

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the Professional License
of Drake M. Foster

13-PPC-43

FINAL ORDER

NOW, on this 17th day of April, 2015, the above-captioned matter comes for consideration by the Kansas State Board of Education (Board) upon the professional license of Drake M. Foster.

WHEREUPON, a complaint was filed by the Kansas State Department of Education and Mr. Foster had the opportunity to respond to the complaint. Mr. Foster did not respond to the complaint. The complaint and supporting evidence were reviewed by the Professional Practices Commission (Commission).

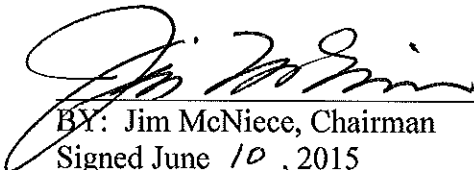
WHEREUPON the Board reviewed the Commission's Initial Order and after considering the presentation by Calin Kendall, Chairman of the Commission, who was available to answer the Board's questions and being otherwise duly advised in the premises, the Board adopted the Commission's findings of fact and conclusions of law by a vote of 10-0.

All findings set forth in the Commission's Initial Order attached hereto are incorporated by reference and made a part of this Final Order as though fully set forth at length herein.

IT IS THEREFORE CONCLUDED by the Kansas State Board of Education that Drake Foster's teaching license and any endorsements shall be retroactively revoked immediately.

This Final Order is made and entered this 17th day of April, 2015.

Kansas State Board of Education


BY: Jim McNiece, Chairman
Signed June 10, 2015

NOTICE TO APPLICANT

You may request a reconsideration of the above Order. To do so, you must file a Petition for Reconsideration with the Secretary to the State Board of Education, at the address stated below, within 15 days after service of this Final Order. The Petition must state the specific grounds upon which relief is requested.

The filing of a Petition for Reconsideration is not a prerequisite for seeking judicial review.

Peggy Hill
Secretary, KSBE
Landon State Office Building
900 SW Jackson Ave. Suite 600N
Topeka, Kansas 66612

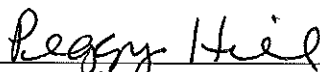
CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of June, 2015, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Drake M. Foster
2135 N. Western Ave. #4C
Liberal, Kansas 67901

And via interoffice mail to:

Kelli M. Broers
Attorney, Kansas State Department of Education
Landon State Office Building
900 SW Jackson Ave., Suite 102
Topeka, Kansas 66612



Peggy Hill, Secretary
Kansas State Board of Education

**BEFORE THE KANSAS STATE BOARD OF EDUCATION
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of
the Professional License
of Drake M. Foster

13-PPC-43

INITIAL ORDER

COMES NOW the Professional Practices Commission on this ^{26th} day of February, 2015, and makes the following recommendations to the State Board of Education.

FINDINGS OF FACT

1. The Kansas State Department of Education filed a Complaint pursuant to K.A.R. 91-22-5a on August 5, 2013 [Attached as Appendix I]. That Complaint was mailed by certified mail, return receipt requested, to the last known address of Drake M. Foster on August 5, 2013. The attached certificate of service [Exhibit A] shows Mr. Foster's receipt of the Complaint on August 17, 2013.
2. Mr. Foster [Licensee], 2135 N. Western Ave. #4C, Liberal, KS 67901, was licensed by the Kansas State Board of Education from May 19, 2012, through May 19, 2014. Upon the expiration of his license he did not reapply.
3. Court documents on file in the District Court of Seward County, Kansas, indicate Licensee pled no contest on May 23, 2013, to Indecent Solicitation of a Child, a person felony. As defined in K.S.A. 21-5508(a)(1), Indecent Solicitation of a Child is to unlawfully and feloniously entice, command, invite, persuade or attempt to persuade a child 14 or more years of age but less than 16 years of age, to commit or submit to an unlawful sexual act. The offense occurred in November 2012. The Journal Entry of Conviction for 12CR460 [Exhibit 1 of the Complaint] is attached.
4. The Licensee was licensed as a professional educator and employed by USD 480 at the time of his conduct.
5. Mr. Foster did not file a Request for a Hearing nor did he submit an Answer. The Complaint specifically advises the Licensee that "If no answer is filed within 20 days, Applicant will be deemed to have admitted the allegations contained in the complaint and acquiesced in the proposed action. An Initial Order will be entered recommending the revocation of your teaching license and all endorsements for the reasons stated in the Complaint and that notice of the revocation will be provided to all education agencies in the State of Kansas and to the agency responsible for issuing educator licenses/certificates in each of the other states."

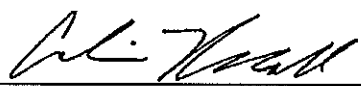
CONCLUSIONS

1. Any license issued by the State Board may be suspended or revoked, or the license holder may be publicly censured by the State Board for misconduct or other just cause; including the commission of any crime punishable as a felony. K.A.R. 91-22-1a.
2. Pursuant to K.S.A. 72-8501, the Legislature has declared teaching and school administration to be professions in Kansas with all the similar rights, responsibilities and privileges accorded other legally recognized professions. An educator is in a position of public trust.
3. Mr. Foster waived his right to an evidentiary hearing before the Professional Practices Commission and the State Board of Education. All findings of fact are based on the non-refuted claims stated in the sworn Complaint, **Exhibit 1 of the Complaint**, and **Exhibit A**.
4. If no answer to a Complaint is filed within 20 days, Applicant is deemed to have admitted the allegations contained in the Complaint and acquiesced in the proposed action. K.A.R. 91-22-9.
5. The Licensee's criminal conduct in engaging in sexual acts with someone 14 or more years of age but less than 16 years of age is inconsistent with the commonly-held perceptions and expectations of a member of the teaching profession. Such conduct violates the public trust and confidence placed in members of the profession.
6. The Licensee's criminal conduct in sexual acts with someone 14 or more years of age but less than 16 years of age demonstrates a lack of fitness to perform the duties and responsibilities of a member of the teaching profession and is sufficient and just cause for revoking Applicant's license pursuant to K.A.R. 91-22-1a.
7. Furthermore, pursuant to K.S.A. 72-1397(a)(6), Mr. Foster's conviction, as defined in K.S.A. 21-5508(a)(1), bars the Kansas State Board of Education from renewing Mr. Foster's license or issuing him a license any time in the future.

