

FILED  
Court of Appeals  
Division II  
State of Washington  
7/5/2019 4:05 PM

NO. 53025-2-II

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

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STATE OF WASHINGTON,

Respondent,

v.

JACE HAMBRICK,  
Appellant.

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR CLARK COUNTY

Clark County Cause No. 17-1-00384-1

The Honorable Gregory M. Gonzales, Judge

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BRIEF OF APPELLANT

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### **ISSUES AND ASSIGNMENTS OF ERROR**

1. Mr. Hambrick's convictions were entered in violation of his Sixth and Fourteenth Amendment right to a jury trial.
2. Mr. Hambrick's convictions were entered in violation of his Wash. Const. art. I, § 21 right to a jury trial.
3. Mr. Hambrick did not knowingly, voluntarily, and intelligently waive his constitutional right to a jury trial.
4. Mr. Hambrick never made a "personal expression" of his desire to waive his constitutional right to a jury trial.
5. The trial court erred by acting as factfinder at Mr. Hambrick's trial.

**ISSUE 1:** The state and federal constitutions require that an accused person be provided with a jury trial unless s/he knowingly, intelligently, and voluntarily waives that right, as evinced by a "*personal* expression of waiver." Did the trial court violate Mr. Hambrick's right to a jury trial by acting as factfinder when Mr. Hambrick never signed a jury trial waiver or personally stated that he wished to waive his right to a jury trial?

6. The trial court erred by entering Finding of Fact 8.
7. The trial court erred by entering Conclusion of Law 3.
8. The trial court erred by entering Conclusion of Law 4.
9. The trial court erred by entering Conclusion of Law 5.
10. The trial court's findings of fact are insufficient to support Mr. Hambrick's conviction for Count I.
11. Mr. Hambrick's conviction for Count I must be reversed.

**ISSUE 2:** In order to convict for attempted rape of a child in the second degree, the state must prove beyond a reasonable doubt that the accused person *believed* that the alleged victim was between the ages of twelve and fourteen. Are the trial court's findings of fact insufficient to support Mr. Hambrick's conviction for attempted rape of a child when the court did not find that he believed that the fictional alleged victim was younger than fourteen?

12. The sentencing condition prohibiting Mr. Hambrick from “unauthorized use of electronic media” is unconstitutionally vague in violation of the Fourteenth Amendment.
13. The sentencing condition prohibiting Mr. Hambrick from “unauthorized use of electronic media” is unconstitutionally overbroad in violation of the First Amendment.
14. The sentencing condition prohibiting Mr. Hambrick from “unauthorized use of electronic media” is unconstitutionally vague in violation of Wash. Const. art. I, § 3.
15. The sentencing condition prohibiting Mr. Hambrick from “unauthorized use of electronic media” must be stricken from the Judgment and Sentence.

**ISSUE 3:** A sentencing condition is unconstitutionally vague if it either (1) is not clear enough to inform ordinary citizens of what conduct is prohibited or (2) allows for arbitrary enforcement. Is the condition prohibiting Mr. Hambrick’s “unauthorized use of electronic media” unconstitutionally vague when it fails to specify what qualifies as “electronic media” or who would be empowered to “authorize” such use?

## **STATEMENT OF FACTS AND PRIOR PROCEEDINGS**

In 2017, the Vancouver police and Washington State Patrol conducted an online sting operation, which they called “Operation Be My Felontine.” *See* CP 98-99; RP 23-24.

As part of the operation, the police posted personal ads on Craigslist. RP 40, 49-50. Craigslist requires posters to confirm that they are at least eighteen years old before posting such an ad. RP 53, 75-77; Ex. 22.

One ad the police posted was titled “jus a gamer gurl sittin home on a sunny day – w4m.” Ex. 1. The term “w4m” indicates that the poster was a woman seeking a man. RP 54.

None of the text in the ad specified or hinted at the poster’s age. *See* Ex. 1. “Gamer girl” is a slang term for any female – including an adult -- who is interested in video games. *See* Ex. 19, 20. A “gamer girl” can be of any age. *See* Ex. 19, 20.

Jace Hambrick was twenty years old when he saw the “gamer girl” ad. CP 181. Jace has severe Attention Deficit Hyperactive Disorder (ADHD), which results in cognitive problems, social immaturity, poor judgment, and difficulty with problem-solving. CP 181-82. His “neurological age” was younger than twenty. CP 183. Jace is also interested in video games and identifies as a “gamer.” RP 167.

