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NO. 67114-6-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

JAMEL ADAMS,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE JAMES D. CAYCE

BRIEF OF RESPONDENT

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A. ISSUES

1. Evidence Rules 401, 403, and 404(b) allow the State to offer testimony about prior misconduct to explain a victim's state of mind, to help the jury assess her credibility, and to help the jury evaluate her recantations or delayed reports of abuse. The State offered evidence that the victim was fearful because, in addition to suffering sexual abuse by her adopted brother, L.S. was physically abused by her adopted mother. Did the court properly exercise its discretion by allowing the jury to consider evidence that L.S. feared disclosing the abuse because she was physically abused by her adopted mother?

2. Adams was convicted of rape and attempted rape in the third degree. The victim was a minor. Did the trial court properly exercise its discretion by prohibiting unsupervised contact with minors as a condition of sentence?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS

The defendant, Jamel Adams, was initially charged with attempted rape in the third degree. CP 3. The State alleged that

Adams sexually abused his adopted sister, L.S.¹ CP 5-11. At trial, the State charged Adams with an additional count of rape in the third degree (domestic violence). CP 150-53. In addition to the charges against Adams, the State also charged his mother, Sandra Sly, with physically abusing L.S. and her sister. CP 1-3, 150-53. The State also charged other members of Adams's family with sexually abusing L.S. and her sister. Sly pleaded guilty, and the other co-defendants were severed from Adams's trial. 2/23/11 RP 42; 3/1/11 RP 6.² The jury found Adams guilty of rape in the third degree and attempted rape in the third degree (domestic violence). CP 221-22. The court sentenced Adams on May 5, 2011. CP 233-44. The court imposed a standard range sentence of fourteen months for rape in the third degree and twelve months for attempted rape in the third degree to run concurrently. The Court also imposed an order prohibiting contact with minors except for Adams's children and stepchildren. CP 238.

¹ L.S.'s initials are used in an effort to protect her privacy.

² The trial consists of consecutively paginated transcripts and will be referred to as "RP." Other transcripts will be referenced by the date followed by the page number.

2. SUBSTANTIVE FACTS

L.S. was three years old when her mother gave her and her sister up to the State because she was unable to care for her children. RP 180. L.S. was seven years old when she and her sister were placed in the home of Sandra Sly. RP 181. Sly had four biological children including the defendant Jamel Adams. RP 182. The Sly family adopted L.S. and her sister when they were nine years old. RP 183. The family continued to take in other foster children. RP 188.

L.S. testified that when she first arrived in the home she did not have any problems with Adams. RP 189. However, after her family moved to Federal Way, Adams began to sexually abuse L.S. RP 194. L.S. described three separate occasions when Adams forced her to have sex or tried to force her to have sex. RP 195-204, 208-15, 216-18.

The first occurrence L.S. described as the "toe picking incident" in the summer of 2007. RP 121, 195. One of L.S.'s chores was to "pick" Sly's toes, and Adams asked her to pick his toes. RP 196. L.S. complied because she did not want to get in trouble. RP 196. Adams had L.S. sit on the floor and pick his toes while he was on his bed. RP 196. Adams started to fondle L.S.'s

buttock, then pulled her onto the bed. RP 198-99. He pulled L.S.'s pajama bottoms off, held her down and had sex with her. RP 201. Adams forced his penis into L.S.'s vagina. RP 201. When he was done he told L.S. not to tell their mother. RP 201.

L.S. described the second incident occurring after the foster children had been removed from the home because of allegations of physical abuse. RP 134, 158, 203. CPS began an investigation in October of 2007. RP 134, 158. As a result of an investigation of the abuse by Sly, L.S. was interviewed by Detective Doug Deyo from the Federal Way Police Department. RP 203. L.S. did not tell the police that she had been raped by Adams and did not tell them she had been physically abused by Sly. RP 91, 203. L.S. was removed from the home and placed with a family in Kirkland due to allegations of physical abuse in the home. RP 204. However, she ran away after only one day and returned to the Sly home. RP 135, 204-05. Case workers from DSHS and CPS were unable to interview L.S. because they could not find her. RP 135, 159. In fact, they visited the Sly home and were unaware that L.S. had returned there because she was told to hide in a crawl space to avoid detection. RP 136, 159-60, 205-07. It was after she returned to the home that Adams raped her again. RP 203.

Adams attempted to rape L.S. for the second time when they were alone watching television in their home in Federal Way.

RP 208. L.S. was on the floor and Adams was on the couch. He told her to come to him and she said no. RP 208. He pulled L.S.'s pants down and pulled her onto his lap. RP 208, 213. Adams tried to insert his penis into L.S.'s vagina, but she was struggling too much. RP 214. During the struggle Adams bit L.S. leaving teeth marks on her back. RP 214-15. L.S. went upstairs but did not tell anyone about the encounter. RP 215.

