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Court of Appeals
Division III
State of Washington

NO. 32393-5-III

COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

WALLACE SCHNEIDER,

Appellant.

APPEAL FROM THE SUPERIOR COURT OF FERRY COUNTY

THE HONORABLE ALLEN C. NIELSON

BRIEF OF RESPONDENT

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A. ISSUES PRESENTED

1. Claims that a statute violates the Ex Post Facto clause and constitutes a bill of attainder under the United States and Washington State constitutions depend upon the finding that the statutory provisions are “punishment,” as that term has been used in constitutional jurisprudence. Both the United States Supreme Court and the supreme court of this state have determined that sex offender registration statutes do not constitute “punishment.” Did the trial court correctly conclude that the registration statute does not violate the Ex Post Facto clause or constitute a bill of attainder?

2. A trial court has discretion to grant or deny a petition for relief from the registration obligation once a petitioner has shown by clear and convincing evidence that he is sufficiently rehabilitated to warrant removal from the registry. Here, the trial court concluded that Schneider had not demonstrated by clear and convincing evidence that he is unlikely to reoffend, citing, among other things, the very serious nature of the crime, the failure to successfully complete sex offender treatment, and the lack of evidence in support of other statutory factors governing this inquiry. Was the trial court within its discretion to deny Schneider relief?

B. STATEMENT OF THE CASE

Late one night in July 1976, 19-year-old Wallace Edward Schneider climbed through 73-year-old Catherine Smith's window, knocked her down, and raped her while she pleaded "please don't do it" and "oh God." CP 3, 63-64. Schneider's brutal assault broke both of the elderly woman's hips. CP 64. Before escaping through the window, Schneider demanded money, and when Smith said she had no money and lived on pension checks, he threatened to kill her. CP 64.

Schneider was quickly apprehended and pleaded guilty to Rape in the First Degree. CP 5-6. The trial court ordered him committed to Western State Hospital (WSH) for evaluation in the hospital's sexual psychopathy program. CP 8. After observation and examination, WSH concluded that Schneider "does conform to the statutory definition of sexual psychopathy, that he is not safe to be at large at the present time, and that he should be recommitted for treatment as a sexual psychopath[.]" CP 9 (emphasis in original). WSH noted that Schneider had been cooperative and motivated in treatment to that point. CP 9. Accordingly, the trial court ordered in October 1976 that Schneider be committed to WSH "for a period of time to be determined by the Superintendent

of said institution, for the purpose of treatment of sexual psychopathy.” CP 11-13.

Seven months later, WSH terminated Schneider’s treatment. CP 15-16. The WSH Senior Staff Committee determined that Schneider “made a conscious decision to act out sexually,” which raised questions about his amenability to treatment, and that he had “intimidated the other person in the sexual encounter[.]”

CP 15. The Committee further found that Schneider:

1. [would] be assigned the diagnoses of sexual deviation, rape, personality disturbance, inadequate personality;
2. that he is not disabled by any psychotic disorders;
3. he is not safe to be at large at the present time; [and]
4. is considered enough of an escape risk to be excluded from treatment in the specialized program for the sexual offender at Western State Hospital, and should not be returned.

CP 16. WSH expressed regret that Schneider “chose to act out in such a way as to exclude him from engaging himself in a behavior changing process that would have enabled him to return to the community as a healthy and productive individual.” CP 16.

Thereafter, Schneider was returned to court and sentenced to up to 35 years’ imprisonment. CP 17-18, 65. The Board of

Prison Terms and Paroles later set his confinement at 14.5 years. CP 19, 65. Schneider was released from prison in 1988, at age 31. CP 32, 65. He had no treatment or counseling during his incarceration. RP 32. He also had no sex offender treatment during the ensuing period of community custody, from which he was discharged in 1993. CP 65; RP 38. He has had no counseling or treatment since then. RP 39.

Schneider has been required to register as a sex offender since 1990. CP 65. He registered in 1990, 1991, 1998, and, eventually, in 2000. CP 26, 65. In 2000, he pleaded guilty and was convicted of Failure to Register in Thurston County and received a suspended sentence.¹ CP 25, 65. He currently lives and is registered in Nevada, where he has accrued no further convictions. CP 65.

