

FILED  
COURT OF APPEALS  
DIVISION II  
2013 OCT 29 AM 11:27  
STATE OF WASHINGTON  
BY   
DEPUTY

NO. 45044-5-II

IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION II

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STATE OF WASHINGTON,  
Appellant,

v.

D.J.C.,  
Respondent.

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APPEAL FROM THE SUPERIOR COURT OF THE STATE  
OF WASHINGTON FOR GRAYS HARBOR COUNTY

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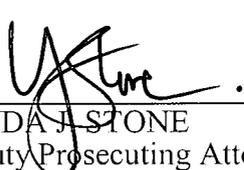
THE HONORABLE GORDON L. GODFREY, JUDGE

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BRIEF OF APPELLANT

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## **I. ASSIGNMENT OF ERROR**

The trial court erred by ordering the respondent did not have to register as a sex offender after pleading guilty to Communication with a Minor for Immoral Purposes.

## **II. ISSUE PRESENTED FOR REVIEW**

RCW 9A.44.130 requires the trial court to impose the requirement of registering as a sex offender when there is a conviction of any sex offense.

## **III. STATEMENT OF THE CASE**

The respondent was originally charged by Information with one count of Rape of a Child in the Second Degree on February 7, 2013. (CP 1-2) On May 9, 2013 the Information was amended to one count of Communication With a Minor for Immoral Purposes. (CP 3) The respondent pled guilty to that charge and disposition was entered on May 9, 2013. (CP 4-11) At disposition, the trial court ordered that the respondent did not have to register as a sex offender (CP 10) and on June 5, 2013, the State filed a Notice of Discretionary Review. (CP 12)

## **III. ARGUMENT**

The statute governing the requirement to register as a sex offender, RCW 9A.44.130(1)(a), provides as follows:

Any adult or juvenile residing...in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense...shall register with the county sheriff for the county of the person's residence...

Next, RCW 9A.44.128(10)(c) defines “sex offense” as any violation of RCW 9.68A.090 (communication with a minor for immoral purposes). These sections of the statute could not be more clear. Anyone convicted of a sex offense residing in this state shall register as a sex offender.

There is no case law or statutory authority that the State is aware of that would allow the court to not impose the respondent’s obligation to register as a sex offender. This obligation requires the convicted sex offender to provide the county sheriff with the offender’s name, address, date and place of birth, place of employment, crime for which convicted, date and place of conviction, social security number, photograph and fingerprints. RCW 9A.44.130(2)(a).

An examination of the purpose behind the sex offender registration law reveals that the legislative findings and statement of policy focus on the conclusion that sex offenders present a high risk of reoffense. The purpose of sex offender registration is to assist law enforcement’s efforts to protect the community, conduct investigations and quickly apprehend offenders who commit sex offenses. Findings - Policy - Laws (1990) Ch. 3 § 402. See also *State v. Heiskell*, 129 Wash.2d 113, 916 P.2d 366 (1996).

Prior to D.J.C. entering his plea, defense stated, “I will note there is one disagreement between the State and the defendants here regarding this charge and it has nothing to do with the charge, it has to do with whether he should register or not.” RP 2-3. The court then took D.J.C.’s plea and

moved into disposition. At that time, defense argued that it did not serve any reasonable purpose for D.J.C. to have to register and “carry that stigma about him when this was done on a consensual basis by both parties.” RP 5-6. Defense went on to say, “So, I’m asking the Court to order that he doesn’t have to register. Other than that, I concur with the State’s recommendations.” RP 6. The trial judge stated, “He doesn’t have to register. Now, you just got a bonus.” RP 6. The judge went on to say, “...don’t ever ask for a favor again.” RP 6.

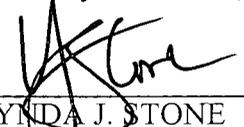
In Washington, the Legislature expressly set forth its intent in requiring registration of sex offenders. RCW 9A.44.130(1)(a) unambiguously requires D.J.C. to register as a sex offender. This court should uphold the law and require him to do so.

#### IV. CONCLUSION

The trial court erred by ordering the respondent did not have to register as a sex offender after pleading guilty to Communication with a Minor for Immoral Purposes. The court’s order with regard to registration should be vacated, and the respondent should be ordered to register as a sex offender.

DATED this 28 day of October, 2013.

Respectfully Submitted,

By:   
LYNDA J. STONE  
Deputy Prosecuting Attorney  
WSBA #38749

LJS/jfa

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**DECLARATION OF MAILING**

D.J.C.,

Respondent.

**DECLARATION**

I, Janie Anderson hereby declare as follows:

On the 28 day of October, 2013, I mailed a copy of the Brief of Appellant to Kyle Imler; Attorney at Law; P.O. Box 2; McCleary, WA 98557, by depositing the same in the United States Mail, postage prepaid.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

Dated this 28 day of October, 2013 in Aberdeen, Washington.

[Signature]