punishment for the unlawful conduct of the defendant.

12
13 To determine this punishment, a Superior Court must follow the Sentencing Rules for the
14 Superior Court of Division III, Title II of the California Rules of Court. Rule 4.410 outlines the
15 general sentencing objectives, which must be considered in determining the appropriate
16 sentence.⁶

17
18 Rule 4.410 again makes clear that the primary considerations for a sentencing judge are to
19 protect society and punish defendant in accord with the seriousness of his or her crimes.⁷

20 He is not a candidate for probation. These crimes are a clear pattern of pedophile
21 behavior. DSM IV defines Pedophilia as: Over a period of at least 6 months, recurrent, intense
22

23
24 ⁵ A copy of all the police reports are attached as Exhibit B (San Leandro PD) Exhibit C (Oak Harbor PD) Exhibit D
(Contra Costa Sheriff's Department)

25 ⁶ These objectives are: a) protecting society; b) punishing the defendant; c) encouraging the defendant to
26 lead a law abiding life in the future and deterring him from future offenses; d) deterring others from
27 criminal conduct by demonstrating its consequences; e) preventing the defendant from committing new
28 crimes by isolating him for the period of incarceration; f) securing restitution for the victims of crime; and
g) achieving uniformity in sentencing.

sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a prepubescent child or children (generally age 13 or younger).⁸ Mr. King has demonstrated sexual behavior with children from 1978 until 2009, 31 years. He engaged in substantial sexual conduct with children as young as ten years of age. He molested multiple children while at Chabot Aquatics; some of the victims overlap. He went as far as to propose to most of his victims; however once they reached eighteen he moved on to another child. These children and their parents trusted him as a coach.

He repeatedly abused his position of authority and used his coaching status to gain re-occurring access to children. Once he gained their trust through initial grooming actions, he would engage in substantial sexual conduct. He is a traditional serial pedophile:

- He was attracted to a certain age group 10-17 years of age;
- He gave gifts, dinners and rides;
- He made them feel special;
- He told them to keep a secret;
- He threatened to end their swimming careers (bullied);
- He had an inherent position of trust.
- He started with touching then kissing and finally escalated his behavior to include sexual intercourse, oral copulation and digital penetration;
- He made them feel sorry for him;
- He told them the age difference was okay

⁷ Additionally King should be denied probation under the criteria enumerated by Rule 414.

⁸ Diagnostic criteria for 302.2 Pedophilia:

A. Over a period of at least 6 months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a prepubescent child or children (generally age 13 years or younger).

B. The person has acted on these urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty.

C. The person is at least age 16 years and at least 5 years older than the child or children in Criterion A.

Under Rule 4.421(a) 3, 8, 11 and Rule 4.421(b) 1 (Circumstances in Aggravation), King should receive an aggravated sentence. Unfortunately, King fell through the cracks in the system: two law enforcement investigations and suspicious conduct observed by swim coaches, parents or boards who did not adequately supervise the defendant. In Oak Harbor he abruptly left his employment and moved out of state, coincidentally as he was being investigated by law enforcement. In a small community, King could have been tipped as to the nature of the investigation. The red flags should have gone up when King was only massaging girls behind closed doors, traveling alone with girls to away meets, taking girls to dinner, sailing on his boat and buying them gifts. The warning signs were everywhere.

The court can not correct the past. However this court can hold the defendant, King accountable for 20 counts of child molestation of three separate charged victims, two of which suffered substantial sexual conduct by King, and twelve uncharged victims.⁹

The People recognize King entered a plea prior to the preliminary hearing and has no previous record. The court under the sentencing rules must consider these factors in the ultimate sentence. However, King's sexual conduct over a period of three decades is egregious. The sad fact is that King could have been stopped years ago, sparing other victims from King's sexual desire. "Coach Andy" has enjoyed 61 plus years of freedom at the expense of children and their families. In this case the court should impose a sentence to ensure that the defendant, age 61, will never be allowed to harm children again.

⁹ The court can also consider the other uncharged victims who would have been called to testify at trial under Evidence Code Section 1108, 1101(b) as well as his social history.

1 DATED: November 18, 2009

Respectfully submitted,

2 DOLORES A. CARR
3 DISTRICT ATTORNEY

4
5 BY:

6 RAYMUNDO MENDOZA
7 Deputy District Attorney
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28