Schneider is now in his late 50s and disabled as a result of three heart attacks. CP 65. He petitioned for relief from his registration obligation after Nevada informed him of changes to its registration law that now requires more frequent registration and publication of his classification. CP 49-50, 65; RP 37. In addition

¹ The trial court's findings and conclusions state that the Failure to Register conviction was in Okanogan County. CP 65. The criminal history attached to Schneider's petition indicates that the conviction was actually in Thurston County. CP 25.

to petitioning for relief under RCW 9A.44.142, Schneider alleged that the registration statute is unconstitutional and unenforceable. CP 46-47.

The State opposed Schneider's petition, citing, as its primary concerns, the seriousness of his crime, his failure to completely abstain from criminal offenses (in reference to the Failure to Register conviction), and the absence of treatment or counseling. RP 3, 12, 27-28. The State further noted that Schneider had provided no risk assessment or evaluations by qualified professionals and no updated polygraph examination, and that the two community members who wrote or testified in support of his petition were his close friends and not unbiased. RP 61-63.

The trial court denied Schneider's petition after a hearing in which Schneider and his former brother-in-law, Andrew Leeper, testified. CP 63-67. The court noted that "[l]imited or no information has been presented showing compliance with supervision requirements; input from community corrections officers, law enforcement, or treatment providers; participation in sex offender treatment, including while in prison; participation in other treatment or rehabilitation programs; stability in employment and housing; risk assessments or evaluations; updated polygraph

exams; input from victim's family; or any other factors." CP 65-66. The court also found that Schneider "has not taken part in, let alone completed, any sex offender treatment, whether in or later out of prison" and that Schneider has consistently believed that he does not need treatment. CP 66. Based on these findings, the trial court concluded that he "has not shown by clear and convincing evidence that he is sufficiently rehabilitated to warrant removal from the central registry of sex offenders." CP 66. The court further concluded that the requirement to register "does not constitute punishment and does not violate ex post facto prohibitions under the federal [or] state constitutions."² CP 66.

Schneider thereafter obtained a risk assessment by certified sex offender treatment provider Marshall Kirkpatrick. CP 78-91 (sealed evaluation). Among other things, the evaluation indicates that Schneider lacks insight into his offense and offending dynamics, referring to Schneider's suggestion that he was not responsible for the 1976 attack because someone might have put drugs in his beer. CP 80-82. Schneider also appeared to minimize his conduct by failing to mention that, after raping Smith, he also attempted to rob and threatened to kill her. CP 80-82. He

² The trial court did not rule on Schneider's bill of attainder claim because Schneider had provided no legal authority on that issue. CP 66, n.1.

identified the lessons learned in his abbreviated treatment at WSH as not leaving his drink unattended. CP 85. The evaluation also revealed that Schneider had a history of violence during prison and while briefly in the National Guard, has suffered multiple head injuries, and does not have an extensive social support system (identifying only three close friends). CP 83-84.

Kirkpatrick recommended treatment for Schneider's "cognitive distortions" which "prevent the offender from taking responsibility for his actions and perhaps most importantly, make the behavior 'OK' so that he can continue sexually offending without the experience of guilt, anxiety, or shame." CP 87. Additionally, the evaluation noted that Schneider's use of alcohol facilitated his sex offense and that he continues to use alcohol. CP 91. Despite these observations, Kirkpatrick considered Schneider to have "an extremely low risk for sexual offense, approximately less than 1%." CP 91. Kirkpatrick even opined that "it does not appear appropriate to currently call him a 'sex offender,'" and recommended that Schneider be removed from the registry. CP 91.

Based on this evaluation, Schneider moved for reconsideration. CP 69-71. The State indicated that the risk

assessment alleviated its concerns and withdrew its opposition to Schneider's petition. RP 76. Nevertheless, the trial court exercised its discretion to deny him that relief. CP 72-74. The court found that Schneider gave the clinician a self-serving description of his offense that was inconsistent with his statement at the time, that there was no indication that the incomplete treatment Schneider received at WSH had much impact on him, and that Schneider has a history of assaultive behavior and continued to consume alcohol, which contributed to the crimes against Smith. CP 74. Based on these findings, the trial court concluded that Schneider still had not shown by clear and convincing evidence that he is unlikely to reoffend and that future registration will not serve the purposes of the registration statute. CP 74. Schneider appeals.