IT IS THEREFORE CONCLUDED by the Professional Practices Commission, by a vote of 8 - 0, subject to review by the State Board of Education, that Drake Foster's professional teaching license should be retroactively revoked.

This Initial Order is made and entered this February 26, 2015.

PROFESSIONAL PRACTICES COMMISSION



Calin Kendall, Chairman
Order signed on 2/26, 2015.

NOTICE TO APPLICANT


This Order of the Professional Practices Commission is not a Final Order and is required to be reviewed by the State Board of Education in accordance with the provisions of the Kansas Administrative Procedure Act.

You may submit to the State Board of Education for its consideration as part of its review of the Initial Order, a written brief citing legal authority as to why the above recommendation should not be accepted. The legal brief must be filed with the Secretary of the Professional Practices Commission at the address indicated above within ten days after service of the Initial Order for transmittal to the State Board.

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of March, 2015, a true and correct copy of the above and foregoing was filed with the Secretary for the Kansas State Board of Education and one (1) copy was mailed by certified mail, return receipt requested, to:

Drake M. Foster
2135 N. Western Ave. #4C
Liberal, Kansas 67901



Theresa Cote
Secretary, Professional Practices Commission

**BEFORE THE KANSAS STATE BOARD OF EDUCATION
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of
the Professional License
of Drake M. Foster

13-PPC-43

APPENDIX I

8. The Licensee's criminal conduct in engaging in sexual acts with someone less than 16 years old demonstrates a lack of fitness to perform the duties and responsibilities of a member of the teaching profession and is sufficient and just cause for revoking Applicant's license.

NOTICE

Pursuant to K.A.R. 91-22-1a(h) and K.S.A. 77-512, notice is hereby given of this Complaint and Request for Revocation of Licensee's professional teaching license.

RIGHT TO A HEARING

Applicant has a right to request a hearing on the above issues and request for denial in accordance with the provisions of the Kansas Administrative Procedures Act. To obtain a hearing, a written request for a hearing must be filed with the Secretary of the Professional Practices Commission within fifteen [15] days of the date of service of this notice at the following address:

Theresa Cote
Secretary, Professional Practices Commission
Kansas State Department of Education
120 SE 10th Ave.
Topeka, KS 66612-1182

Applicant has a right to file a written answer to this complaint. Applicant has twenty [20] days from the date of service of this notice. If no answer is filed within 20 days, Applicant will be deemed to have admitted the allegations contained in the complaint and acquiesced in the proposed action. An Initial Order will be entered recommending the revocation of your teaching license for the reasons stated in the Complaint and that notice of the revocation will be provided to all education agencies in the State of Kansas and to the agency responsible for issuing educator licenses/certificates in each of the other states.

Any answer shall type written or legibly printed, and any documents you intend to use in your defense must be attached. The answer must be signed and contain a statement under oath or affirmation that the statements made in the Answer are true. The Answer must be notarized and filed with the Secretary of the Professional Practices Commission by certified mail, return receipt requested, or by personal delivery to the address listed above.

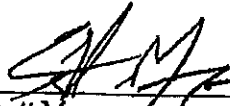


Scott Myers
Director, Teacher Education and Licensure

VERIFICATION

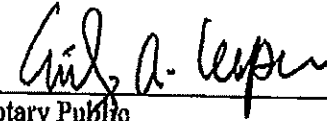
STATE OF KANSAS)
) SS:
COUNTY OF SHAWBEE)

Scott Myers, of lawful age, being first duly sworn, on oath deposes and states: That he is the Complainant in the above-captioned action; that he has read the above and foregoing Complaint knows and understands the contents thereof, and states that the statements and allegations contained therein are true and correct, according to his knowledge, information, and belief.



Scott Myers
Director, Teacher Education and Licensure

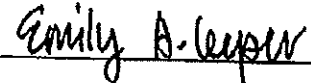
SUBSCRIBED AND SWORN TO before me, the undersigned authority, on this 5th day of August, 2013.

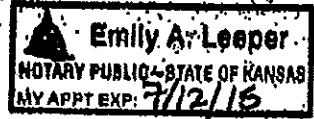


Notary Public

My appointment expires:

7/12/13

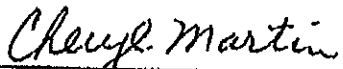




CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of August, 2013, a true and correct copy of the above and foregoing Complaint/Notice of hearing was filed with the Secretary for the Professional Practices Commission and one (1) copy was mailed by certified mail, return receipt requested, to"

Drake M. Foster
2135 N. Western Ave. #4C
Liberal, KS 67901



Cheryl Martin
Teacher Education and Licensure

IN THE DISTRICT COURT OF SEWARD COUNTY, KANSAS



STATE OF KANSAS,
Plaintiff,

-vs-

Case No. _____
SEWARD COUNTY

DRAKE MARSHALL FOSTER, Defendant,
2135 N. WESTERN AVE, #4C, LIBERAL, KS 67901

DL: [REDACTED] D/O/B: [REDACTED] Race/Sex: White/male Height: 507 Weight: 175 Eye Color: Hazel Hair Color: Brown

COMPLAINT

Mollisa G Johnson, Assistant County Attorney, on his/her information and belief, of lawful age, being first duly sworn on oath, for complaint against the above shown defendant, alleges and states:

Count One

That on or about the 27th day of November, 2012 in Seward County, Kansas, one Drake Marshall Foster, then and there being present did unlawfully and feloniously, by means of communication conducted through the telephone, internet or by other electronic means, entice or solicit a person, to-wit: KO (DOB: 05/07/1998), whom the offender believes to be a child 14 or more years of age but less than 16 years of age, to commit or submit to an unlawful sexual act. In violation of section 73(a)(b)(1) of chapter 136 of the 2010 Session Laws of Kansas, to be codified at K.S.A. 2011 Supp. 21-5509(a)(b)(1), Electronic Solicitation, a severity level 3 person felony.

