

No. 49781-6-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

In re the Detention of

Charles Urlacher,

Appellant.

Pierce County Superior Court Cause No. 10-2-13180-4

The Honorable Judge Ronald E. Culpepper

Appellant's Reply Brief

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TABLE OF CONTENTS

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

ARGUMENT..... 1

I. A new trial is required because jurors were left to “guess at the meaning of [both] essential element[s]” and Mr. Urlacher’s attorneys had to “convince the jury what the law is.” 1

A. The trial court’s instructions must be reviewed de novo using the “manifestly apparent” standard applicable to criminal cases..... 1

B. The trial court should have guided the jury’s determination of whether the proposed plan (a) met Mr. Urlacher’s best interests and (b) included conditions that would adequately protect the community. 10

II. The state’s misconduct in closing requires reversal and remand for a new trial...... 15

III. This court should reject the Bergen court’s analysis of the substantive due process challenge to the “best interests” standard...... 15

CONCLUSION 18

TABLE OF AUTHORITIES

FEDERAL CASES

<i>California v. Brown</i> , 479 U.S. 538, 107 S. Ct. 837, 93 L. Ed. 2d 934 (1987).....	9
<i>Francis v. Franklin</i> , 471 U.S. 307, 105 S. Ct. 1965, 85 L. Ed. 2d 344 (1985).....	9
<i>O'Connor v. Donaldson</i> , 422 U.S. 563, 95 S. Ct. 2486, 45 L. Ed. 2d 396 (1975).....	16, 17
<i>Sandstrom v. Montana</i> , 442 U.S. 510, 99 S.Ct. 2450, 61 L.Ed.2d 39 (1979)	9
<i>United States v. Playboy Entm't Grp., Inc.</i> , 529 U.S. 803, 120 S.Ct. 1878, 146 L.Ed.2d 865 (2000).....	16, 18

WASHINGTON STATE CASES

<i>1000 Virginia Ltd. P'ship v. Vertecs Corp.</i> , 158 Wn.2d 566, 146 P.3d 423 (2006), as corrected (Nov. 15, 2006)	9
<i>In re Det. of Bergen</i> , 146 Wn. App. 515, 195 P.3d 529 (2008) ...	10, 12, 13, 14, 15, 16, 17
<i>In re Det. of Martin</i> , 163 Wn.2d 501, 182 P.3d 951 (2008)	15
<i>In re Det. of Pouncy</i> , 168 Wn.2d 382, 229 P.3d 678 (2010) .	11, 12, 13, 14, 15
<i>In re Det. of Taylor-Rose</i> , 199 Wn. App. 866, 401 P.3d 357 (2017).....	8
<i>In re Marriage of Ruff & Worthley</i> , 198 Wn. App. 419, 393 P.3d 859 (2017).....	12
<i>In re Young</i> , 122 Wn.2d 1, 857 P.2d 989 (1993).....	16, 17
<i>State v. Acosta</i> , 101 Wn.2d 612, 683 P.2d 1069 (1984)	10, 14