C. ARGUMENT

1. THE SEX OFFENDER REGISTRATION STATUTE IS NEITHER EX POST FACTO NOR A BILL OF ATTAINDER BECAUSE IT IS NOT PUNITIVE.

Schneider contends that the sex offender registration statute violates constitutional proscriptions against ex post facto laws and bills of attainder. A statute is presumed constitutional and the party challenging it has the burden to prove it is unconstitutional beyond a reasonable doubt. State v. Ward, 123 Wn.2d 488, 496, 869 P.2d

1062 (1994). Because Schneider's claims both depend upon a finding that the statutory provisions are "punishment," a proposition already rejected by both the Washington State and United States Supreme Court, Schneider cannot meet his burden and this Court should reject his challenge.

The ex post facto clauses of the state and federal constitutions prohibit the government from enacting any law that imposes punishment for an act that was not punishable when committed, or that increases the quantum of punishment for the offense after it was committed. State v. Hennings, 129 Wn.2d 512, 524-25, 919 P.2d 580 (1996). A law violates the Ex Post Facto clause if it is substantive rather than procedural, is retrospective, and alters the standard of punishment that existed under prior law. Ward, 123 Wn.2d at 496-98.

The Bill of Attainder clause was intended to prohibit trials by the Legislature and forbids imposition of punishment by the Legislature on specific persons. Hennings, 129 Wn.2d at 526-27 (citing United States v. Brown, 381 U.S. 437, 442, 445, 85 S. Ct. 1707, 14 L. Ed. 2d 484 (1965)). In order for a statute to be deemed a bill of attainder, it must "(1) specify the affected persons, (2) inflict punishment, and (3) lack judicial trial." Id. (citing Selective Serv.

Sys. v. Minnesota Pub. Interest Research Group, 468 U.S. 841, 846-47, 104 S. Ct. 3348, 82 L. Ed. 2d 632 (1984)).

Because the prohibition against bills of attainder and ex post facto laws applies only to laws inflicting punishment, the first question is whether the registration provisions are punitive. In re Personal Restraint of Metcalf, 92 Wn. App. 165, 177, 963 P.2d 911 (1998). There is substantial overlap in the tests used to determine whether a statute inflicts punishment in each constitutional context. See Nixon v. Admin. Of General Serv., 433 U.S. 425, 475, 97 S. Ct. 2777, 53 L. Ed. 2d 867 (1977) (applying both intent and functional test of punishment and applying factors developed in ex post facto jurisprudence); Hennings, 129 Wn.2d at 525-27 (determination that statute is not punitive in ex post facto context also defeats bill of attainder claim).

In the bill of attainder context, the Court describes the test for punishment as: “(1) whether the challenged statute falls within the historical meaning of legislative punishment, (2) whether the statute, ‘viewed in terms of the type and severity of burdens imposed, reasonably can be said to further nonpunitive legislative purposes’; and (3) whether the legislative record ‘evinces a congressional intent to punish.’” Minnesota Pub. Interest Research

Group, 468 U.S. at 852 (quoting Nixon, 433 U.S. at 473, 475-76, 478). Similarly, in the ex post facto context, the Court's framework considers (1) whether the legislature intended to impose punishment and (2) whether the statutory scheme is so punitive in purpose or effect that it inflicts punishment regardless of a contrary legislative intent. Smith v. Doe, 538 U.S. 84, 92, 123 S. Ct. 1140, 155 L. Ed. 2d 164 (2003).

More than twenty years ago, our state supreme court held that Washington's sex offender registration statute was not punitive and therefore retroactive application of its provisions did not violate the Ex Post Facto clause. Ward, 123 Wn.2d at 498-511. The court first concluded that the Legislature did not intend to punish:

When it enacted the statute, the Legislature unequivocally stated that the State's policy is to "assist local law enforcement agencies' efforts to protect their communities by *regulating* sex offenders by requiring sex offenders to register with local law enforcement agencies[.]"

Ward, 123 Wn.2d at 499 (citing Laws of 1990, ch. 3, § 401) (italics supplied by court).