Count Two

That on or about the 27th day of November, 2012, in Seward County, Kansas, Drake Marshall Foster, then and there being present did unlawfully and feloniously employ, use, persuade, induce, entice or coerce KO (DOB: 05/07/1998), a child under 18 years of age, or whom the defendant believed to be a child under 18 years of age, to engage in sexually explicit conduct with the intent to promote any performance. In violation of section 16(a)(1) & (b)(2) of chapter 100 of the 2011 Session Laws of Kansas, to be codified at K.S.A. 2011 Supp. 21-5510(a)(1) & (b)(2), Sexual Exploitation of a Child, a severity level 5 person felony.

Count Three

That on or about the 27th day of November, 2012, in Seward County, Kansas, Drake Marshall Foster, then and there being present did unlawfully and feloniously entice, command, invite, persuade or attempt to persuade KO (DOB: 05/07/1998), a child 14 or more years of age but less than 16 years of age, to commit or submit to an unlawful sexual act. In violation of section 72(a)(1) of chapter 136 of the 2010 Session Laws of Kansas, to be codified at K.S.A. 2011 Supp. 21-5508(a)(1), Indecent Solicitation of a Child, a severity level 6 person felony.

Count Four

That on or about the 27th day of November, 2012, in Seward County, Kansas, Drake Marshall Foster, then and there being did unlawfully and recklessly manufacture, mail, transmit, publish, distribute, present, exhibit, and/or advertise obscene material or an obscene device. In violation of section 57(a)(1) of chapter 30 of the 2011 Session Laws of Kansas, to be codified at K.S.A. 2011 Supp. 21-6401(a)(1), Promoting Obscenity, a class A nonperson misdemeanor.

Finding of probable cause for issuance of arrest warrant is based upon information contained in the complaint and sworn affidavit filed herein.

~~Sections violated and class: 21-5509 (a) (1), 21-5510 (a1) (B1) (B), 21-5508 (a) (1), 21-6401 (a) (1),~~

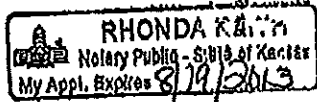
Penalty Section: Felony Level 03/Person, Felony Level 05/Person, Felony Level 06/Person, Misdemeanor Class A/Non-person,

Witnesses: Sara Cooley, Aaron Harvey, Japheth Kerr, David Odle, Dallas Ryan, Jacob Cosper, Evidence Custodian, Troy McCarter, Daniel Minde, Naomi Vargas, KO (DOB: 5/7/1998),
REF: Aaron Harvey, City of Liberal Case #: 12PD21209

Melissa G. Johnson
Melissa G Johnson, #18601
Complainant

Subscribed and sworn to before me this 28 day of November, 2012.

Rhonda Kerr
Judge/Notary Public



Term expires: _____

Summons issued for the defendant's appearance on the _____ day of _____, 2012, at _____ m.

OR

Warrant issued - appearance bond requirement per warrant is -----\$ 50,000 c/s

IN THE DISTRICT COURT OF SEWARD COUNTY, KANSAS

STATE OF KANSAS,
Plaintiff

-vs-

Case No. 12-CR-460

DRAKE FOSTER,
Defendant

WAIVER, PLEA AND ARRAIGNMENT

NOW ON this 23rd day of May, 2013 the above captioned matter comes on for Waiver, and Arraignment before the Honorable Clinton B. Peterson, District Judge. The State of Kansas appears by and through Melissa G. Johnson, Asst. Seward County Attorney. The Defendant appears in person and by and through his attorney Lynn Koehn. There are no other appearances.

WHEREUPON, the Court finds this matter is on for Hearing on the charges of:

Count 1: Electronic Solicitation; Felony/Level 3/P.

Count 2: Sexual Exploitation of a Child; Felony/Level 5/P

Count 3: Indecent Solicitation of a Child; Felony/Level 6/P

Count 4: Promoting Obscenity; A-Misd/NP

WHEREUPON, the Court advises the defendant of his rights, including his right to Preliminary Hearing. The defendant advises the Court he wishes to waive his rights including his right to Preliminary Hearing pursuant to a plea agreement. The Court finds said waiver is knowingly, willingly and voluntarily given and accepts said waiver.

WHEREUPON, the parties announce to the Court that a plea agreement has been reached wherein, the defendant will plead no contest to Count 3, Indecent Solicitation of a Child and in return the State will dismiss the remaining counts of the original complaint.

WHEREUPON, the Court informs the Defendant of his rights including his right to Trial and the possible penalties. The Court inquires of the Defendant if he understands and the Defendant replies in the affirmative. The Defendant advises the Court he wishes to waive these rights. The Court finds said waivers are knowingly, willingly and voluntarily given and accepts said waiver. The Defendant acknowledges that he has had ample opportunity to confer with his counsel and that his counsel has ably represented him.

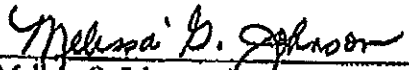
STATE V. FOSTER
CASE NO. 12-CR-460
WAIVER, ARR
PAGE TWO

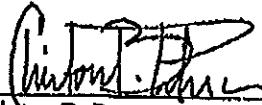
WHEREUPON, this matter now proceeds to Arraignment on the charge of Indecent Solicitation of a Child. The Defendant enters a plea of no contest to the amended complaint/information. The defense counsel gives a factual basis. The Court finds factual basis does exist and finds the Defendant guilty of Indecent Solicitation of a Child and dismisses the remaining counts of the original complaint.

