1 IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS THIRD DIVISION 2 ORIGINAL 3 STATE OF KANSAS, Plaintiff, Case No.: 09-CR-000496 4 VS. 5 TREVOR JONES. Defendant.) 6 7 U 8 9 TRANSCRIPT OF SENTENCING 10 11 PROCEEDINGS had before the Honorable Jean M. 12 Schmidt, Judge of Division 3 of the District Court of Shawnee County, Kansas, at Topeka, Kansas, on the 13 14 18th day of September, 2009. 15 16 17 **APPEARANCES:** 18 The Plaintiff, State of Kansas, appeared by and through its counsel, Ms. Mickie Brassel, Assistant 19 20 District Attorney, 200 Southeast 7th Street, Room 21 214, Topeka, Kansas 66603. 22 The Defendant, Mr. Trevor Jones, appeared in person 23 and by and through his counsel, Mr. Malcolm Copeland, Attorney at Law, 2813 Southwest Westport Plaza Drive, 24

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Topeka, Kansas

1 THE COURT: We'll go on the record in 2 09-CR-496, State versus Trevor Jones. 3 May I have the appearances, please. 4 MS. BRASSEL: May it please the Court, Your Honor, the State of Kansas appears by Mickie 5 6 Brassel. 7 MR. COPELAND: May it please the Court, Your Honor, Mr. Trevor Jones is present, with 8 9 counsel, Malcolm Copeland. 10 THE COURT: All right, thank you. 11 This case is set for sentencing this morning following a plea and a finding of guilt entered on 12 13 July 23rd of 2009. 14 Both parties received a copy of the presentence 15 investigation report? 16 MS. BRASSEL: Yes, Your Honor. 17 MR. COPELAND: Judge, we have, and I've talked with my client and gone over it. It is the 18 19 proper criminal history. We would have no objection 20 to criminal history. 21 THE COURT: All right. That shows 22 criminal history "I". 23 Is there any cause or legal reason why sentence 24 shouldn't be pronounced at this time? 25 MS. BRASSEL: No, Your Honor.

1	MR. COPELAND: No, none by the defense,
2	Your Honor.
3	THE COURT: All right. Ms. Brassel,
4	do you have any victims that want to be heard this
5	morning?
6	MS. BRASSEL: No, Your Honor, we do not
7	have any victims present this morning.
8	They had previously submitted restitution
9	information or we have received restitution
10	information from Mt. Calvary Cemetery.
11	And with regard to the church, we would ask that
12	you keep restitution open for 30 days on that. We're
13	working with an insurance company.
14	THE COURT: But there are no victim
15	MS. BRASSEL: No.
16	THE COURT:impact statements
17	filed?
18	MS. BRASSEL: No, Your Honor.
19	THE COURT: I was going to say, I
20	didn't show any.
21	MS. BRASSEL: No, Your Honor.
22	THE COURT: All right then. I'll
23	hear statements from the State.
24	MS. BRASSEL: Your Honor, the State is
25	asking the Court to follow the recommendations as set

forth in the presentence investigation. With regard to the count of arson to property or building, not a dwelling, criminal history "I", for a Severity Level 7 nonperson felony, we would ask that the Court sentence Mr. Jones to 12 months with the Secretary of

6 Corrections, with a post-release of 12 months.

With regard to the count for conspiracy to commit criminal desecration, a Level 10 nonperson felony, we would ask the Court to sentence him to six months with the Secretary of Corrections, to run concurrent with the arson count.

And with regard to the criminal desecration, a Level 9 nonperson felony, we would ask the Court to sentence him to six months with the Secretary of Corrections, running concurrent with the other two counts.

Give him credit for any time that he has served.

Pursuant to the Sentencing Guidelines, Mr. Jones is presumptive probation, and we would ask the Court to follow the recommendations in both the plea agreement and the presentence investigation, and suspend any commitment to the Secretary of Corrections in favor of 12 months of supervised probation with Court Services.

We would ask the Court to order that Mr. Jones

1 submit a sample of his DNA and his palm prints, that 2 he pay a \$100 DNA collection fee, that he pay \$173 in 3 court costs, a surcharge of \$10, a probation fee of \$50. 4 5 With regard to a Mt. Calvary Cemetery, the 6 restitution is \$10,000. He would be joint and 7 severally liable with the co-defendant, Nicholas 8 Sarkesian. 9 We would ask the Court to order him to abide by 10 District Court Rule 3.308. We would also ask the 11 Court to authorize the 60-day sanction to be served in 72-hour increments for technical violations of the 12 13 conditions of his probation. 14 With regard to restitution owed to Hillside 15 Community Church, we would ask the Court to keep that 16 open for 30 days. And within 30 days, Your Honor, 17 the State will either provide you with an agreed 18 order, or a request for a hearing. 19 THE COURT: Okay. 20 MS. BRASSEL: Thank you. 21 THE COURT: The PSI for a 7, we would 22 Is there any reason why you suggested Court go ISP. 23 Services instead? 24 MS. BRASSEL: Your Honor-- no, Your Honor,

