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NO. 66068-3-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

PETER ANSELL,

Appellant.

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COURT OF APPEALS
FILED

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE MICHAEL J. FOX

BRIEF OF RESPONDENT

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A. ISSUE PRESENTED

Did the trial court abuse its discretion in imposing a no contact order between Ansell and his minor children, when Ansell committed multiple acts of child molestation against three neighbor children in his care and agreed, as part of his plea, to a no contact order with minors without distinction as to his own children?

B. STATEMENT OF THE CASE

Peter Ansell pled guilty to molesting three young neighbor girls in his care. CP 1-32. Ansell admitted to being friends with the girls' parents, that the girls lived in his neighborhood, and that they were all under the age of 12. CP 20.

E.W., the first of Ansell's victims to disclose his conduct to an adult, described Ansell grabbing his penis and wiggling it and "stuff came out kind of like when a nose is running." CP 20. E.W. told her mother that Ansell had touched and licked her "pee-pee," and that Ansell had put his penis in her mouth on at least four occasions. CP 20, 25. Four year old C.O., another of Ansell's victims, described Ansell having her touch his penis and putting his penis inside of her vagina. CP 22. She also described him putting his penis in her mouth. CP 23. Six year old G.O., Ansell's third

victim, told her mother that Ansell had touched her crotch area, both inside and outside of her panties, many times. CP 22. She also described Ansell putting his penis inside her vagina. CP 23.

Ansell was provided access to the girls through a baby-sitting arrangement that the three families, Ansell's, E.W., C.O. and G.O.'s, had with one another. CP 20. For a period of approximately two to three years, one family would take the children from all three families, eight children in all, for a night, while the other parents would go out for a "date night." CP 20. The victims' families considered Ansell a trusted neighbor. CP 20. When Ansell watched his victims he would similarly be watching his own children.

As part of his plea agreement, Ansell understood and agreed that of the terms of the State's sentencing recommendation, except for prison time, were agreed. CP 27. Included in the State's sentencing recommendation was a lifetime no contact provision for any minors. CP 27. There was no exception for Ansell's minor children. CP 27.

At Ansell's sentencing hearing, held on June 19, 2009, Judge Michael Fox ordered that the defendant have no contact for life with the victim children, E.W., G.O. and C.O. RP1, 5.¹ With respect to Ansell's own children, the Court made the following order, without objection from Ansell:

With regard to his own children, I will provide for no contact until the children reach the age of majority. At that point, its up to the children to determine whether or not they want to have contact with their family -- with their father and how that contact is to be reestablished, if it is.

RP1 at 5.

More than 30 days after the entry of judgment and sentence, on August 2, 2009, Ansell moved the Court to reconsider its order denying contact between himself and his minor children.

In a written ruling issued subsequent to the hearing, Judge Fox denied Ansell's motion to modify the conditions of the no contact order.

¹ There are two Report of Proceedings, one from June 19, 2009 and the other from September 7, 2009. They are labeled RP1 and RP2, respectively.

C. ARGUMENT

THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN IMPOSING A NO CONTACT ORDER BETWEEN ANSELL AND HIS CHILDREN UNTIL THE CHILDREN REACH MAJORITY, GIVEN THAT ANSELL AGREED TO THE TERM AS PART OF HIS PLEA AND THAT HE COMMITTED HORRIFIC ACTS OF CHILD MOLESTATION AGAINST NEIGHBOR CHILDREN ENTRUSTED TO HIS CARE.

In Washington, a court may impose “crime-related prohibitions” as conditions of a sentence. RCW 9.94A.505(8). Sentencing conditions are generally reviewed for abuse of discretion. In re Rainey, 168 Wn.2d 367, 374, 229 P.3d 686, 689 (2010). A more careful review of conditions is warranted when those conditions interfere with a fundamental constitutional right, such as the fundamental right to the care, custody, and companionship of one's children. Id. at 374. Such conditions must be “sensitively imposed” so that they are “reasonably necessary to accomplish the essential needs of the State and public order.” The extent to which a sentencing condition affects a constitutional right is a legal question subject to strict scrutiny. Id. at 374.

The Rainey decision did not involve a pattern of predatory sexual conduct like Ansell's. Rainey's goal, put simply, was to do everything he could to hurt his ex-wife. Id. at 376. His child was just a mechanism to achieve that goal.

In the instant matter, unlike Rainey, Ansell *agreed* to a no contact order with minors. CP 27. His own children were not excluded from that agreement, CP 27, and Ansell failed to object to the condition when it was entered. RP1 at 5. Moreover, Ansell is a convicted child molester who admitted to using his position of trust to effectuate horrific acts of abuse upon young neighbor girls entrusted to his care. See CP 20-27; CP 33-42. The State's interest in protecting all children, including Ansell's own, from his perfidy and deviance remains high.

Judge Fox, in imposing a limited term for no contact -- only until Ansell's children reached 18 -- was sensitive to the State's interest in protecting children, Ansell's plea agreement, and Ansell's fundamental right to parent. There was no abuse of discretion.

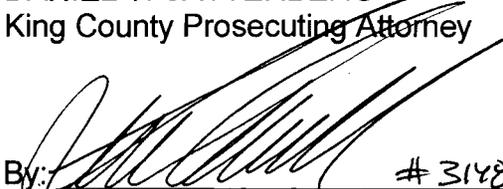
D. CONCLUSION

For the reasons stated above, the State respectfully requests that this Court affirm the trial court's decision to impose a no contact order between Ansell and his children until his children reach their majority.

DATED this 18th day of January, 2011.

Respectfully submitted,

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