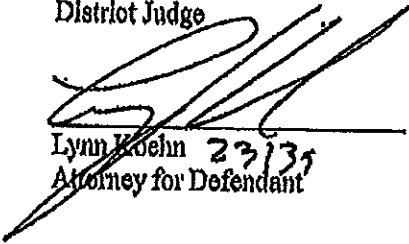
IT IS THEREFORE ORDERED BY THE COURT, that Court Services Office shall conduct a pre-sentence evaluation and that this matter shall come on for Sentencing on the 27th day of June, 2013 at 1:00 o'clock p.m. or as soon thereafter as the Court may hear the same.

IT IS SO ORDERED.

APPROVED:


Melissa G. Johnson, Asst.
Seward County Attorney


Clinton B. Peterson
District Judge


Lynn Koehn 23135
Attorney for Defendant

CERTIFICATE OF DELIVERY

I, the undersigned hereby certify that a true and correct copy of the above and foregoing document was hand delivered on this 14 day of June, 2013 to the following:

Lynn Koehn/Attorney for Defendant

Court Services



For Court Use Only (Seal)

2012 KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT
 Please use Journal Entry based on OFFENSE DATE

SECTION I. CASE IDENTIFYING INFORMATION		1. Transaction No. 3088A1204453	
2. STATE v. <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female DRAKE MARSHALL FOSTER		3. Court O.R.I. Number KS088015J	4. K.B.I. Number 3333 1461
5. County SEWARD	6. Court Case Number 12-CR-180	7. Sentencing Judge CLINTON B. PETERSON	8. Sentencing Date June 27, 2013
9. Defense Counsel: <input checked="" type="checkbox"/> Appointed <input type="checkbox"/> Retained <input type="checkbox"/> Self <input type="checkbox"/> Waived Orally <input type="checkbox"/> Waived in Writing Counsel Name (please print) LYNN KOEHN			
10. Type of Proceeding (Trial) <input type="checkbox"/> Bench Trial (includes a plea on stipulated facts) <input type="checkbox"/> Jury Trial <input type="checkbox"/> Guilty Plea <input checked="" type="checkbox"/> Nolo contendere Plea			
11. Date of Conviction: May 23, 2013			
12. Pre-Trial Status of Offender <input type="checkbox"/> In Custody <input checked="" type="checkbox"/> Released on Bond <input type="checkbox"/> Other Release			

SECTION II. CRIMINAL HISTORY CLASSIFICATION

1. Offender's Overall Criminal History Classification as Found by the Court: A B C D E F G H I

2. Objection to Criminal History? Yes No If Yes, By: Defendant or State
 Court's Ruling on Objection: Criminal history was amended Criminal history was not amended

SECTION III. CURRENT CONVICTION INFORMATION

1. Name of PRIMARY Offense of Conviction: INDECENT SOLICITATION OF A CHILD
 Count No.: 1 Date of Offense: November 27, 2012 Designated by court as domestic violence case based upon special finding (see #13 this section)

2. K.S.A. Title, Section, Subsection(s): 21-5508(a)(1)
 Attempt (K.S.A. 2011 Supp. 21-5301) Conspiracy (K.S.A. 2011 Supp. 21-5302) Solicitation (K.S.A. 2011 Supp. 21-5303)

3. Grade of Offense: (Check one in each row.) Felony, Severity Level g Misdemeanor, Class _____
 Person Nonperson

4. Offense Category: Nondrug Drug Off-grid Nongrid

5. Presumptive Sentencing Range: (Enter terms from appropriate grid.) Aggravated 19 Standard 18 Mitigated 17
 Check applicable box(es) Presumptive Prison Presumptive Probation Border Box
 Drug Treatment for up to 18 months, K.S.A. 2011 Supp. 21-8824
 Special Rule Applies (Complete Special Rules Supplemental Page and Attach)

THIS FORM MUST BE ACCOMPANIED BY A COPY OF THE PRESENTENCE INVESTIGATION FORM PURSUANT TO K.S.A. 2011 Supp. 22-3439 AND A DOCUMENT CONTAINING INFORMATION REQUIRED BY K.S.A. 2011 Supp. 22-3426. PLEASE USE AN ADDITIONAL OFFENSES PAGE FOR ADDITIONAL OFFENSES OF CONVICTION.

Case No. 2012-CR-480

KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT

(PAGE 2)

1. SPECIAL RULE APPLICABLE: Yes No If Yes, enter the number(s) and brief description(s) corresponding to the applicable special rule. (Complete Special Rules Supplemental Page and Attach):

7. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to the KS Offender Registration Act
7a. Did the court make a special finding that the crime was sexually motivated? Yes No
7b. IF YES to 7a, did the court find that the act involved non-forcible sexual conduct, the victim was at least 14 and the offender was no more than 4 years older than the victim? (K.S.A. 2011 Supp. 22-4902(o)(16)) Yes No
7c. IF YES to 7a and NO to 7b, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.

8. Was offender determined by the Court to be an AGGRAVATED HABITUAL SEX OFFENDER? (K.S.A. 2011 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

9. Is offender being sentenced pursuant to K.S.A 2011 Supp. 21-6627 where offender is 18 years of age or older and the victim is less than 14 years of age? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

10. Downward departure (K.S.A. 2011 Supp. 21-6818(a)) for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

11. Did offender, as determined by the court, commit the current crime with a deadly weapon? IF YES, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

12. Was offender convicted of a violation of K.S.A. 2011 Supp 21-6703 (formerly 21-36a03), Manufacture or attempted manufacture, K.S.A. 2011 Supp 21-6705(a)(1), (formerly 21-36a05(a)(1)), Cultivation, Distribution, Possession w/ Intent to distribute opiates, opium or narcotic drugs or any stimulant in K.S.A. 65-4107(d)(1), (d)(3), (f)(1), or K.S.A. 2011 Supp. 21-6708(a) (formerly 21-36a08(a), 21-6710(a)(1), (a)(2), (formerly 21-36a10(a)(1), (a)(2)). Possession of precursors w/ Intent to manufacture? IF YES, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. (personal use exemption eliminated effective July 1, 2011) Yes No