I believe that that was an agreement

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there wasn't.

that Mr. Copeland and I had. 1 2 THE COURT: Okay. All right. Copeland? 3 4 MR. COPELAND: Judge, counsel did say 5 12 months probation. I believe my Sentencing 6 Guidelines shows--7 It shows 24. THE COURT: MR. COPELAND: --24. And I-- that-- on 8 9 the first sheet of the presentence report, it says 10 12 months. It later says 24. But we are willing to 11 accept the 24 months. 12 Your Honor, we would advise the Court that there 13 were extensive negotiations and long hours on both 14 the State and the defense side in coming to this 15 agreement. We believe it's fair and reasonable, and 16 we would respectfully ask the Court to follow the 17 agreement and follow the guidelines as set out in the 18 presentence investigation report. 19 Mr. Jones has no excuses, he accepts 20 responsibility, and would the ask Court to follow the 21 agreement. 22 THE COURT: All right. Mr. Jones, 23 you have the right to speak. You don't have to, but 24 you have the right to address the Court, or make any

statement for me to consider as a mitigating factor,

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1	or in other words, why I should lessen your sentence
2	from that recommended from the guidelines, or just to
3	provide me with information.
4	DEFENDANT JONES: Your Honor, I would like
5	to firstly apologize for what I've done. I know I
6	hurt a lot of people, and I would just like to
7	apologize for it.
8	THE COURT: Did you do any time
9	anywhere on this? Were you in detention for any
10	period of time?
11	DEFENDANT JONES: Your Honor?
12	THE COURT: Like jail?
13	MR. COPELAND: Juvenile?
14	DEFENDANT JONES: No, Your Honor.
15	THE COURT: Nothing.
16	DEFENDANT JONES: No.
17	THE COURT: How many other people
18	ended up being charged out of this?
19	MS. BRASSEL: Your Honor, there was one
20	other person charged with regard to the cemetery and
21	Hillside Community Church, and that was Nicholas
22	Sarkesian.
23	THE COURT: There are a bunch of
24	other people talked about. Could cases not be made
25	against them, or what

1 MS. BRASSEL: Your Honor, to be perfectly 2 honest with you, there was -- that was not something 3 that I-- I was not involved in those cases. THE COURT: 4 Okay. 5 MS. BRASSEL: I know there were several 6 names that were thrown out during the investigation. 7 But with regard to Mount Hope Cemetery-- or, excuse 8 me, with regard to Mt. Calvary Cemetery, the only two individuals that the investigations bore out were 10 present and actually did the damage were Nicholas 11 Sarkesian and the defendant. 12 THE COURT: Okay. MS. BRASSEL: And with regard to Hillside 13 14 Community Church, there were two other individuals, 15 one of which was-- I think both were juveniles at the 16 time, and I'm not sure what the disposition of those 17 cases were. 18 THE COURT: Okay. Well, I feel 19 compelled to ask you, what was the deal with 20 churches? Why were they singled out? 21 DEFENDANT JONES: I couldn't give you an 22 honor for that -- or answer for that, Your Honor. 23 THE COURT: Well, I'm sure if there 24 were people-- well, I'm sure there were a lot of 25 people affected by what you did. I was kind of

curious that I didn't have any statements from them. 1 But because they haven't, I feel compelled to tell 2 you, it would be horribly disconcerting to people who 3 4 go out every Memorial Day to place flowers on their 5 loved one's graves, or to go back and just sit and 6 contemplate and have time to think about them, you know, to have grave stones turned over, broken, 7 8 disrupted. I hope your parents, or your family, or 9 somebody else helps you understand that. 10 In looking at the sentencing recommendations, I 11 mean, one of the difficulties is the dates of the 12 offenses. One was back, I mean, over three years 13 ago, so there's--Are all of the dates of the offenses that old? 14 15 MR. COPELAND: Yes, Your Honor. 16 MS. BRASSEL: Yes, Your Honor. 17 THE COURT: Okay. All right. What 18 have you been doing for the last three years? 19 DEFENDANT JONES: I have gotten my GED, and I've been working, and I plan on going to college 20 21 soon. 22 THE COURT: Okay. All right. Well, 23 as the presentence investigation report shows, and 24 the attorneys have told me, this case under

Sentencing Guidelines means that I should follow the

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Sentencing Guidelines. The Sentencing Guidelines for the offenses for which you stand convicted recommend 12 months on the Severity Level 7 offense, and it's presumptive probation.

Neither party has filed a motion for a departure, or identified mitigating or aggravating circumstances.