Jace responded to “gamer girl” and asked her to send him a photo of herself. Ex. 3, p. 1. The police officers sent him a photo of a 24-year-old woman, dressed in plain clothes and wearing a gaming headset.<sup>1</sup> RP 18; Ex. 4.

“Gamer girl” told Jace that she was playing a video game called Alien Isolation. Ex. 2, p. 1. Jace knew that you had to be at least seventeen years old to buy that game. RP 82-83, 170.

Jace mentioned sex and then “gamer girl” told him that she was thirteen years old. Ex. 2, p. 2. Jace responded with “xD” and asked whether she was joking. Ex. 2, p. 3. The symbol “xD” is denotes a person laughing. RP 93, 99. Jace went on to explain his sexual interests in “women.” Ex. 3, p. 2. He later said again that he thought “gamer girl” was joking about being thirteen years old. Ex. 3, p. 3. She said she was not joking but also used the term “lol” several times, which means “laughing out loud.” RP 99; Ex. 3, p. 3.

Jace asked “gamer girl” to meet him to “hang[] out.” *See* Ex. 3, p. 1. First, she told him to meet her at a 7/11 store. Ex. 3, p. 4. Jace drove to

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<sup>1</sup> A police witness testified that the woman in the photo was a police officer who had been dressed to appear younger than her twenty-four years. RP 60-61. But no one explained what that meant or how it was determined what clothing would make her look younger. *See* RP generally.

In the photo, she is wearing a t-shirt with illegible writing on it, a winter hat, and a headset. Ex. 4.

that store, went inside, and bought condoms. RP 132. Then “gamer girl” texted and told him to come to her house and gave the address. Ex. 3, p. 5.

When Jace got to the house, he texted “gamer girl” and asked her to come open the door. Ex. 3, p. 6. This was because he wanted to ensure that she was the adult in the photo he had received and not a child. RP 179. When the adult woman in the photo opened the door, Jace went inside. RP 36, 90.

Jace was arrested once he was inside the house. RP 25. The state charged him with attempted rape of a child in the second degree and communication with a minor for immoral purposes. CP 1-2.

Jace’s defense attorney filed a written jury waiver, which was signed only by counsel. CP 3. Jace never signed a waiver of his right to a jury trial. *See CP generally*. Nor did the court ask Jace whether he intended to waive that right. *See RP generally*. Instead, the judge said simply that the court had received and read the written waiver signed by counsel. RP 6.

Nonetheless, the case proceeded to a bench trial. *See RP generally*.

At trial, Jace testified that he did believe that “gamer girl” was an adult when they were communicating online. RP 170. He had believed that she was role playing when she pretended to be thirteen. RP 164-66, 174-77. Even so, he had asked her to come to the door so he could confirm

her age before going in; he planned to leave immediately if “gamer girl” turned out to be a child. RP 179-80.

Jace explained that he believed “gamer girl” to be an adult because she was posting on an adults-only site, playing a game that required the user to be seventeen, and had sent him a photo of an adult woman. RP 170, 173. “Gamer girl” told him that her mother would be out of the house for the entire night and Jace did not believe that a thirteen-year-old would be permitted to stay home alone all night. RP 178. “Gamer girl” had also told Jace that she was not a virgin and he believed that a thirteen-year-old would have been a virgin. RP 172.

Jace also did not believe that a thirteen-year-old would be able to give him the exact cross-streets for a 7/11 store. RP 172. “Gamer girl” had also used some slang that Jace associated with older people and had called him “fella.” RP 171-72. Jace believed that use of the symbols “xD” and “lol” had confirmed that they were not serious when they talked about “gamer girl’s” age. RP 176.

A forensic examination of Jace’s cell phone had also failed to turn up any evidence of child pornography or any other evidence of sexual interest in children. RP 216-17. An expert testified that this lack of evidence was unusual in child sex cases. RP 217.

The judge found Jace guilty of both of the charges against him. CP 63-66. But the judge did not enter a finding concluding that Jace had believed that “gamer girl” was actually thirteen years old. *See* CP 63-66.

As part of the sentence, the court ordered Jace not to engage in any “unauthorized use of electronic media.” CP 336.

This timely appeal follows. CP 339-57.