The third and final sexual assault occurred during a trip the family took to Portland, Oregon. RP 216. L.S. was sharing a hotel room with other family members and fell asleep on a couch. RP 216-17. When she awoke she was alone with Adams. RP 217. She tried to run into the bathroom but Adams grabbed her and pulled her onto the bed. RP 217. He pulled her pants off and forced her to have sex. RP 218. It was this final rape that convinced L.S. she had to act.³ RP 218.

The day the family returned from Portland, L.S. ran away from the home. RP 218. She went to a Fred Meyer store nearby.

³ Adams was not charged with the third sexual assault because it did not occur in the State of Washington.

RP 219. The police were called and Officer Lunt from the Federal Way Police Department responded. L.S. briefly spoke to Officer Lunt, then went to the police station to speak to Detective Deyo again. RP 79, 219-20. She disclosed the sexual abuse by Adams and the physical abuse by Sly. RP 95-96. L.S. also provided interviews to CPS, the prosecutor's office, and the defense. RP 223, 225. In addition to the sexual abuse by Adams, L.S. described physical abuse by Sly.

L.S. reported that when she first arrived at the home she was treated well. RP 183. However, that changed several years later when she was adopted by the Sly family. RP 183. L.S. and her sister were adopted by the family at age nine. RP 183. L.S. described a hierarchy in the family where the biological children were treated well, rarely got into trouble, and had few, if any, chores. RP 193. The foster children that came into the home would sometimes get into trouble. RP 192. The adopted children (L.S. and her sister) were on the bottom of the hierarchy. L.S. was required to do much of the cleaning, and one of her duties was "picking her adopted mother's toes." RP 190. L.S. was also punished severely. She was beaten with a belt or a switch, and made to "squat" against a wall in painful positions for long periods

of time. RP 186. L.S. described one occasion when she fell over from this position and Sly threw a can at her head cutting her above the eye. RP 186. L.S. did not go to school or have friends outside the home. RP 191. She never implicated Adams in any of the physical abuse.

L.S. explained that she did not tell her mother about the sexual abuse because she was afraid. RP 203. She did not report the rapes to the police because she was afraid of what would happen to her if she were placed back in the Sly home. RP 203. L.S. testified she "lied" and said nothing was going on at the house when she was first interviewed by Detective Deyo in October 2007. RP 203. She did not disclose the sexual or physical abuse because she was scared. RP 129, 204. L.S. testified:

Well, because I was scared. And that was my first time ever being away from Sandra. And, knowing how they are, and if we would have got placed back inside the house, I wouldn't have known what could have happened, or what Sandra would have did to me, the consequences or whatever, what happened.

RP 204. L.S. testified that it was after the third sexual assault that occurred in Portland she was "sick and tired" and ran away to the Fred Meyer where the police were called. RP 218-19.

Adams moved to exclude evidence of Sly's physical abuse of L.S. 2/23/11 RP 7. The State offered evidence of Sly's abuse for several reasons: first, the abusive environment that L.S. lived in provided the opportunity for Adams to sexually abuse her; second, Sly's abuse left L.S. isolated with no one to disclose the abuse to; and finally, L.S. kept the abuse secret, lied to authorities, and willingly returned to the home after CPS removed her because she was afraid of Sly. 2/23/11 RP 43-44; 3/23/11 RP 33. The trial court found Sly's abuse was relevant to explain L.S.'s response to the sexual abuse, and that because Sly's physical abuse was not attributed to Adams there was little undue prejudice. 3/23/11 RP 34-34. The trial court proposed a limiting instruction; however, Adams disagreed with the instruction and specifically requested that no instruction be given at all. RP 147.

During closing arguments the prosecutor referred to the abuse of Sandra Sly for the legitimate purpose of explaining how L.S. reacted to Adams's sexual abuse:

Imagine a life full of secrets, full of pain. Full of abuse. When [L.S.'s pre-adoption name] turned into L.S. her world was shattered.

She was put in a place that was not loving, that was not caring, that did not nurture her, teach her the life skills she needed to grow, that did not protect her. She was put in a place that became her living hell.

L.S. did what she could do at that point. She shut down, and she kept her mouth quiet, not telling anyone about anything that was happening to her in her home.

Her brother [Adams] lived in the home with her, in the house in Des Moines, house in West Seattle, the Federal Way House. He was there through the years of abuse and pain she was put through.

He knew the fear she felt towards their mother. He knew she would not say anything. And, with that knowledge, he seized the opportunity and became part of her secrets, part of her pain and part of her hurt.

RP 313. The prosecution immediately turned to the crimes Adams was accused of committing. RP 314. At no time did the prosecutor attribute any of the physical abuse to Adams. Nor did the prosecutor misuse the evidence for any improper purpose. The prosecutor limited the use of the evidence of Sly's physical abuse to explain the circumstances that allowed Adams to commit his crimes and explain why L.S. would remain without seeking help while Adams's sexual abuse recurred. The prosecutor made only one other reference to Sly's abuse noting that L.S. "testified for you that had she been placed back in the home and had said something to Detective Deyo, she was really worried what might happen. So she kept her mouth shut." RP 319.

The jury found Adams guilty of rape in the third degree and attempted rape in the third degree. CP 221-22.