<i>State v. Aguirre</i> , 168 Wn.2d 350, 229 P.3d 669 (2010).....	4
<i>State v. Allen</i> , 101 Wash.2d 355, 678 P.2d 798 (1984)	11, 13
<i>State v. Applin</i> , 116 Wn. App. 818, 67 P.3d 1152 (2003).....	7, 8
<i>State v. Arlene's Flowers, Inc.</i> , 187 Wn.2d 804, 389 P.3d 543 (2017)...	1, 2
<i>State v. Armstrong</i> , 188 Wn.2d 333, 394 P.3d 373 (2017).....	1, 2, 5
<i>State v. Bergeron</i> , 105 Wn.2d 1, 711 P.2d 1000 (1985).....	1
<i>State v. Borsheim</i> , 140 Wn. App. 357, 165 P.3d 417 (2007).....	7, 8
<i>State v. Cantabrana</i> , 83 Wn. App. 204, 921 P.2d 572 (1996).....	7, 8
<i>State v. Clark</i> , 187 Wn.2d 641, 389 P.3d 462 (2017).....	4, 5, 6
<i>State v. Dye</i> , 178 Wn.2d 541, 309 P.3d 1192 (2013).....	4, 5, 6
<i>State v. Iniguez</i> , 167 Wn.2d 273, 217 P.3d 768 (2009)	3, 4, 5, 6
<i>State v. Johnson</i> , 100 Wn.2d 607, 674 P.2d 145 (1983).....	1, 2
<i>State v. Jones</i> , 168 Wn.2d 713, 230 P.3d 576 (2010).....	3, 4, 5, 6
<i>State v. Kylo</i> , 166 Wn.2d 856, 215 P.3d 177 (2009)	7, 8
<i>State v. McCullum</i> , 98 Wn.2d 484, 656 P.2d 1064 (1983).....	9
<i>State v. Miller</i> , 131 Wn.2d 78, 929 P.2d 372 (1997), <i>as amended on reconsideration in part</i> (Feb. 7, 1997).....	9
<i>State v. Posey</i> , 161 Wn.2d 638, 167 P.3d 560 (2007).....	3
<i>State v. Smith</i> , 131 Wn.2d 258, 930 P.2d 917 (1997) (<i>Smith I</i>).....	2
<i>State v. Smith</i> , 174 Wn. App. 359, 298 P.3d 785 (2013) (<i>Smith II</i>).....	7, 8
<i>State v. Walker</i> , 182 Wn.2d 463, 341 P.3d 976 (2015), <i>cert. denied</i> , 135 S. Ct. 2844, 192 L. Ed. 2d 876 (2015)	1, 2
<i>State v. Watkins</i> , 136 Wn. App. 240, 148 P.3d 1112 (2006)	7, 8

WASHINGTON STATE STATUTES

RCW 26.09.002 12

RCW 71.09.094 15, 18

ARGUMENT

I. A NEW TRIAL IS REQUIRED BECAUSE JURORS WERE LEFT TO “GUESS AT THE MEANING OF [BOTH] ESSENTIAL ELEMENT[S]”, AND MR. URLACHER’S ATTORNEYS HAD TO “CONVINCE THE JURY WHAT THE LAW IS.”

- A. The trial court’s instructions must be reviewed *de novo* using the “manifestly apparent” standard applicable to criminal cases.
1. Review is *de novo* because Mr. Urlacher challenges the legal sufficiency and constitutionality of the court’s instructions.

The sufficiency of jury instructions is an issue of law, reviewed *de novo*. *State v. Walker*, 182 Wn.2d 463, 481, 341 P.3d 976, 986 (2015), *cert. denied*, 135 S. Ct. 2844, 192 L. Ed. 2d 876 (2015). Furthermore, appellate courts review constitutional claims *de novo*. *State v. Arlene's Flowers, Inc.*, 187 Wn.2d 804, 820, 389 P.3d 543 (2017); *State v. Armstrong*, 188 Wn.2d 333, 339, 394 P.3d 373 (2017).

In criminal cases, jury instructions “must *define* every element of the offense charged.” *State v. Johnson*, 100 Wn.2d 607, 623–24, 674 P.2d 145, 155 (1983) (emphasis added), *overruled on other grounds by State v. Bergeron*, 105 Wn.2d 1, 711 P.2d 1000 (1985). This is a “basic principle of due process.” *Id.* A defendant has not had a fair trial “if the jury must guess at the *meaning* of an essential element of a crime.” *State v. Smith*,

131 Wn.2d 258, 263, 930 P.2d 917 (1997) (*Smith I*) (emphasis added) (citing *Johnson*).¹

In other words, failure to define an element may create constitutional error. *Id.* That is what happened here. Respondent erroneously suggests that the problem here is merely definitional and thus does not warrant *de novo* review. See Brief of Respondent, pp. 11-15. This reflects a misunderstanding of the trial court’s error.