Count 2 then, as a Severity Level 9, criminal history "I", would be six months.

I'm sorry, the second count was Severity Level 10, and that would be six months.

And Count 3, which is a Severity Level 9, would be six months.

The State agreed to recommend concurrent sentences, which I will agree-- well, I will confirm and order as it relates to Counts 2 and 3, but I'm going to make them consecutive to Count 1 so that you have a controlling term of 18 months.

The reason I did that is because you haven't spent any time in jail. If you violate the terms of probation, I want you to spend time, a long enough time incarcerated, that you have a clear understanding of the effect of what you did on the community. You would also be given credit for time served. You would be eligible for 20 percent good

time, so it would be less than 18 months. And that's the reason I'm not going down to 12, because I think with the good time credit, and by the time you got there, you wouldn't, you wouldn't spend enough time, frankly.

So in regard to Count 1 on which you have criminal history "I", a Severity Level 7 nonperson felony, I sentence you to 12 months.

On Count 2, Severity Level 10, criminal history "I", six months. And I want that consecutive to Count 1.

Count 3-- no, wait. I need to redo these, because Count 1 was criminal desecration. Count 3 is the controlling offense. Counts 1 and 2 are the criminal desecration and conspiracy. On each of those I assign you six months. Those to run internally concurrent, but consecutive to Count 3.

Post-release supervision -- if you were required to spend time in prison, you would be subject to 12 months post-release supervision.

Under the guidelines, the execution of the sentence should be suspended. That under the guidelines, recommended probation term was 24 months with ISP, and that's what I'm ordering.

I'm ordering the 60-day sanction be made available

1	to Court Services to impose in 72-hour intervals at
2	their discretion.
3	How long do you work full-time?
4	DEFENDANT JONES: Yes, Your Honor.
5	THE COURT: And where do you work
6	or how much do you make? Don't tell me where you
7	work necessarily.
8	DEFENDANT JONES: An hour?
9	THE COURT: Uh-huh.
10	DEFENDANT JONES: \$7.25.
11	THE COURT: Okay. Given the what
12	I'm considering is community service work. Have you
13	done anything in terms of community service since
14	during the last three years since this occurred?
15	DEFENDANT JONES: No, Your Honor.
16	THE COURT: In addition to getting
17	your GED, did you pursue any other type of education?
18	DEFENDANT JONES: Not yet, Your Honor.
19	THE COURT: You said you're thinking
20	about going to college. Have you made applications
21	or taken the ACT?
22	DEFENDANT JONES: Not yet.
23	THE COURT: Okay. So it wouldn't be
24	until next fall that you would probably be eligible?
25	DEFENDANT JONES: Yes, Your Honor.

THE COURT: Okay. How many hours a 1 2 week do you work? DEFENDANT JONES: Forty. 3 THE COURT: And do you support anyone 4 else on your salary? 5 DEFENDANT JONES: No, Your Honor. 6 In regard to the-- you THE COURT: 7 said Mount Calvary, it's \$10,000? 8 MS. BRASSEL: \$10,000, Your Honor, yes. 9 THE COURT: Restitution will be 10 ordered, which means you are ordered to make a good 11 faith effort to make restitution in this case, which 12 means substantial and regular payments. 13 authorize Court Services to impose-- or use community 14 15 service to work off the court costs of \$173. 16 surcharge of \$10, probation fee of \$50, DNA fee of 17 \$100 must be paid. The reason why I'm allowing you to do community 18 service work to work off some of the court costs is 19 20 because whatever money you have that can be paid into 21 the Court I want to go to restitution. 22 I'll leave restitution open for 30 days as to-- you 23 said Hillside? MS. BRASSEL: Hillside Community Church, 24 25 Your Honor.

Okay. As a specific THE COURT: 1 condition of probation, if the Court Services officer 2 believes it appropriate, and if the members of the 3 churches or -- and the cemetery that you effected want 4 to have a meeting with you, I'm going to order that 5 If it means going to the church and 6 vou do so. making a standup open public apology, if they want 7 that, then that will be an order, a part of 8 9 probation. **DEFENDANT JONES:** 10 Okay.

THE COURT: You haven't met with any of those so far, have you?

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DEFENDANT JONES: No, Your Honor.

THE COURT: Okay. It will be at their discretion. They may not want to. Now, it should be in a controlled environment. You know, it wouldn't-- when people come in here to Court and make statements, I don't let them stand up and rail at each other. But I'm sure that the church would be--would treat you with dignity and respect if you approached them with dignity and respect with an apology.

I've followed the Sentencing Guidelines, and I
think I assigned you a legal sentence. But you have
a right to appeal the sentence. That appeal would

have to be filed within 10 days.As a convicted felon, you are

As a convicted felon, you are prohibited from carrying a firearm. And I always tell people ammunition also, because if you don't have a gun, you don't need to be carrying bullets.