13. Determination of domestic violence case designation
13a. Did offender, as determined by the trier of fact, commit a domestic violence offense? Yes No
13b. If YES to 13a above, did the court find that offender had no prior domestic violence conviction or diversion, AND that offender did not use the present domestic violence offense to coerce, control or punish the victim? Yes No
13c. If YES to 13a and NO to 13b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX: DV Case

SENTENCE IMPOSED:

1. Guideline Range Imposed: Aggravated Standard Mitigated Departure - COMPLETE SECTION IV

2. Prison Term: KDOC 18 months (including enhancement sentence)
(Enter months above then check one of the following) Prison sentence imposed or Underlying with probation granted
or Underlying with KDOC Drug Trmnt Prog. (min. 120 days)
 Enhancement Sentence- Drug with Firearm: 6 months 18 months (K.S.A. 2011 Supp. 21-6805(g))
Ballistic Resistant Material: 30 months (K.S.A. 2011 Supp. 21-6804(i))
 Off-grid Crime:
 Life - Minimum 15 yrs. Life - Minimum 20 yrs. Hard 25 Hard 40 Hard 60
 Mandatory minimum years = 60 years (600 months) or ___ months pursuant to guidelines, given offender's criminal history, whichever is greater
 Life Imprisonment without Parole Death Penalty

3. Postrelease Supervision Term: 12 months 24 months 36 months 60 months (sex offense) - COMPLETE SECTION IV
 No Postrelease K.S.A. 2011 Supp. 22-3718(e) Lifetime Postrelease

4. Electronic Monitoring: Lifetime (Section 1 of chapter 32 of the 2012 Session Laws of Kansas)

5. Nongrid Term: (Jail) (For misdemeanor or nongrid felony) ___ months ___ days
(Enter county jail term above then check one of the following) Jail sentence imposed or Underlying with probation granted.
 3rd D.U.I. 4th & Subs. D.U.I. 2nd Test Refusal 3rd & Subs. Test Refusal
DUI or Test Refusal Supervision (12 months) Court Services Community Corrections
 3rd & Subs. Domestic Battery w/in 5 yrs. Animal Cruelty
 Probation granted after serving term of ___ months ___ days
 Assignment to a work release program (K.S.A. 2011 Supp. 21-6804 (a)(11))

**This option is included in statute, but is unavailable.

Case No. 2012-CR-480

KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT

(PAGE 3)

6. Probation Term (If Granted): 12 months 18 months 24 months 36 months 60 months
 Drug Treatment for up to 18 months, K.S.A. 2011 Supp. 21-6824 Other: _____
 Extended Period K.S.A. 2011 Supp. 21-6808(a)(6) for: _____ months
 Probation Supervision to: Court Services Community Corrections Unsupervised
 County Jail Time Imposed AS A CONDITION OF PROBATION: _____ days
 ** Assignment to Correctional Conservation Camp

Comments: _____

SECTION IV. DEPARTURE INFORMATION

1. Type of Departure: (Check all that apply.)
 Downward Durational Upward Durational Downward Dispositional Upward Dispositional
 Postrelease Supervision (up to 60 months for sexually motivated offense) -- K.S.A. 2011 Supp. 22-3717(d)(1)(D)(i)
 ("Sexually motivated" defined in K.S.A. 2011 Supp. 22-3717(d)(2).)

2. Reasons Cited as Basis for Departure:

SECTION V. OTHER CONDITIONS

1. General/Special Conditions of Probation (COMPLETE AND ATTACH ORDER OF PROBATION TO THIS JOURNAL ENTRY if needed)

Complete treatment program at Prairie View. Comply with all conditions of Community Corrections

2. Costs Ordered:

Total Restitution (Please complete #3 below)	\$ _____	Correctional Supv. Fee (Felony \$120; Misd. \$60)	\$ 120.00
Court Costs (including surcharge)	\$ 195.00	BIDS Attorney Fee <input type="checkbox"/> Waived	\$ 500.00
Total Fines (*See Below)	\$ _____	BIDS Application Fee	\$ 100.00
DNA Database Fee (K.S.A. 21-2611 & 76-724)	\$ 200.00	Court-Appointed Attorney Fee	\$ _____
Extradition Costs	\$ _____	Community Corr. Fee (offenses after 1/1/07)	\$ _____
Domestic Violence Special Program Fee	\$ _____	Booking/Fingerprint Fee	\$ 45.00
Apprehension Fee (Escape/Agg. Escape)	\$ _____	Reward Reimbursement	\$ _____
Alcohol and/or Drug Eval. Fee (offenses before 7/1/11)	\$ _____	Children's Advocacy Center Assessment Fee	\$ _____
Witness Fee	\$ _____	Medical Costs/Expenses Reimbursement	\$ _____
KBI Lab Fee	\$ _____	SB 123 Offender Reimbursement (at least \$300)	\$ _____
Other Lab Fee	\$ _____	Other: _____	\$ _____
Domestic Violence Assessment/Recommendations	\$ _____	TOTAL COSTS	\$ 1160.00

* Includes fine for DUI offense committed on or after 7/1/11. Clerk will send \$250 to the state treasurer.

3. Restitution to be paid as follows:

Amount	Name and Address
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____

**This option is included in statute, but is unavailable.

Case No. 2012-CR-460

KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT

(PAGE 4)

SECTION VI: RECAP OF SENTENCE

1. Sentence Imposed:

Total Prison Term (if sentence imposed is to prison): _____
Total County Jail Term: _____ [] Consecutive to Prison Term
Total Underlying Jail Term (if sentence imposed is probation): _____
Total Underlying Prison Term (if sentence imposed is probation): 18 months

[X] For each count, the Court pronounced the complete sentence, including the maximum potential good time percentage. K.S.A. 2011 Supp. 21-6804(e)(2) and 21-6805(c)(2).