Noting that the inquiry does not end with the Legislature's stated purpose, the court next examined whether the effect of the statute is so punitive as to constitute punishment notwithstanding contrary legislative intent. Id. To make that determination, the

court examined the factors set forth by the United States Supreme Court in Kennedy v. Mendoza-Martinez, which include:

Whether the sanction involves an affirmative disability or restraint, whether it has historically been regarded as a punishment, whether it comes into play only on a finding of *scienter*, whether its operation will promote the traditional aims of punishment – retribution and deterrence, whether the behavior to which it applies is already a crime, whether an alternative purpose to which it may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned ...

372 U.S. 144, 168-69, 83 S. Ct. 554, 9 L Ed. 2d 644 (1963).

The Ward court concluded that these factors “weigh in favor of finding that the statute is regulatory and not punitive.” 123 Wn.2d at 500. The registration requirement “imposes no significant additional burdens on offenders” because it merely requires the offender to provide the local sheriff with eight pieces of information, most or all of which would already be in the hands of authorities. Id. The requirement creates no affirmative disability or restraint, allowing sex offenders to move within their community and from one community to another provided they comply with registration requirements and requiring them simply to complete a form with eight blanks. Id. at 501. Thus, “[r]egistration alone imposes burdens of little, if any, significance.” Id. The disclosure of this information is also sufficiently limited by the statutory terms to

“ensure that the potential burdens placed on registered offenders fit the threat posed to public safety. Any publicity or other burdens which may result from disclosure arise from the offender’s future dangerousness, and not as punishment for past crimes.” Id. at 504.

The court next determined that registration has not traditionally been regarded as punishment and that any deterrent effect of registration was incidental and secondary to the stated intent of protecting communities. Id. at 507-08. Finally, the court concluded that the registration statute is not excessive in relation to its purpose. Id. at 508-10. The court summarized:

The Legislature’s purpose was regulatory, not punitive; registration does not affirmatively inhibit or restrain an offender’s movement or activities; registration per se is not traditionally deemed punishment; nor does registration of sex offenders necessarily promote the traditional deterrent function of punishment. Although a registrant may be burdened by registration, such burdens are an incident of the underlying conviction and are not punitive for purposes of ex post facto analysis. We hold, therefore, that the Community Protection Act’s requirement for registration of sex offenders, applied retroactively ..., is not punishment. *Thus, it does not violate ex post facto prohibitions under the federal and state constitutions.*

Id. at 510-11 (emphasis added).

Because the sex offender registration statute is not punitive, it does not violate the ex post facto prohibition. And for the very same reason, it cannot be considered a bill of attainder.

See Hennings, 129 Wn.2d at 525-27 (determination that statute is not punitive in ex post facto context also defeats bill of attainder claim).

Nearly ten years after Ward, the United States Supreme Court rejected an ex post facto challenge to Alaska's sex offender registration law. Smith v. Doe, 538 U.S. 84, 123 S. Ct. 1140, 155 L. Ed. 2d 164 (2003). The Supreme Court undertook the same analysis as the Washington court in Ward, looking first to legislative intent and the stated nonpunitive purpose of the statute, then to the Mendoza-Martinez factors. Id. at 92-106. "Our examination of the Act's effects leads to the determination that respondents cannot show, much less by the clearest proof, that the effects of the law negate Alaska's intention to establish a civil regulatory scheme. The Act is nonpunitive, and its retroactive application does not violate the Ex Post Facto clause." Id. at 105-06.

Although Schneider cites Ward in his brief, he fails to distinguish it or to explain why it does not defeat his constitutional claims.³ Brief of Appellant at 7. Schneider fails to acknowledge Smith v. Doe altogether. Instead, Schneider relies on language

³ Schneider also perplexingly offers a portion of the dissenting opinion in State v. McClendon, 131 Wn.2d 853, 935 P.2d 1334 (1997), wherein former Justice Sanders derides the majority's double jeopardy analysis as "double talk." Brief of Appellant at 9.

from United States v. Halper to the effect that “a civil sanction that cannot fairly be said *solely* to serve a remedial purpose, but rather can only be explained as also serving either retributive or deterrent purposes, is punishment[.]” 490 U.S. 435, 448, 109 S. Ct. 1892, 104 L. Ed. 2d 487 (1989) (emphasis added). This remark, rejecting the notion that the label of a sanction as “civil” rather than “criminal” determines whether the sanction is punitive in the due process context, does not reflect the actual holding in Halper: “We therefore *hold* that under the Double Jeopardy Clause, a defendant who has already been punished in a criminal prosecution may not be subjected to an additional civil sanction to the text that the second sanction may not be fairly characterized as remedial, but only as a deterrent or retribution.” Id. at 448-49 (emphasis added). In other words, a sanction that has *both* remedial *and* deterrent or retributive characteristics is not punitive. As the Court later explained, the language Schneider relies on is “dictum,” and, if applied literally, “then virtually every sanction would be declared to be punishment: It is hard to imagine a sanction that has no punitive aspect whatsoever.” United States v. Usery, 518 U.S. 267, 284 n.2, 116 S. Ct. 2135, 135 L. Ed. 2d 549 (1996).