The trial court’s refusal to define two key phrases – “best interests” and “adequately protect the community”— forced the jury to “guess at the meaning” of the only two elements at issue in Mr. Urlacher’s trial. *Id.* Under these circumstances, “[i]t cannot be said that [Mr. Urlacher] has had a fair trial.” *Id.*

Mr. Urlacher’s challenges to the sufficiency of the instructions involve arguments of constitutional dimension. The issues must be reviewed *de novo*. *Walker*, 182 Wn.2d at 481; *Arlene’s Flowers, Inc.*, 187 Wn.2d at 820; *Armstrong*, 188 Wn.2d at 339.

2. Even if the trial court’s decision involved the exercise of discretion, review is still *de novo* because the refusal to define the elements violated due process.

¹ There does not appear to be any dispute regarding the general applicability of criminal cases to civil commitment issues, except regarding the “manifestly apparent” standard. *See, e.g.*, Brief of Respondent, pp. 12-15.

Even if the trial court had some discretion to refuse the proffered instructions, review should still be *de novo*. The Supreme Court has issued conflicting opinions on the proper standard of review of discretionary decisions violating an accused person's constitutional rights. The better approach is to review *de novo* a trial court's discretionary decisions that infringe constitutional rights.

The Supreme Court has applied the *de novo* standard to discretionary decisions that would otherwise be reviewed for abuse of discretion. *State v. Jones*, 168 Wn.2d 713, 719, 230 P.3d 576, 579 (2010); *State v. Iniguez*, 167 Wn.2d 273, 281, 217 P.3d 768 (2009). In *Jones*, for example, the court reviewed *de novo* a discretionary decision excluding evidence under the rape shield statute because the defendant argued a violation of his constitutional right to present a defense. *Jones*, 168 Wn.2d at 719.²

Similarly, the *Iniguez* court reviewed *de novo* the trial judge's discretionary decisions denying a severance motion and granting a continuance, because the defendant argued a violation of his constitutional right to a speedy trial. *Iniguez*, 167 Wn.2d at 280-281. The *Iniguez* court

² Generally, the exclusion of evidence under that statute is reviewed for an abuse of discretion. *State v. Posey*, 161 Wn.2d 638, 648, 167 P.3d 560 (2007).

specifically pointed out that review would have been for abuse of discretion had the defendant not argued a constitutional violation. *Id.*

However, the court has not applied this rule consistently. For example, one month prior to its decision in *Jones*, the court apparently applied an abuse-of-discretion standard to questions of admissibility under the rape shield law, even though—as in *Jones*—the defendant alleged a violation of his right to present a defense. *State v. Aguirre*, 168 Wn.2d 350, 362-63, 229 P.3d 669 (2010).

This inconsistency should not be taken as a repudiation of *Jones* and *Iniguez*. Cases applying the abuse-of-discretion standard have not grappled with *Jones* and *Iniguez*. See, e.g., *State v. Dye*, 178 Wn.2d 541, 309 P.3d 1192 (2013); *State v. Clark*, 187 Wn.2d 641, 648–49, 389 P.3d 462 (2017).

For example, in *Dye*, the court indicated that “[a]lleging that a ruling violated the defendant's right to a fair trial does not change the standard of review.” *Id.*, at 548. However, the *Dye* court did not cite *Iniguez* or *Jones*. *Id.*, at 548. Nor did it address the rationale underlying application of the *de novo* standard for constitutional violations.