2. Postrelease Supervision Term: [] 12 months [X] 24 months [] 36 months [X] 60 months
[] No Postrelease K.S.A. 2011 Supp. 22-3716(e) [] Lifetime Postrelease

3. Electronic Monitoring: [] Lifetime (Section 1 of chapter 32 of the 2012 Session Laws of Kansas)

4. Probation Term Imposed (select one): [] 12 months [] 18 months [X] 24 months [] 36 months [] 60 months
[] Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824
[] Extended Period K.S.A. 2011 Supp. 21-6808(c)(5) for: _____ months
[] Other: _____

**Correctional Conservation Camp

5. Jail Credit: Enter dates (modify only) and days of potential jail credit for this case and check "A" if the days are actually awarded, or "N" if the days are not awarded by the court. (attach additional pages if necessary)

Table with 4 columns: Location, From, To, Days. Includes rows for Location, From, To, Days and checkboxes for A and N.

*Enter appropriate letters to indicate the type of location where credit may have been earned:

J=Jail TL=Treatment (Locked) TU=Treatment (Unlocked) RL=Residential (Locked) RU=Residential (Unlocked)

Sentencing Date: 6/27/13 - Total Number of Days of Jail Credit Actually Awarded 3 = Sentence Begins Date: 6/24/13
IF cases are "CONSOLIDATED", list grand total of ALL jail credits actually

6. Prior Case(s) to Which the Current Sentence is to Run Concurrent or Consecutive:

Case No. _____ County _____ Sentence _____ Concurrent [] or Consecutive []
Case No. _____ County _____ Sentence _____ Concurrent [] or Consecutive []
Case No. _____ County _____ Sentence _____ Concurrent [] or Consecutive []
Case No. _____ County _____ Sentence _____ Concurrent [] or Consecutive []

Other: _____

7. Miscellaneous Provisions:

- [X] Defendant informed of right to appeal within 14 days of this date. K.S.A. 22-3808(c). (Required by case law)
[X] Defendant informed of potential right of expungement, K.S.A. 2011 Supp. 21-6814c(h)
[X] Defendant informed of duty to register as an offender pursuant to the Kansas Offender Registration Act, K.S.A. 2011 Supp. 22-4905(b)(2) (Please complete OFFENDER REGISTRATION SUPPLEMENT and attach it to the Journal Entry.)
[X] Defendant must submit specimens of blood or an oral or other biological sample, if not previously submitted, pursuant to K.S.A. 21-2511(c).
[] Defendant must obtain psychological evaluation and shall complete the recommended treatment pursuant to K.S.A. 22-3717(d)(1)(D)(iv).
[X] Defendant has been processed, fingerprinted and palmprinted. K.S.A. 21-2501(b)
[] Court remands Defendant to custody of Sheriff to begin serving sentence.
[] Court remands Defendant to custody of Sheriff to await transportation to the custody of the Secretary of Corrections.
[] Defendant to report to County Jail on the ___ day of _____, 20__ at ___ O'clock [] a.m. [] p.m. to start serving sentence.
[] House arrests authorized for remaining _____ days after Defendant completes mandatory _____ hours in the County Jail.
[] Work release recommended (if accepted, defendant is to abide by recommendations of the program).
[X] Defendant's financial resources and burden imposed by BIDS application and attorney fees considered by the court pursuant to K.S.A. 22-4613 and State v. Robinson, 281 Kan. 638, 132 P.3d 834 (2006).
[] Defendant to undergo domestic violence assessment pursuant to K.S.A. 2011 Supp. 21-6804(e)
[] Other Comments:

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SECTION VI. RECAP OF SENTENCE CONTINUED

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8. Border Box Findings K.S.A. 2011 Supp. 21-6804(f): (Check if appropriate)

- An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and
- the recommended treatment program is available and the offender can be admitted to the program within a reasonable period of time; or,
- the non-prison sanction will serve community safety interests by promoting offender reform.

9. If made, Motion for New Trial: Granted Denied

10. If made, Motion for Judgment of Acquittal: Granted Denied

11. If made, Motion for Arrest of Judgment: Granted Denied

12. Additional Comments:

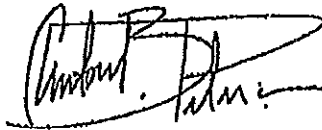
All non-contraband items to be returned to counsel for the Defendant fifteen days after sentencing if no appeal has been filed.

SECTION VII. SIGNATURES

1. Judge's Signature: Date: July 17, 2013

Signed: _____

Printed: Clinton B. Peterson



2. Prosecuting Attorney:

Signed: Melissa G. Johnson

Printed: Melissa G. Johnson

Supreme Court Number: 16601

Date: 6/27/13

Address: 415 N. Washington, Ste. 108

Liberal, KS 67901

Phone No: 620-626-3226

3. Defense Attorney:

Signed: Lynn Koenig

Printed: Lynn Koenig

Supreme Court Number: 29139

Date: 7-8-13

Address: 217 N. Washington

Liberal, KS

Phone No: 624-8158

Case No. 2012-CR-460

OFFENDER REGISTRATION SUPPLEMENT - K.S.A. 2011 Supp. 22-4901 et seq.
(If applicable, complete both pages and attach to the Journal Entry.)