### **ARGUMENT**

**I. MR. HAMBRICK’S BENCH TRIAL WAS HELD IN VIOLATION OF HIS CONSTITUTIONAL RIGHT TO A JURY TRIAL; HE NEVER PERSONALLY WAIVED THAT RIGHT.**

Mr. Hambrick did not personally waive his right to a jury trial. *See RP generally; CP generally.* Defense counsel filed a document purporting to be a jury trial waiver, but it was not signed by Mr. Hambrick. CP 3. Nor did the court ask Mr. Hambrick directly whether understood his constitutional right to a trial by jury or wished to waive that right. *See RP generally.* Instead, the court simply stated that it had read the waiver, signed by counsel. RP 6.

The trial court violated Mr. Hambrick’s constitutional right to a jury trial by acting as factfinder at trial absent an express, personal waiver of that right by Mr. Hambrick. Mr. Hambrick’s convictions must be reversed.

Both the state and federal constitutions protect the right to a trial by jury. U.S. Const. Amend. VI, XIV; art. I, § 21. An accused person may waive that right, but such a waiver must be voluntary, knowing, and intelligent. *State v. Hos*, 154 Wn. App. 238, 249, 225 P.3d 389 (2010) (citing *City of Bellevue v. Acrey*, 103 Wn.2d 203, 207, 691 P.2d 957 (1984)). A claim arguing that an accused person did not validly waive his/her right to a jury trial may be raised for the first time on appeal. *Hos*, 154 Wn. App. at 252; RAP 2.5(a)(3).

The burden of proving the validity of a jury trial waiver is on the state. *Id.* An appellate court “must indulge every reasonable presumption against [a jury trial waiver], absent a sufficient record.” *Id.* at 250 (citing *State v. Wicke*, 91 Wn.2d 638, 645, 591 P.2d 452 (1979)). The validity of a purported waiver of the right to a jury trial is reviewed *de novo*. *Id.* (citing *State v. Ramirez–Dominguez*, 140 Wn. App. 233, 239, 165 P.3d 391 (2007)). A record can only support a jury trial waiver if it contains a “personal expression of waiver” by the accused. *Id.* (citing *Wicke*, 91 Wn.2d at 644).

Counsel’s waiver of the right to trial by jury, on the behalf of the accused, is insufficient to proceed without a jury as factfinder. *Id.* This is true even when -- as in *Wicke* -- the accused “stood beside his counsel, without objection, as counsel orally waived a jury trial.” *Id.* (citing *Wicke*,

91 Wn.2d at 644). Rather, the trial court must orally question the accused to obtain a personal waiver of this critical constitutional right. *Id.* (citing *Wicke*, 91 Wn.2d at 641). As the *Wicke* court noted, an implicit waiver does not establish the fact of a knowing, voluntary, and intelligent waiver “to the extent of the constitutional standard demanded by the United States Supreme Court...” *Wicke*, 91 Wn.2d at 645 (citing *Hodges v. Easton*, 106 U.S. 408, 1 S.Ct. 307, 27 L.Ed. 169 (1882); *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); *Schneckloth v. Bustamonte*, 412 U.S. 218, 93 S.Ct. 2041, 36 L.Ed.2d 854 (1973)).

As in *Hos* and *Wicke*, Mr. Hambrick did not sign a written jury trial waiver. *Hos*, 154 Wn. App at 251; *Wicke*, 91 Wn.2d at 641; *See CP generally*. Also like in *Hos* and *Wicke*, the trial court did not personally question Mr. Hambrick to determine whether he had knowingly, voluntarily, and intelligently waived his right to a jury trial or even understood the rights afforded to him by the constitution. *Hos*, 154 Wn. App. at 252; *Wicke*, 91 Wn.2d at 641; *See RP generally*.

Unlike in *Wicke* and *Hos*, however, Mr. Hambrick did not even “stand beside his counsel, without objection, as counsel orally waived a jury trial.” *Wicke*, 91 Wn.2d at 644; *Hos*, 154 Wn. App. at 250. Mr. Hambrick only heard his attorney confirm that he had filed a written waiver and the judge confirm that the court had received it. RP 6.

Mr. Hambrick never personally waived his constitutional right to a jury trial.

Accordingly, this case requires the same result as *Hos* and *Wicke*: Mr. Hambrick's convictions must be reversed and his case must be remanded for a new trial, at which he must be afforded all of his constitutional rights. *Hos*, 154 Wn. App. at 252.