Furthermore, the petitioners in *Dye* did not ask the court to apply a *de*

novo standard. See *Dye*, Petition for Review³ and Supplemental Brief.⁴ As the *Dye* court noted, the petitioner “present[ed] no reason for us to depart from [an abuse-of-discretion standard].” *Id.*⁵ There is no indication that the *Dye* court intended to overrule *Iniguez* and *Jones*. *Id.*

In *Clark*, the court announced it would “review the trial court's evidentiary rulings for abuse of discretion and defer to those rulings unless no reasonable person would take the view adopted by the trial court.” *Id.* (internal quotation marks and citations omitted). Upon finding that the lower court had excluded “relevant defense evidence,” the reviewing court would then “determine as a matter of law whether the exclusion violated the constitutional right to present a defense.” *Id.*

Although the *Clark* court cited *Jones*, it did not suggest that *Jones* was incorrect, harmful, or problematic, and did not overrule it. See, e.g., *Armstrong*, 188 Wn.2d at 340 n. 2 (“For this court to reject our previous holdings, the party seeking that rejection must show that the established

³ Available at <http://www.courts.wa.gov/content/Briefs/A08/879290%20prv.pdf> (last accessed 7/11/17).

⁴ Available at <http://www.courts.wa.gov/content/Briefs/A08/879290%20petitioner's%20supplemental%20brief.pdf> (last accessed 7/11/17).

⁵ By contrast, the Respondent did argue for application of an abuse-of-discretion standard. See *Dye*, Respondent's Supplemental Brief, pp 8-9, 17-18, available at <http://www.courts.wa.gov/content/Briefs/A08/879290%20respondent's%20supplemental%20brief.pdf> (last accessed 7/11/17).

rule is incorrect and harmful or a prior decision is so problematic that we must reject it.”)

The *Clark* court did not even acknowledge its deviation from the standard applied by the *Jones* court. *Id.* Nor does the *Clark* opinion mention *Iniguez*. Furthermore, as in *Dye*, the Respondent in *Clark* argued for the abuse-of-discretion standard, and Petitioner did not ask the court to apply a different standard. *See* Respondent’s Supplemental Brief, p. 16;⁶ Petitioner’s Supplemental Brief.⁷

Further, the two-part standard outlined in *Clark* makes the *de novo* stage meaningless. Once the court finds an abuse of discretion, there is no need to separately determine if the error violates a constitutional right: a trial court that abuses its discretion by excluding relevant and admissible evidence necessarily infringes the constitutional right to present a defense. *Jones*, 168 Wn.2d at 719. Such cases will turn on harmless error analysis, not on *de novo* review of the error’s constitutional import.

For all these reasons, the Court of Appeals should review the instructions *de novo*.

⁶ Available at <http://www.courts.wa.gov/content/Briefs/A08/92021-4%20Supp%20Brief%20-%20Resp.pdf> (last accessed 2/10/17).

⁷ Available at <http://www.courts.wa.gov/content/Briefs/A08/92021-4%20Supp%20Brief%20-%20Pet'r.pdf> (last accessed 2/10/17).

3. The “manifestly apparent” standard applies because of the liberty interests implicated in civil commitment cases.

A court’s instructions, when “read as a whole, must make the relevant legal standard manifestly apparent to the average juror.” *State v. Kylo*, 166 Wn.2d 856, 864, 215 P.3d 177 (2009) (internal quotation mark and citation omitted). This standard should apply in civil commitment cases. Appellant’s Opening Brief, pp. 12-19.

Respondent erroneously claims the “manifestly apparent” standard applies only to self-defense instructions. Brief of Respondent, pp. 29-30. This is incorrect.

Courts have applied the “manifestly apparent” standard in many contexts unrelated to self-defense. For example, the standard has been applied to the elements instruction for an offense (*State v. Smith*, 174 Wn. App. 359, 361, 298 P.3d 785 (2013) (*Smith II*), to instructions aimed at preventing double jeopardy violations (*State v. Borsheim*, 140 Wn. App. 357, 366, 165 P.3d 417 (2007)), to unanimity instructions (*State v. Watkins*, 136 Wn. App. 240, 243, 148 P.3d 1112 (2006), to instructions on insanity (*State v. Applin*, 116 Wn. App. 818, 825, 67 P.3d 1152 (2003), and to instructions defining dominion and control in possession cases. *State v. Cantabrana*, 83 Wn. App. 204, 208, 921 P.2d 572 (1996).