(PAGE 1 of 2)

SECTION A. REGISTRATION REQUIREMENT - Check appropriate boxes to indicate the **REASON** for registration.
See K.S.A. 2011 Supp. 22-4902(a)

Offender required by court order to register for an offense not otherwise required as provided by the Kansas Offender Registration Act

Enter age of victim (K.S.A. 2011 Supp. 22-4904(a)(4))

Offender required to register due to **SEX OFFENDER** status as indicated by any of the following:

Conviction of any of the following crimes:

- Sexual Battery - K.S.A. 2011 Supp. 21-5505(a)
- Any conviction for any comparable offense in effect prior to July 1, 2011
- Any attempt, conspiracy or criminal solicitation of a comparable crime

Conviction of any of the following crimes when one of the parties involved is under 18 years of age:

- Adultery - K.S.A. 2011 Supp. 21-5511
- Promoting Prostitution - K.S.A. 2011 Supp. 21-6420
- Lewd and Lascivious Behavior - K.S.A. 2011 Supp. 21-5513
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section
- Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(a)
- Patronizing a Prostitute - K.S.A. 2011 Supp. 21-6421
- Conviction for any comparable offense prior to July 1, 2011

Conviction of any of the following **sexually violent crimes** or adjudication as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime, UNLESS the court finds on the record that the act involved non-forcible sexual conduct, the victim was at least 14 and the offender not more than 4 years older than victim:

- Rape - K.S.A. 2011 Supp. 21-5503
- Agg. Indecent Liberties With a Child - K.S.A. 2011 Supp. 21-5506(b)
- Agg. Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(b)
- Agg. Indecent Solicitation of a Child - K.S.A. 2011 Supp. 21-5508(b)
- Agg. Sexual Battery - K.S.A. 2011 Supp. 21-5505(b)
- Electronic Solicitation - K.S.A. 2011 Supp. 21-5509
- Indecent Liberties With a Child - K.S.A. 2011 Supp. 21-5506(a)
- Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(a)(3), (a)(4)
- Indecent Solicitation of a Child - K.S.A. 2011 Supp. 21-5508
- Sexual Exploitation of a Child - K.S.A. 2011 Supp. 21-5510
- Agg. Incest - K.S.A. 2011 Supp. 21-5804(b)(1)
- Unlawful Sexual Relations (on or after July 1, 2010) - K.S.A. 2011 Supp. 21-5512

- Any conviction for any comparable offense in effect prior to July 1, 2011
- Any attempt, conspiracy or criminal solicitation of a sexually violent crime
- Any act determined beyond a reasonable doubt to have been sexually motivated AND the act did not involve non-forcible sexual conduct between a victim at least 14 and offender no more than 4 years older than victim - K.S.A. 2011 Supp. 22-4902 (g)(16)

Offender required to register due to **VIOLENT OFFENDER** status (indicated by conviction of any of the following crimes):

- Capital Murder - K.S.A. 2011 Supp. 21-5401
- Murder in the Second Degree - K.S.A. 2011 Supp. 21-5403
- Involuntary Manslaughter - K.S.A. 2011 Supp. 21-5405
- Agg. Kidnapping - K.S.A. 2011 Supp. 21-5408(b)
- Agg. Human Trafficking - K.S.A. 2011 Supp. 21-5426(b)
- Any conviction for any comparable offense in effect prior to July 1, 2011
- Any out of state conviction for an offense that under the laws of Kansas would be an offense listed in this section
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section
- Any person felony with court finding on the record that such felony was committed with a DEADLY WEAPON (On or after July 1, 2006):
 - Any conviction for any comparable person felony, committed with a DEADLY WEAPON, in effect prior to July 1, 2011
 - Any attempt, conspiracy or criminal solicitation of a person felony committed with a DEADLY WEAPON
- Murder in the First Degree - K.S.A. 2011 Supp. 21-5402
- Voluntary Manslaughter - K.S.A. 2011 Supp. 21-5404
- Kidnapping - K.S.A. 2011 Supp. 21-5408(a)
- Criminal Restraint - K.S.A. 2011 Supp. 21-5411 (except by parent, and only when victim is less than 18 years of age)

Offender required to register due to **DRUG OFFENDER** status (indicated by conviction of any of the following crimes):

- Manufacture or attempted manufacture of any controlled substance - K.S.A. 2011 Supp. 21-5703 (formerly K.S.A. 21-36a03)
- Possession of precursors with intent to manufacture any controlled substance - K.S.A. 2011 Supp. 21-6709(a) (formerly K.S.A. 21-36a09(a)), K.S.A. 2011 Supp. 21-5710(a)(1), (a)(2) (formerly 21-36a10(a)(1), (a)(2))
- Cultivation, Distribution, Possession with intent to distribute opiates, opium or narcotic drugs or any stimulant in K.S.A. 86-4107(d)(1), (d)(3), or (f)(1) - K.S.A. 2011 Supp. 5708(a)(1), ONLY (formerly K.S.A. 21-36a05(a)(1))
- Any conviction for any comparable offense in effect prior to July 1, 2011
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section

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OFFENDER REGISTRATION SUPPLEMENT CONT. - K.S.A. 2011 Supp. 22-4901 et seq.

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SECTION B. REGISTRATION TERMS - check appropriate boxes indicating **REQUIRED TERM** of registration
See K.S.A. 2011 Supp. 22-4906

Offender must register for 15 YEARS after the date of parole, discharge or release, whichever date is most recent, or, if offender is not confined, 15 YEARS from the date of conviction due to conviction of any of the following crimes:

- Capital Murder - K.S.A. 2011 Supp. 21-5401
- Murder in the Second Degree - K.S.A. 2011 Supp. 21-5403
- Involuntary Manslaughter - K.S.A. 2011 Supp. 21-5405
- Criminal Restraint - K.S.A. 2011 Supp. 21-5411 (except by parent, and only when victim is less than 18 years of age)
- Any act determined beyond a reasonable doubt to have been sexually motivated AND the act did not involve non-forcible sexual conduct between a victim at least 14 and offender no more than 4 years older than victim - K.S.A. 2011 Supp. 22-4902(e)(16)
- Any conviction of a person felony with court finding on the record that such felony was committed with a DEADLY WEAPON - K.S.A. 2011 Supp. 22-4902(e)(2)
- An offense not otherwise required, as provided by the Kansas Offender Registration Act, K.S.A. 2011 Supp. 22-4902(a)(6)
- Manufacture or attempted manufacture of any controlled substance - K.S.A. 2011 Supp. 21-5703 (formerly K.S.A. 21-36a03)
- Possession of precursors with intent to manufacture any controlled substance - K.S.A. 2011 Supp. 21-5709(a), 21-5710(a)(1), (a)(2) (formerly K.S.A. 21-36a09(a), 21-36a10(a)(1), (a)(2))
- Cultivation, Distribution, Possession with intent to distribute opiates, opium or narcotic drugs or any stimulant in K.S.A. 65-4107(d)(1), (d)(3), or (d)(4) - formerly K.S.A. 21-36a05(a)(1) ONLY
- Any of the following crimes when one of the parties is less than 18 years of age:
 - Adultery - K.S.A. 2011 Supp. 21-5511
 - Lewd and Lascivious Behavior - K.S.A. 2011 Supp. 21-5513
 - Patronizing a Prostitute - K.S.A. 2011 Supp. 21-6421
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section