The law is both clear and well-settled that sex offender registration requirements do not inflict punishment. For that reason, they violate neither the Ex Post Facto clause nor the prohibition on bills of attainder. This Court should reject Schneider's constitutional claims.

2. THE TRIAL COURT ACTED WITHIN ITS DISCRETION TO DENY SCHNEIDER RELIEF FROM HIS REGISTRATION OBLIGATION.

Schneider contends that the trial court erred in denying his petition for relief from the duty to register under RCW 9A.44.142. This Court reviews such decisions for abuse of discretion. State v. McMillan, 152 Wn. App. 423, 426, 217 P.3d 374 (2009). An abuse of discretion exists only where no reasonable person would take the position adopted by the trial court. State v. Wooten, 178 Wn.2d 890, 897, 312 P.3d 41 (2013).

Schneider first argues that the trial court failed to give "adequate weight" to various facts, including his lengthy crime-free period in the community, his current age and disability, and the fact that he has offended only once, over thirty years ago. However, an appellate court is not entitled to re-weigh evidence or the credibility of witnesses, even if the court disagrees with the trial court in either regard. In re Palmer, 81 Wn.2d 604, 606, 503 P.2d 464 (1972).

Instead, deference is given to the trial court's evaluation of evidence and witness credibility. State v. Glenn, 115 Wn. App. 540, 550, 62 P.3d 921 (2003). Further, Schneider has not assigned error to any of the trial court's findings, making them verities on appeal. State v. Hill, 123 Wn.2d 641, 647, 870 P.2d 313 (1994).

Schneider also argues that the trial court failed to give "adequate weight" to expert testimony offered by his former brother-in-law, Andrew Leeper. Schneider offered Leeper as an expert "as far as ... assisting the court in understanding the terminology and the meaning of the letter from Western State" regarding Schneider. RP 46. Leeper had worked for 23 years as a "psychiatric child care counsel[or]" at the Child Study and Treatment Center, located on the grounds of Western State Hospital. RP 44, 52. Despite its proximity to WSH, Leeper admitted that "[i]t's a separate institution."⁴ RP 52. In addition to never having worked at the relevant facility, or with adult sex offenders, Leeper also stated that he has no professional degree or training in counseling, and in fact "avoided social and psych stuff" in college. RP 46. Moreover, whatever expertise he developed as a child counselor was long

⁴ This testimony belies Schneider's assertion that the prosecutor "misrepresented the fact that where Mr. Leeper was employed was 'at a completely different organization'[".]" Brief of Appellant at 13.

ago. When asked whether he could speak to the terminology and best practices in that field, Leeper admitted, "I've been out of it for about twelve years, but 'til then I was pretty much up to date, yes." RP 50.

Expert opinion testimony is admissible only when "scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue" and the witness is "qualified as an expert by knowledge, skill, experience, training, or education." ER 702. In light of Leeper's lack of relevant education or experience either with adult sexual offenders or anyone else at the relevant institution, and his admittedly outdated knowledge of the field, the trial court reasonably concluded that Leeper's opinion would not be helpful. RP 51-52. The court's failure to accord Leeper's testimony the weight it would give to an expert was not an abuse of discretion.

Next, Schneider argues that the trial court employed the wrong standard to determine whether he should be relieved of the registration obligation. This argument also fails.

RCW 9A.44.142 allows sex offenders to petition the superior court to be relieved of the duty to register. "The court may relieve a petitioner of the duty to register only if the petitioner shows by clear

and convincing evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.” RCW 9A.44.142(4)(a). The statute lists 13 factors “as guidance to assist the court in making its determination.”⁵ RCW 9A.44.142(4)(b).