Nor should this court follow *In re Det. of Taylor-Rose*, 199 Wn. App. 866, 401 P.3d 357 (2017). See Brief of Respondent, p. 31. According to the *Taylor-Rose* court, “the court in [*Kyllo*] was tasked with determining whether one incorrect instruction and one correct instruction read together made the correct standard apparent to the jury.” *Id.*, at 880 n. 2. This purportedly distinguished *Kyllo*, because the appellant in *Taylor-Rose* “does not argue that there were contradictory instructions given in this case as in *Kyllo*.” *Id.*

Taylor-Rose mischaracterizes *Kyllo*. The instructions in *Kyllo* did not conflict, and the court made no mention of any inconsistency in its analysis. *Kyllo*, 166 Wn.2d at 859-60; 863-65. Furthermore, as is clear from a review of *Smith II*, *Borsheim*, *Watkins*, *Applin*, and *Cantabrana*, *supra*, the “manifestly apparent” standard is not limited to situations involving “one incorrect instruction and one correct instruction.” *Taylor-Rose*, 199 Wn. App. at 880 n. 2.

For the reasons outlined in the Appellant’s Opening Brief, the “manifestly apparent” standard should apply to the court’s instructions in this case. Appellant’s Opening Brief, pp. 12-19. The instructions here did not make the relevant standard manifestly apparent to the average juror. This requires reversal and remand for a new trial with proper instructions. *Kyllo*, 166 Wn.2d at 863-65.

4. The instructions must be interpreted the way a reasonable juror could have interpreted them.

This court should view the instructions the way a reasonable juror could have interpreted them. Appellant's Opening Brief, pp. 13-19; *State v. Miller*, 131 Wn.2d 78, 90, 929 P.2d 372 (1997), *as amended on reconsideration in part* (Feb. 7, 1997). Contrary to Respondent's assertion, this standard does not just apply to the elements instruction. See Brief of Respondent, pp. 31-32.

In fact, the U.S. Supreme Court decision on which *Miller* is based did not involve an elements instruction. See *Sandstrom v. Montana*, 442 U.S. 510, 514, 99 S.Ct. 2450, 61 L.Ed.2d 39 (1979) (addressing mandatory presumption).⁸ Furthermore, our Supreme Court has applied the standard to self-defense instructions, reversing a conviction because "[a] reasonable juror could have mistakenly concluded" that the defendant had some burden to prove self-defense. *State v. McCullum*, 98 Wn.2d 484, 498, 656 P.2d 1064 (1983).

This court is bound by the Supreme Court's decision in *Miller*. *1000 Virginia Ltd. P'ship v. Vertecs Corp.*, 158 Wn.2d 566, 590, 146 P.3d 423, 435 (2006), *as corrected* (Nov. 15, 2006) (Court of Appeals is bound

⁸ See also *Francis v. Franklin*, 471 U.S. 307, 315, 105 S. Ct. 1965, 85 L. Ed. 2d 344 (1985) (addressing mandatory presumption); *California v. Brown*, 479 U.S. 538, 541, 107 S. Ct. 837, 93 L. Ed. 2d 934 (1987) (addressing penalty phase instruction in capital case).

by Supreme Court decisions). The instructions here must be read the way a reasonable juror “could have” interpreted them. *Miller*, 131 Wn.2d at 90.

- B. The trial court should have guided the jury’s determination of whether the proposed plan (a) met Mr. Urlacher’s best interests and (b) included conditions that would adequately protect the community.

An attorney “should not have to convince the jury what the law is.” *State v. Acosta*, 101 Wn.2d 612, 622, 683 P.2d 1069 (1984). Here, the court gave jurors no guidance on the factors to consider when deciding if the proposed LRA plan was in Mr. Urlacher’s best interests. CP 660-675. Nor did jurors receive instruction on how to determine if the proposed plan would adequately protect the community. CP 660-675.