**II. THE TRIAL COURT'S FINDINGS OF FACT ARE INSUFFICIENT TO SUPPORT MR. HAMBRICK'S CONVICTION FOR ATTEMPTED RAPE OF A CHILD BECAUSE THE COURT (ACTING AS FACTFINDER) DID NOT FIND THAT HE BELIEVED THAT THE FICTIONAL ALLEGED VICTIM WAS YOUNGER THAN FOURTEEN.**

The primary factual issue at Mr. Hambrick's trial was whether he had believed "gamer girl's" claims that she was thirteen years old. *See* RP 170-78. In order to convict him for attempted rape of a child, the state was required to prove beyond a reasonable doubt not only that "gamer girl" claimed to have been thirteen but that Mr. Hambrick had believed her.

But the trial court's findings of fact are silent on the issue. CP 63-66. Absent a finding that Mr. Hambrick believed that "gamer girl" was between the ages of twelve and fourteen, the court's findings are insufficient to support the legal conclusion that Mr. Hambrick was guilty of attempted rape of a child in the second degree. Mr. Hambrick's conviction for Count I must be reversed.

A conviction following a bench trial must be reversed if substantial evidence does not support the court's factual findings or if the court's findings do not support its conclusions of law. *State v. Carlson*, 143 Wn. App. 507, 519, 178 P.3d 371 (2008).

In this case, the trial court's findings of fact are insufficient to support the legal conclusion that Mr. Hambrick is guilty of attempted rape of a child because the court did not find that he *believed* that "gamer girl" was thirteen years old. *Id.*; CP 63-66.

In order to sustain a conviction for *attempted* rape of a child in the second degree, the state must prove beyond a reasonable doubt that the accused person knew – or, in the case of a fictional alleged victim, *believed* – that the alleged victim was between the ages of twelve and fourteen. *State v. Johnson*, 173 Wn.2d 895, 905, 270 P.3d 591 (2012); RCW 9A.44.076.

This requirement in an attempt case stands in contrast to the elements of the completed crime of rape of a child, which does not require the state to prove that the accused knew the age of the alleged victim. *See* RCW 9A.44.076. The distinction is drawn because courts must "require the highest possible mental state for criminal attempt because criminal attempt focuses on the dangerousness of the actor, not the act." *Id.* (*citing* 2 pt. 1 Model Penal Code and Commentaries cmt. 1 at 298–99, cmt. 2, at

303 (1985) (MPC & Cmts.); Judiciary Comm. of Wash. Legis. Council, Revised Washington Criminal Code 104-05 (Dec. 3, 1970) (Judiciary Comm. Draft)). In order to avoid punishing “evil thoughts alone” criminal attempt must not criminalize “conduct that does not itself strongly corroborate the actor’s criminal objective.” *Id.* (citing MPC & Cmts. Cmt 1, at 298-99).

In the case of a fictitious victim, the state is required to prove that the accused *believed* that the fictitious person was the necessary age. *Id.* at 909. Though this can generally be demonstrated through evidence that the fictitious “victim” communicated his/her age to the accused and that the accused received that information, the *Johnson* court acknowledged the distinction between receiving that information and believing it. *Id.* at 898 (addressing jury question regarding whether the state was required to prove that the accused actually believed that the police officers in that case were seventeen years old or whether it was enough that they had been told that the officers were seventeen).

In Mr. Hambrick’s case, it was uncontested that “gamer girl” claimed to have been thirteen years old, but the primary factual issue at trial was whether Mr. Hambrick actually believed her. *See* RP 170-78. The trial court never found that Mr. Hambrick believed her when she said that

she was thirteen. *See* CP 63-66.<sup>2</sup> Without such a finding, the court’s findings of fact are insufficient to support the legal conclusion that Mr. Hambrick committed the crime of attempted rape of a child. *Johnson*, 173 Wn.2d at 905; *Carlson*, 143 Wn. App. at 519.