You have lost the right to vote until you have been fully discharged from probation.

At some point in the future, you may be eligible for expungement, which is a procedure under Kansas law where you can have convictions erased from public record. It typically requires that you wait three years from completion of the term of your probation to make an application to the Court. Mr. Copeland can give you a copy of that statute so that you know what the terms-- what to-- how to make yourself eligible for the-- for that procedure.

All right. Have I missed anything, or need to address anything further?

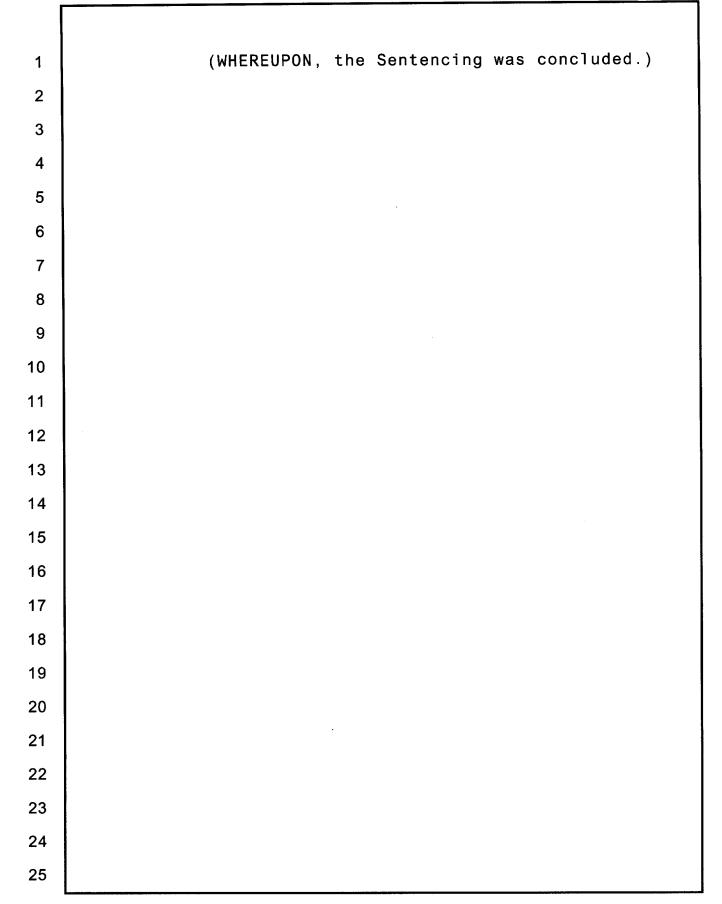
MS. BRASSEL: Your Honor, just that he needs to submit his palm prints.

THE COURT: Right. Court Services will take care of that.

Anything further then Mister--

MR. COPELAND: Judge, you keep referring to Court Services, but I think he's on ISP.

1	THE COURT: Right. But I thought I
2	don't know which one of them does the palm prints and
3	stuff. I thought Court Services. It may be ISP.
4	So, Mr. Jones, immediately upon leaving the
5	courtroom
6	Do I have the ISP is ISP here?
7	MS. BRASSEL: No.
8	THE COURT:you'll need to go over
9	to the ISP office. That's over in the Anchor
10	building over on Kansas Avenue.
11	DEFENDANT JONES: Okay.
12	THE COURT: They will sit down with
13	you. They will explain to you what the probation
14	terms are. You need to take those seriously, and
15	always keep a copy of them with you so that you can
16	know what's expected of you. Do you have any
17	questions?
18	DEFENDANT JONES: No, Your Honor.
19	THE COURT: All right. Thank you
20	very much. I hope that I won't see you back here
21	under these circumstances. Good luck to you.
22	MR. COPELAND: Thank you, Judge.
23	THE COURT: All right. We'll be in
24	recess.
25	MS. BRASSEL: Thank you, Your Honor.



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## CERTIFICATE

STATE OF KANSAS ss: COUNTY OF SHAWNEE

I, Sarah A. Regnier, the regularly appointed, qualified, and acting official reporter of Division No. 3 of the Third Judicial District of the State of Kansas, do hereby certify that as such Official Reporter, I was present at and reported in Stenotype shorthand the above and foregoing proceedings in Case No. 09-CR-496, State of Kansas, Plaintiff, vs. Trevor Jones, Defendant, heard on September 18, 2009, before the Honorable Jean M. Schmidt, Judge of Division No. 3 of said Court.

I further certify that at the request of Judge Jean Schmidt, a transcript of my shorthand notes was typed and that the foregoing transcript, consisting of 17 typewritten pages, is a true copy of said Sentencing.

SIGNED, and delivered this 21st day of October, 2009.

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REGNIER #1589