The court should have given the instructions proposed by Mr. Urlacher. CP 434, 435. Under *Bergen*, jurors should have been told that the “best interests” determination related to success in treatment, and that the community protection element required a focus on the plan, not on Mr. Urlacher’s risk to reoffend. *In re Det. of Bergen*, 146 Wn. App. 515, 529, 533-534, 195 P.3d 529 (2008).

These phrases— “best interests” and “adequately protect the community”—have specialized meanings in civil commitment cases. *Id.* Although the individual words may be commonly understood, the phrases

themselves require further definition. If, as Respondent asserts, the issue is governed by the “technical term” rule, reversal is required because the trial court abused its discretion by refusing to define the two critical terms at issue in the case. *In re Det. of Pouncy*, 168 Wn.2d 382, 390, 229 P.3d 678 (2010); *see* Brief of Respondent, pp. 15-17.

Courts must define technical terms, but need not define expressions that are of ordinary understanding or self-explanatory. *Id.* Whether a word qualifies as “technical” is purportedly a question left to the discretion of the trial court.⁹ *Id.*

In *Pouncy*, the Supreme Court noted that the term “personality disorder” has a well-accepted psychological meaning, is not in common usage, and is beyond the experience of the average juror. *Id.* The court concluded that the phrase “personality disorder” is “a term of art... that requires definition to ensure jurors are not ‘forced to find a common denominator among each member’s individual understanding’ of the term.” *Id.* (quoting *State v. Allen*, 101 Wash.2d 355, 362, 678 P.2d 798 (1984)).

⁹ This does not appear to be true, as *Pouncy* itself illustrates. The Supreme Court did not defer to the trial court in *Pouncy*; instead, it concluded—apparently as a matter of law—that “[t]he phrase ‘personality disorder’ is not one in common usage and is beyond the experience of the average juror.” *Id.* Following *Pouncy*, a trial court’s failure to define “personality disorder” will always be error. *Id.* It is difficult to understand how an objective determination of the technical nature of a term could ever be discretionary.

Here, as with “personality disorder” in *Pouncy*, the phrases “best interests” and “adequately protect the community” are technical terms. *See Bergen*, 146 Wn. App. at 529, 533-534. They should have been defined for the jury. *See Pouncy*, 168 Wn.2d at 390.

One common understanding of “best interests” is the definition applied in child custody proceedings. A court assessing a child’s best interests must consider myriad factors such as the child’s emotional growth, health, stability, and physical care; the court must also ensure the child’s physical, mental, and emotional safety.¹⁰ RCW 26.09.002.¹¹

But this meaning of the phrase is not the one adopted by the *Bergen* court. *Bergen*, 146 Wn. App. at 529. In civil commitment proceedings, substantive due process requires the best interest inquiry to focus on “successful treatment.” *Id.* The LRA proposal must be the appropriate next step in the detainee’s treatment, and must adequately serve the patient’s treatment needs.¹² *Id.*, at 529, 531.

¹⁰ Courts must also strive to maintain existing patterns of interaction between parent and child. RCW 26.09.002.

¹¹ *See also In re Marriage of Ruff & Worthley*, 198 Wn. App. 419, 428, 393 P.3d 859 (2017) (Noting that “the criteria for determining the best interests of the child in custody disputes are varied and highly dependent on the facts and circumstances, but continuity of established relationships is a key consideration.”)

¹² Curiously, Respondent contends that treatment needs are “just one aspect of the ‘best interest’ determination.” Brief of Respondent, p. 18. This is a distorted reading of *Bergen*, and creates the due process problem the *Bergen* court sought to avoid. The *Bergen* court was clear that the best interests determination “involves considering whether [an LRA plan] would adequately serve [the detainee’s] treatment needs.” *Id.*, at 531. *Bergen* defined

The court's failure to define "best interests" left jurors to guess at permissible factors for consideration. There is a reasonable possibility that some jurors considered factors other than Mr. Urlacher's treatment needs when assessing his best interests.

