

FILED
July 18, 2019
Court of Appeals
Division III
State of Washington

NO. 361861
COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

State of Washington,

Respondent,

v.

Nathan D. Deyarmin

Appellant

SUPPLEMENTAL RESPONDENT'S BRIEF

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COURT OF APPEALS OF THE STATE OF
WASHINGTON - DIVISION III

THE STATE OF WASHINGTON,

Respondent,

v.

NATHAN D. DEYARMIN,

Appellant.

Court of Appeals No: 36186-1-III

**RESPONSE TO REQUEST FOR
SUPPLEMENTAL BRIEF**

The Court of Appeals has requested that the State file a Supplemental Brief in response to the Appellant's assertions that the Community Custody conditions in regards to possession of controlled substances, possession of "pornography," and imposing financial obligations, are invalid.

The State has previously conceded that the revocation of the Special Sexual Offender Sentencing Alternative (SSOSA) was not proper and has stipulated to remand to the trial court for further proceedings in regard to revocation of the Appellant's SSOSA.

At this time the State would further concede that the Community Custody conditions contested by the Appellant were inartfully phrased and are not supported by the law. In the interests of judicial economy the State would request that the issues concerning these conditions be addressed on remand to the trial court.

Therein the State will request that the prohibition on controlled substances be re-stated to forbid possession of controlled substances "unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice." This is the actual language of RCW 69.50.4013 and resolves the concerns raised by the Appellant in his brief herein.

The State will similarly request that the trial court strike the condition regarding possession of "pornography," an admittedly vague term, and in its place substitute: "Do not possess, use, access or view any sexually explicit material as defined by RCW 9.68.130 or erotic materials as defined by RCW 9.68.050 or any material depicting any person engaged in sexually explicit conduct as defined by RCW 9.68A.011(4) unless given prior approval by your sexual deviancy provider." This is language which has been approved by the State Supreme Court in State v. Nguyen, 191 Wn. 2d 671, 679, 425 P.3d 847, 851 (2018).

Finally, in regards to Legal Financial Obligations the proper remedy would be to have the trial court address that issue in light of legislative changes and the current caselaw.

**RESPONSE TO
REQUEST FOR
SUPPLEMENTAL BRIEF**

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It is the State's position that all of the issues raised by the Appellant are best addressed in the trial court and that further proceedings in the Appellate Court are not necessary to resolve the Appellant's complaints herein.

Dated this 12th day of July, 2019.



BENJAMIN C. NICHOLS, WSBA#23006
Attorney for Respondent

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WASHINGTON - DIVISION III**

THE STATE OF WASHINGTON,
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NATHAN D. DEYARMIN,
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DECLARATION OF SERVICE

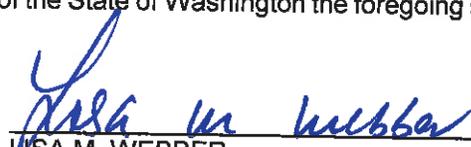
DECLARATION

On July 18, 2019 I electronically mailed, through the portal, a copy of the RESPONSE TO REQUEST FOR SUPPLEMENTAL BRIEF in this matter to:

KEVIN A. MARCH
Sloanej@nwattorney.net

I declare under penalty of perjury under the laws of the State of Washington the foregoing statement is true and correct.

Signed at Asotin, Washington on July 18, 2019.



LISA M. WEBBER
Office Manager

**DECLARATION
OF SERVICE**

ASOTIN COUNTY PROSECUTOR'S OFFICE

July 18, 2019 - 8:42 AM

Transmittal Information

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