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Court of Appeals  
Division III  
State of Washington  
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#364275

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

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STATE OF WASHINGTON,

Respondent,

v.

DEAN ERVIN BLEVINS,

Appellant.

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APPEAL FROM THE SUPERIOR COURT  
OF KLICKITAT COUNTY, STATE OF WASHINGTON

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BRIEF OF RESPONDENT

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**A. ISSUES PRESENTED**

1. Did the trial court exceed its authority in imposing the community custody condition requiring appellant to undergo evaluations for treatment for substance use disorder and mental health and fully comply with all recommended treatments?
2. Does the “no-contact” provisions of the Judgment and Sentence and the Domestic Violence No-Contact Order contain conflicting distance restrictions, such that they should be remanded for clarification?

**B. STATEMENT OF THE CASE**

Appellant has included the trial court’s Ruling of the Court containing Findings of Fact and Conclusions of Law in the Brief of Appellant and therefore only a short reiteration of the events leading to this appeal are included herein. CP 58-60, Brief of Appellant 3-6.

On March 17, 2018, Defendant Dean Blevins was residing with his mother, Karen Blevins, at her home when he broke through her bedroom door and violently attacked her with a wooden baby gate. CP 58-60. The attack resulted in Karen Blevins being treated at the hospital, receiving stiches on her head and having extensive bruises throughout her

body. CP 58-60.

Dean Blevins was charged and found guilty of Assault in the Second Degree – Domestic Violence. CP 62-63. The court imposed a sentence of 43 months as well as a \$500 victim penalty assessment fee and community custody of 18 months. CP 67-69. As part of the community custody conditions Dean Blevins was ordered to undergo evaluations and comply with recommended treatment for domestic violence, substance use disorder, mental health, and anger management. RP 88, CP 69. Further, the court ordered that Dean Blevins have no contact with Karen Blevins for 10 years and prohibited him from coming within 100 yards of her home and work place. CP 71. A separate 10-year Domestic Violence No-Contact Order prohibited contact with Karen Blevins and knowingly coming within 1,000 feet of her residence, school or workplace. CP 75.

Dean Blevins appeals alleging that some of the community custody conditions are unrelated to the crime and that the orders regarding distance for which Dean Blevins must remain away from Karen Blevins are in conflict and must be clarified.

### C. ARGUMENT

#### 1. **The Court did not abuse it's discretion in ordering Community Custody conditions.**

A trial court may only impose a sentence authorized by statute. *In re Postsentence Review of Leach*, 161 Wn.2d 180, 184, 163 P.3d 782

(2007). As part of any sentence involving community custody, the court may impose and enforce crime-related prohibitions and other affirmative conditions. *State v. Warnock*, 174 Wn. App. 608, 611-12, 299 P.3d 1173 (2013). Evidence must link the prohibited conduct to the offense. *State v. O'Cain*, 144 Wn. App. 772, 775, 184 P.3d 1262 (2008).

Appellate courts review the imposition of crime-related prohibitions for abuse of discretion. *State v. Williams*, 157 Wn. App. 689, 691, 239 P.3d 600 (2010). A trial court abuses its discretion if its decision is manifestly unreasonable or if exercised on untenable grounds or for untenable reasons. *State v. Rodriguez*, 163 Wn.App. 215, 224, 259 P.3d 1145 (2011). This court reviews the factual basis for crime-related conditions for substantial evidence. *State v. Irwin*, 191 Wn. App. 644, 656, 364 P.3d 830 (2015). A court does not abuse its discretion if a reasonable relationship between the crime of conviction and the community custody condition exists. *Id.* at 659.

It was clear from the beginning of this case that the defendant suffered from significant mental health and substance abuse issues. This case was originally filed on March 3, 2018 and on April 2, 2018, in response to concerns about the defendant's mental health, the Court ordered a competency evaluation. CP 16 The initial report from Eastern State Hospital found that the defendant was not competent to stand trial

and was diagnosed with paranoid schizophrenia with amphetamine use disorder. CP 24 On April 19, 2018, the Court entered a Competency Restoration Order. CP 20. In response to this order, Eastern State Hospital sought permission from the Court to treat the defendant using involuntary medications. CP 29 and CP 32. In response to this request, the Court entered an order for involuntary treatment on May 21, 2018. CP 31. Following this order and after involuntary treatment and medication the defendant was found to be competent but also suffering from Schizophrenia and Substance Use Disorder (heroin, methamphetamine, cocaine and marijuana) CP 38.

Based on the history put forth above, the two community custody conditions complained of by the defendant have a clear relationship to the assault of his mother. Accordingly the sentencing Court was well within the scope of its discretion in ordering the evaluations and follow up treatment for the defendant's diagnosed Schizophrenia and Substance Abuse Disorder.

**2. The Judgement and Sentence and Domestic Violence Protection Order are not in conflict and apply separately.**

The defendant was convicted of Assault in the Second Degree of a violent offense. RCW 9A.36.921 As a direct result of this conviction, and contained within the Judgment and Sentence, the Court, pursuant to RCW 9.94A.701(2) and 9.94A.703(3), imposed 18 months of Community

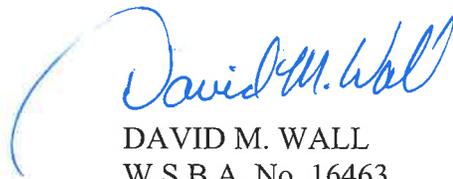
Custody and the discretionary condition of no contact between the defendant and his mother, Karen Blevins. This no contact condition of the defendant's sentence may be punished as a violation of his sentencing conditions and subject him to a maximum sanction of 60 days confinement. The defendant's Judgment and Sentence provides he can be sanctioned for coming within 100 yards of his mother. The Court also entered a Domestic Violence No Contact Order pursuant to RCW 10.99 et seq. prohibiting the defendant from knowingly coming within 1000 feet of his mother. A violation of this order is punished under RCW 26.50.110 and is treated as both contempt of Court and an additional and independent criminal law violation. These orders are separate and distinct. Should the defendant knowingly come within 1000 feet of his mother he violates the Domestic Violence No Contact Order and is subject to the sanctions of RCW 26.50 et seq. Should the defendant knowingly come within 100 feet of his mother he is subject to the sanctions of both RCW 26.50 et seq. and 9.94A.633.

There is nothing confusing about the Domestic Violence Protection Order and the no contact provision of the defendant's Judgment and Sentence. Both, in essence, provide that the defendant, after viciously attacking his mother with a weapon, must not contact her. Ever, or at least until there is some subsequent modification of both the No Contact Order

and the conditions of his Judgment and Sentence. If he comes within 100 yards of his mother, he is subject to the possibility of two sanctions, one for contempt and the other criminal. If he comes within 1000 yards but more than 101 yards of his mother, he is only subject to only one potential criminal sanction. These provisions are not in conflict and it is unnecessary to remand for clarification.

**D. CONCLUSION**

The Court did not abuse its discretion when it imposed both mental health and controlled substance conditions in the defendant's Judgment and Sentence. Additionally, the no contact condition of the Judgment and Sentence is separate and distinct from the terms and conditions of the Domestic Violence No Contact Order.



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