As in *Pouncy*, the absence of a definition forced jurors "'to find a common denominator among each member's individual understanding' of the term." *Pouncy*, 168 Wn.2d at 390 (quoting *Allen*, 101 Wash.2d at 362). This is especially true given the prosecutor's argument inviting jurors to make up their own definitions. RP 1034.

The same is true regarding the community protection element. There is no common understanding of the phrase "adequately protect the community." Under *Bergen*, this element turns on "whether the proposed LRA will prevent an otherwise-likely offense," requiring a focus "on the plan, not the person." *Bergen*, 146 Wn. App. at 533. The jury should not base its decision on the offender's risk of re-offense, but instead must examine the sufficiency of the proposed LRA. *Id.*, at 534.

The court should have made this standard clear to the jury. Without a definition modeled on *Bergen*, it would be natural for jurors to focus on Mr. Urlacher's risk of re-offense rather than his proposed plan. A

treatment needs broadly to encompass (for example) threats to the detainee's safety, but did not suggest that a best interests determination could constitutionally focus on something other than treatment needs.

reasonable juror would understandably fixate on Mr. Urlacher’s status as a sexually violent predator and vote to deny conditional release regardless of the adequacy of his plan.

In civil commitment proceedings, “best interests” and “adequately protect the community” qualify as technical terms. *See Pouncy*, 168 Wn.2d at 390. They are more like the phrase “personality disorder” than they are like words such as “assault,” “theft,” “manufacture,” or even “common scheme or plan”—the terms at issue in the other cases cited by Respondent. *See* Brief of Respondent, pp. 13-16.

The *Bergen* court placed limits on the meaning of “bests interests” and “adequately protect the community”—limits that do not inhere in the terms themselves. *Bergen*, 146 Wn. App. at 529, 533-534.¹³ The court should have explained these limits to the jurors in this case.

Mr. Urlacher’s attorneys were “only required to argue to the jury that the facts fit the law.” *Acosta*, 101 Wn.2d at 622. They should not have had “to convince the jury what the law is.” *Id.* Although counsel tried to persuade the jury to adopt the proper standards, the court’s instructions left them in the position of arguing “what the law is.” *Id.*

¹³ Respondent’s argument reflects a misunderstanding of this point. *See* Brief of Respondent, pp. 19 (Appellant “inexplicably contradicts this argument...”) and 26 (Appellant “subsequently contradicts this argument...”). The *Bergen* court gave each phrase a meaning that is narrower than the plain language suggests. The trial court should have conveyed the *Bergen* definitions to the jury, since they do not inhere in the plain language.

Respondent does not suggest that any error was harmless.

Accordingly, the trial court's order must be vacated and the case remanded for a new trial with proper instructions. *Pouncy*, 168 Wn.2d at 390.

II. THE STATE'S MISCONDUCT IN CLOSING REQUIRES REVERSAL AND REMAND FOR A NEW TRIAL.

Mr. Urlacher rests on the argument set forth in Appellant's

Opening Brief.

III. THIS COURT SHOULD REJECT THE *BERGEN* COURT'S ANALYSIS OF THE SUBSTANTIVE DUE PROCESS CHALLENGE TO THE "BEST INTERESTS" STANDARD.

RCW 71.09.094 does not contain any words suggesting that the "best interests" element is limited to the detainee's interest in successfully completing treatment. By limiting "best interests" to treatment success, the *Bergen* court improperly added language to a clearly worded statute. *See In re Det. of Martin*, 163 Wn.2d 501, 509, 182 P.3d 951 (2008).¹⁴ This court should not make the same mistake. *See* Appellant's Opening Brief, pp. 44-48.

Respondent contends that *Bergen* did *not* limit the statute by restricting the "best interests" standard to treatment-related concerns. Brief

¹⁴ Of course, if the *Bergen* court is correct and the legislature successfully conveyed its intent to have the "best interests" standard apply only to treatment success, the trial court erred in this case by refusing to make that clear to the jury, as argued above.

of Respondent, pp. 48-49. Instead, according to Respondent, the *Bergen* court “explained that treatment needs are just one aspect of the ‘best interest’ determination.” Brief of Respondent, p. 48.