The trial court’s findings of fact are insufficient to support Mr. Hambrick’s conviction for Count I. *Id.* That conviction must be reversed and the charge must be dismissed with prejudice. *Id.*

**III. THE SENTENCING CONDITION PROHIBITING MR. HAMBRICK FROM “UNAUTHORIZED USE OF ELECTRONIC MEDIA” IS UNCONSTITUTIONALLY VAGUE.**

The sentencing court ordered Mr. Hambrick to refrain from “unauthorized use of electronic media.” CP 336. But the court neither clarified what it meant by “electronic media” nor specified who would be

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<sup>2</sup> The trial court entered a finding that “the defendant clearly expressed by words and conduct that he intended to have sex with a thirteen year old (sic).” CP 64. But the court does not clarify whether it is applying the strict liability standard (under which Mr. Hambrick would be guilty regardless of whether he believed that “gamer girl” was thirteen, so long as he had been told that she was) or the proper standard under the attempt statute (which requires proof that he believed her claimed age). *See* CP 63-66. Absent a specific finding that Mr. Hambrick *believed* that “gamer girl” was thirteen years old, the court’s findings of fact are insufficient to support the legal conclusion that he was guilty of attempted rape of a child in the second degree.

Likewise, the court’s finding that “the defendant engaged in electronic communication with a person he believed to be a minor” does not cure the error because it does not clarify whether Mr. Hambrick believed the fictional alleged victim to be under the age of fourteen. CP 64.

(Continued)

empowered to “authorize” such use. CP 336. This sentencing condition is unconstitutionally vague.<sup>3</sup>

An illegal or erroneous sentence may be challenged for the first time on appeal. *State v. Bahl*, 164 Wn.2d 739, 744, 193 P.3d 678 (2008). Under the due process clauses of the Fourteenth Amendment and art. I, § 3 of the Washington Constitution, the state must provide citizens fair warning of prohibited conduct. *Id.* at 752. This due process vagueness doctrine also protects against arbitrary, *ad hoc*, or discriminatory enforcement. *State v. Halstien*, 122 Wn.2d 109, 116-17, 857 P.2d 270 (1993).

A prohibition is unconstitutionally vague if it does not (1) define the prohibition with sufficient definiteness so ordinary people can understand what conduct is prohibited; or (2) does not provide ascertainable standards of guilt to protect against arbitrary enforcement. *Bahl*, 164 Wn.2d at 752-53. If it fails either prong, the prohibition is unconstitutionally vague. *Id.* at 753.

There is no presumption in favor of the constitutionality of a community custody condition. *State v. Sanchez Valencia*, 169 Wn.2d 782,

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<sup>3</sup> This Court has accepted the state’s concession that this sentencing condition is unconstitutionally vague in two unpublished cases. See *State v. Cocom-Vazquez*, 50282-8-II, 2018 WL 5013925, at \*4 (Wash. Ct. App. Oct. 16, 2018), *review denied*, 192 Wn.2d 1021, 433 P.3d 816 (2019); *State v. Belser*, 50899-1-II, 2019 WL 1779616, at \*5 (Wash. Ct. App. Apr. 23, 2019).

792-93, 239 P.3d 1059 (2010). Imposition of unconstitutionally vague conditions is manifestly unreasonable, requiring reversal. *Id.* at 791-92.

In *State v. Irwin*, 191 Wn. App. 644, 649, 364 P.3d 830 (2015), the court considered a vague, overbroad community custody condition which read, “Do not frequent areas where minor children are known to congregate, as defined by the supervising” community corrections officer. On review, the court struck this condition as unconstitutionally vague and remanded for resentencing. *Id.* at 655.

The *Irwin* court explained, “Without some clarifying language or an illustrative list of prohibited locations ... the condition does not give ordinary people sufficient notice to ‘understand what conduct is proscribed.’” *Id.* (quoting *Bahl*, 164 Wn.2d at 753). The court acknowledged that it “may be true that, once the CCO sets locations where ‘children are known to congregate’ for Irwin, Irwin will have sufficient notice of what conduct is proscribed.” *Id.* But this is not sufficient because it would still “leave the condition vulnerable to arbitrary enforcement,” thereby failing the second prong of the vagueness analysis. *Id.*

In *Bahl*, the Supreme Court held a community condition unconstitutionally vague where it prohibited Bahl from possessing or accessing pornographic material “as directed by the supervising Community Corrections Officer.” *Bahl*, 164 Wn.2d at 743. “The fact that

the condition provides that Bahl's community corrections officer can direct what falls within the condition only makes the vagueness problem more apparent, since it virtually acknowledges that on its face it does not provide ascertainable standards for enforcement." *Id.* at 758.