A previous version of this provision permitted the trial court to grant the petitioner relief “only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.” Former RCW 9A.44.140 (2002). The statutes listed comprise various aspects of the registration scheme. The purpose of the entire scheme is “to assist law enforcement agencies’ efforts to protect their

⁵ These factors include:

- (i) The nature of the registrable offense committed including the number of victims and the length of the offense history;
- (ii) Any subsequent criminal history;
- (iii) The petitioner’s compliance with supervision requirements;
- (iv) The length of time since the charged incident(s) occurred;
- (v) Any input from community corrections officers, law enforcement, or treatment providers;
- (vi) Participation in sex offender treatment;
- (vii) Participation in other treatment and rehabilitative programs;
- (viii) The offender’s stability in employment and housing;
- (ix) The offender’s community and personal support system;
- (x) Any risk assessments or evaluations prepared by a qualified professional;
- (xi) Any updated polygraph examination;
- (xii) Any input of the victim;
- (xiii) Any other factors the court may consider relevant.

communities against re-offense by convicted sex offenders.”
State v. Pray, 96 Wn. App. 25, 28, 980 P.2d 240 (1999) (citing
Laws of 1990, ch. 3, § 401). The two iterations of the provision
thus use different language to the same effect: if an offender is
“sufficiently rehabilitated to warrant removal from the registry,” then
further registration “will not serve the purposes” of the registration
scheme to protect the community from re-offense.

In its initial findings and conclusions and ruling on
Schneider’s petition, the trial court concluded that Schneider “has
not shown by clear and convincing evidence that he is sufficiently
rehabilitated to warrant removal from the central registry of sex
offenders,” tracking the current language of RCW 9A.44.142(4).
CP 66. The trial court *also* concluded that Schneider had not
shown that he is unlikely to reoffend and “has not shown by clear
and convincing evidence that future registration will not serve the
purposes of the elaborate registration requirement in Washington,”
tracking the language of Former RCW 9A.44.140 and McMillan,
152 Wn. App. at 428. CP 66-67.

To the extent that Schneider contends that the trial court erred by using the wrong standard to deny his petition, the argument is without merit. The two standards are not materially different, and, in any event, the trial court concluded that Schneider had not made the requisite showing under *either* standard. The court did not abuse its discretion.

Finally, Schneider argues that the trial court erred in failing to give adequate weight to the risk assessment by Marshall Kirkpatrick. Kirkpatrick supported Schneider's petition, finding his risk of re-offense to be "less than 1%" and opining that Schneider should no longer be considered a sex offender. But he also noted that Schneider lacked insight into his offense and offending dynamics, that he had minimized or misrepresented his conduct to the clinician by suggesting (for the first time) that he had been drugged and omitting the attempted robbery and threat to kill Smith, that he had a history of violence unrelated to his sex offense, and that he continued to consume alcohol even though that had contributed to his crimes against Smith. This information, together with the very serious nature of the crime, Schneider's sexual

misconduct during his abbreviated WSH treatment and his failure to complete any type of treatment, his minimal community and personal support system, and the lack of input from community corrections officers or information about his compliance with supervision, caused the trial court to conclude that Schneider had not met his burden.

“Where reasonable persons could take differing views regarding the propriety of the trial court’s actions, the trial court has not abused its discretion.” State v. Demery, 144 Wn.2d 753, 758, 30 P.3d 1278 (2001). Here, the results of the risk assessment satisfied the State’s concerns about Schneider and the State accordingly withdrew its opposition to his petition. Evidently, the trial court was not of the same view, but that does not necessarily constitute an abuse of discretion. Because the trial court identified legitimate reasons to conclude that Schneider had not demonstrated that he was sufficiently rehabilitated to warrant removal from the registry, it did not abuse its discretion in denying his petition.

D. CONCLUSION

For the reasons set forth above, the State respectfully requests this Court affirm.

DATED this 24th day of September, 2015.

Respectfully submitted,

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Certificate of Service by Electronic Mail

Today I directed electronic mail addressed to C. Olivia Wood (jetcityjustice@gmail.com), the attorney for the appellant, Wallace Schneider, containing a copy of the Brief of Respondent, in State v. Schneider, Cause No. 32393-5-III, in the Court of Appeals, Division III, for the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

W Brame

Name
Done in Seattle, Washington

9/24/15

Date