This interpretation of *Bergen* is hard to reconcile with the court’s own language. *Bergen*, 146 Wn. App. at 528-532. The *Bergen* court focused exclusively on treatment in its discussion of the “best interests” standard. *Id.*

However, if Respondent is correct, then Washington’s conditional release statute violates substantive due process. *See* Appellant’s Opening Brief, pp. 42-44. With its focus on “best interests,” the statutory scheme is not the “least restrictive means” of meeting the government’s interest in treating detainees and protecting the public. *See United States v. Playboy Entm’t Grp., Inc.*, 529 U.S. 803, 813, 823, 120 S.Ct. 1878, 146 L.Ed.2d 865 (2000); *see also In re Young*, 122 Wn.2d 1, 26, 857 P.2d 989 (1993).

Furthermore, application of a broad “best interests” standard violates *O’Connor v. Donaldson*, 422 U.S. 563, 575, 95 S. Ct. 2486, 45 L. Ed. 2d 396 (1975). Under *O’Connor*, “a State cannot constitutionally confine without more a nondangerous individual who is capable of surviving safely in freedom by himself or with the help of willing and responsible family members or friends.” *Id.*, at 576.

Because a conditional release plan must adequately protect the community, Mr. Urlacher's LRA plan puts him in the same position as the patient in *O'Connor*. Both can live safely in the community: the *O'Connor* patient because he is not dangerous, and Mr. Urlacher because he will live under conditions that adequately protect the community.

In *Bergen*, the court erroneously found *O'Connor* inapplicable:

O'Connor involved the involuntary commitment of a nondangerous mentally ill person who was not receiving treatment and held that the State cannot constitutionally confine an individual who is dangerous to no one and can live safely in freedom. It therefore does not apply here, where the committed individual has already been found to be a danger to the community and does not challenge that finding.

Bergen, 146 Wn. App. at 529. Both the *Bergen* court and Respondent fail to recognize that a person whose plan is adequate to protect the community is, like the patient in *O'Connor*, "dangerous to no one and can live safely in freedom" under the terms of the plan. *Id.*

The State cannot force its citizens to live in harmony with the government's view of their best interests. *O'Connor*, 422 U.S. at 575. Substantive due process allows only those infringements on liberty that are narrowly tailored to achieve a compelling government purpose. *Young*, 122 Wn.2d at 26. The compelling interests at the heart of Chapter 71.09 RCW are treatment and community protection. *Id.*

Confining patients who can be safely treated in the community violates substantive due process. *Id.* Doing so based on their “best interests” is not the least restrictive means of achieving treatment success and protecting the public. *See Playboy*, 529 U.S. at 813, 823.

RCW 71.09.094(2) is unconstitutional. *Id.* The trial court’s order must be reversed, and the case remanded for a new trial. Upon retrial, the sole consideration should be whether Mr. Urlacher’s proposed LRA plan adequately protects the community.

CONCLUSION

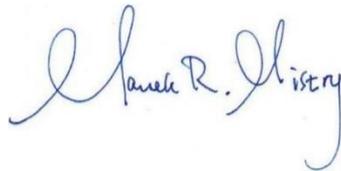
For the foregoing reasons, Mr. Urlacher must be granted a new trial with proper instructions.

Respectfully submitted on October 20, 2017,

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CERTIFICATE OF SERVICE

I certify that on today's date:

I mailed a copy of Appellant's Reply Brief, postage prepaid, to:

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With the permission of the recipient(s), I delivered an electronic version of the brief, using the Court's filing portal, to:

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I filed the Appellant's Reply Brief electronically with the Court of Appeals, Division II, through the Court's online filing system.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at Olympia, Washington on October 20, 2017.



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