As in *Bahl* and *Irwin*, the conditions prohibiting Mr. Hambrick from "unauthorized use of electronic media" fails to provide sufficient definiteness. CP 336. The condition does not tell Mr. Hambrick what he can and cannot use in context of the broad term "electronic media" and if he wanted to access it, who would be responsible for authorizing the access. The condition is not sufficiently definite to distinguish between what is prohibited and what is allowed.

Electronic media is everywhere. Does the "no unauthorized use of electronic media" mean Mr. Hambrick can or cannot watch the news on TV, read an electronic billboard, check his email from a phone or a computer, go to a movie, or watch a message from his spiritual advisor or read a book on an iPad? Who would he turn to for authorization? Mr. Hambrick has no way of knowing. Because no ordinary person would know what conduct is prohibited, the condition fails the first prong of the vagueness test.

"In addition, when a statute or other legal standard, such as a condition of community placement, concerns material protected under the

First Amendment, a vague standard can cause a chilling effect on the exercise of sensitive First Amendment freedoms.” *Bahl*, 164 Wn.2d at 753 (citing *Grayned v. City of Rockford*, 408 U.S. 104, 109, 92 S.Ct. 2294, 33 L.Ed.2d 222 (1972)). Vagueness concerns ““are more acute when a law implicates First Amendment rights and a heightened level of clarity and precision is demanded of criminal statutes because their consequences are more severe.”” *Id.* (quoting *United States v. Williams*, 444 F.3d 1286, 1306 (11th Cir. 2006), *rev'd on other grounds*, 553 U.S. 285, 128 S.Ct. 1830, 170 L.Ed.2d 650 (2008)).

The conditions prohibiting Mr. Hambrick from using electronic media implicates the First Amendment because it broadly restricts what he can view on electronic media with no regard to its content or his offenses. Because the condition has the very real effect of precluding Mr. Hambrick his exercise of religion and speech, to be valid the condition must meet a more definite, clearer standard. The vague community custody condition cannot satisfy the first prong of *Bahl's* vagueness analysis. This court should strike the conditions and remand for resentencing.

The condition also fails the vagueness test's second prong. Both *Bahl* and *Sanchez Valencia* involved delegation to a community corrections officer to define the parameters of a condition. *Sanchez Valencia*, 169 Wn.2d at 794; *Bahl*, 164 Wn.2d at 758. The *Sanchez*

*Valencia* court determined that where a condition leaves so much discretion to an individual corrections officer, it suffers from unconstitutional vagueness. 169 Wn.2d at 795.

Here, the “no unauthorized use of electronic media” does not delegate the parameters of the condition to anyone. See CP 336. As such, there are no ascertainable standards of guilt to protect against arbitrary enforcement; nor is there any mechanism for obtaining such ascertainable standards from a corrections officer or treatment provider. Cf. *Bahl*, 164 Wn.2d at 752-53.

The challenged community custody condition prohibiting Mr. Hambrick unauthorized use of electronic media is unconstitutional because it fails to provide reasonable notice on what conduct is prohibited and exposes him to arbitrary enforcement. This court should hold that the condition is void for vagueness and strike it from Mr. Hambrick’s judgment and sentence.

### **CONCLUSION**

Mr. Hambrick was convicted in violation of his constitutional right to a jury trial because he never made a personal knowing, intelligent, or voluntary waiver of that right. The state also failed to prove beyond a reasonable doubt that Mr. Hambrick believed that the fictional alleged

victim was under fourteen years old. Mr. Hambrick's convictions must be reversed.

In the alternative, the sentencing condition prohibiting Mr. Hambrick from engaging in "unauthorized use of electronic media" must be stricken from the Judgment and Sentence because it is unconstitutionally vague.

Respectfully submitted on July 5, 2019,



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Skylar T. Brett, WSBA No. 45475  
Attorney for Appellant

CERTIFICATE OF SERVICE

I certify that on today's date:

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

Jace Hambrick/DOC#408377  
Monroe Correctional Complex-WSR  
PO Box 777  
Monroe, WA 98272

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

Clark County Prosecuting Attorney  
prosecutor@clark.wa.gov

I filed the Appellant's Opening 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 Seattle, Washington on July 5, 2019.



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**July 05, 2019 - 4:05 PM**

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**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 53025-2  
**Appellate Court Case Title:** State of Washington, Respondent v. Jace Thomas Hambrick, Appellant  
**Superior Court Case Number:** 17-1-00384-1

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