Offender must register for 25 YEARS after the date of parole, discharge or release, whichever date is most recent, or, if offender is not confined, 25 YEARS from the date of conviction due to conviction of any of the following crimes:

- Indecent Solicitation of a Child - K.S.A. 2011 Supp. 21-5508
- Agg. Incest - K.S.A. 2011 Supp. 21-5504(b)(1)
- Unlawful Sexual Relations - K.S.A. 2011 Supp. 21-5512
- Sexual Exploitation of a Child - K.S.A. 2011 Supp. 21-5510, if the victim is at least 14 years of age but less than 18 years of age
- Promoting Prostitution - K.S.A. 2011 Supp. 21-6420, if the prostitute is at least 14 years of age but less than 18 years of age
- Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(e) when one of the parties involved is less than 18 years of age
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section
- Electronic Solicitation - K.S.A. 2011 Supp. 21-5509
- Indecent Liberties With a Child - K.S.A. 2011 Supp. 21-5508(a)
- Agg. Sexual Battery - K.S.A. 2011 Supp. 21-5505(b)

Offender is subject to LIFETIME registration due to any of the following:

- 2nd or subsequent conviction of an offense requiring registration
- Conviction of any of the following crimes:
 - Rape - K.S.A. 2011 Supp. 21-6503
 - Agg. Kidnapping - K.S.A. 2011 Supp. 21-5408(b)
 - Kidnapping - K.S.A. 2011 Supp. 21-5408(a)
 - Agg. Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(b)
 - Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(a)(3) or (a)(4)
 - Agg. Indecent Liberties With a Child - K.S.A. 2011 Supp. 21-5508(b)
 - Agg. Indecent Solicitation of a Child - K.S.A. 2011 Supp. 21-5508(b)
 - Agg. Human Trafficking - K.S.A. 2011 Supp. 21-5428(b)
 - Sexual Exploitation of a Child - K.S.A. 2011 Supp. 21-5510, if the victim is less than 14 years of age
 - Promoting Prostitution - K.S.A. 2011 Supp. 21-6420, if the prostitute is less than 14 years of age
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section

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SEX OFFENSE SUPPLEMENT (If applicable, complete and attach to the Journal Entry.)

1. Was offender determined by the Court to be an **AGGRAVATED HABITUAL SEX OFFENDER?** (K.S.A. 2011 Supp. 21-6626)
IF YES, PLEASE COMPLETE SECTION A. "Aggravated Habitual Sex Offenders". Yes No
2. Is offender being sentenced pursuant to K.S.A. 2011 Supp. 21-6627 where offender is 18 years of age or older and the victim less than 14 years of age?
IF YES, PLEASE COMPLETE SECTION B. "Child Sex Offenses". Yes No

SECTION A. Aggravated Habitual Sex Offenders - K.S.A. 2011 Supp. 21-6626

Imprisonment for life without the possibility of parole; not eligible for parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, or suspension, modification or reduction of sentence.

SECTION B. Child Sex Offenses - K.S.A. 2011 Supp. 21-6627

Sentence imposed for sex offenses where offender is 18 years of age or older and the victim is less than 14 years of age.
(CHECK ONLY ONE)

First Offense

- Downward departure to guidelines, subject to provisions of K.S.A. 2011 Supp. 21-6818; lifetime postrelease supervision. *State v. Ballard*, Kansas Supreme Court, 289 Kan. 1000 (2009) (Complete Section IV - Departure Information, page 3 of Journal Entry of Judgment.)
- Mandatory minimum of Hard 25 years (300 months) or _____ months pursuant to guidelines, given offender's criminal history, whichever is greater; lifetime parole. K.S.A. 2011 Supp. 22-3717(v)

Second Offense

- Mandatory minimum of Hard 40 years (480 months) or _____ months pursuant to guidelines, given offender's criminal history, whichever is greater; lifetime parole. K.S.A. 2011 Supp. 22-3717(v)

Third Offense - see Section A. above, Aggravated Habitual Sex Offender - Life Imprisonment Without Parole.

**SECTION C. Downward Departure K.S.A. 2011 Supp 21-6818 for a Crime of Extreme Sexual Violence
K.S.A. 2011 Supp. 21-6815**

(NO downward dispositional departure allowed)

Downward dispositional departure limited to 60% of middle of the sentencing range? Yes No

SECTION D. Sexually Violent Crime - K.S.A. 2011 Supp. 22-3717(d)(2)

Was offender convicted of a sexually violent crime, but was not sentenced pursuant to K.S.A. 2011 Supp. 21-6027?

- Yes - Lifetime postrelease supervision (K.S.A. 2011 Supp. 22-3717(d)(1)(C))
- No - Postrelease supervision term as otherwise indicated by law

Comments:

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Drake Marshall Foster
2135 N Western Ave. Apt 4c
Liberal, KS 67901

2. Article Number
(transfer from service label)

7010 2780 0003 1926 5809

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Handwritten Signature]

- Agent
- Addressee

B. Received by (Printed Name)

Drake Foster

C. Date of Delivery

8-17-13

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