C. ARGUMENT

1. THE TRIAL COURT PROPERLY ADMITTED EVIDENCE THAT L.S. WAS PHYSICALLY ABUSED BY SLY TO EXPLAIN L.S.'S FEAR.

Adams contends that the trial court erred by admitting evidence that L.S. was physically abused by another member of the household. Adams is incorrect. The trial court permitted evidence that Sly physically abused L.S. because it was relevant to how and why Adams could commit multiple acts of sexual abuse without L.S. reporting. The evidence did not implicate Adams in the physical abuse, hence, it was not unduly prejudicial, and Adams refused a proffered limiting instruction. The trial court did not abuse its discretion by admitting this evidence, nor did the prosecution misuse the evidence.

a. Evidence Of Abuse In L.S.'s Household Was Admissible To Show Her Fear.

Decisions as to the admissibility of evidence are within the discretion of the trial court, and are reversible only for abuse of that discretion. State v. Powell, 126 Wn.2d 244, 258, 893 P.2d 615 (1995); State v. Smith, 115 Wn.2d 434, 444, 798 P.2d 1146 (1990). Discretion is abused if the trial court's decision is manifestly

unreasonable, or exercised on untenable grounds or for untenable reasons. State v. Alexander, 125 Wn.2d 717, 732, 888 P.2d 1169 (1995).

Adams argues that evidence of Sly's physical abuse was barred by ER 404(b), but that rule is inapplicable. Under ER 404(b), evidence of other crimes, wrongs, or acts is not admissible to prove character and show action in conformity therewith. Powell, 126 Wn.2d at 258. Sly's prior bad acts did not implicate the character of Adams.

As the trial court pointed out, the admissibility of this evidence was properly analyzed under ER 401 and 403. 3/23/11 RP 34. Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." ER 401. However, relevant evidence may be excluded if its "probative value is substantially outweighed by the danger of unfair prejudice." ER 403. The trial court determines whether evidence is relevant and an appellate court reviews the trial court's ruling for a manifest abuse of discretion. State v. Vreen, 143 Wn.2d 923, 932, 26 P.3d 236 (2001) (quoting State v. Luvane, 127 Wn.2d 690, 706-07, 903 P.2d 960 (1995)).

In the present case, the evidence was relevant to show how the circumstances in the home provided Adams the opportunity to commit the crimes. L.S. did not have friends, did not go to school, and rarely got to leave the home. RP 191. Hence, she was isolated. She lived in a home where her mother beat her and favored the biological children. RP 192-93. This created an ideal environment for Adams to sexually abuse L.S. with little fear she would tell anyone.⁴

The evidence was appropriate to place L.S.'s testimony in its proper context. As the trial court pointed out:

So, without any context, the jury is left with not much. And I don't see how the information with regard to the abuse in the home is overly prejudicial more than probative in this case. It is very probative. It is very relevant in this case again with regards to the course of the investigation.

RP 34. L.S. described the time of the events within the context of the police and CPS involvement. She described the first encounter occurring before her interview with Detective Deyo (in October

⁴ Adams argues that there was no evidence that he was aware of Sly's abuse. However, L.S. testified the abuse was prevalent during the years she lived with Sly and Adams, and described the clear "hierarchy" in the home. RP 191-94. CPS removed the foster children from the home in October of 2007 due to the physical abuse. L.S. ran away from her new placement to return. RP 204. Adams went on to rape her two more times. Clearly, Adams was aware of what was happening in the home, and knew that L.S. kept his sexual abuse secret from CPS and police which allowed him to rape her two more times.

2007), and the second encounter occurring after she returned to the home after the other foster children had been removed.

RP 203. L.S. described “It [the second incident] happened when we were in Federal Way still, after the fact that all the kids got taken away, when I came back to the house.” RP 203.

The evidence was also relevant to assess L.S.'s credibility. The jury would hear testimony that an extended period of time elapsed between each sexual assault. L.S. returned to the home despite being removed by CPS. RP 204. She even hid from CPS when they inspected the home. RP 206. When the jury heard that Adams raped L.S. in the summer of 2007, then again after October 2007, they would naturally wonder why she stayed there? Why did she not say something to her parents or police? The jury would hear that L.S. ran away after returning from Portland and being sexually abused there. Again the jury would naturally wonder why hadn't she run away before? The answer was because she was isolated and afraid.

Adams argues that his attorney did not intend to make an issue of L.S.'s delayed reporting, therefore, the State was precluded from offering evidence to explain the delay. Just because the lawyers may not speak of her delayed report does not

mean a jury would not consider it. Leaving an important aspect of L.S.'s credibility unaddressed in the courtroom does not mean it will be left unaddressed in the jury room during deliberations. The explanation for the delay was the behavior of a third person, so it was not prejudicial to Adams. The trial court correctly determined that the State was permitted to explain it.

Even if this evidence is analyzed under ER 404(b), it is admissible. Evidence of prior misconduct is admissible for purposes other than character, "such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." ER 404(b). This list is not exclusive. State v. Lane, 125 Wn.2d 825, 831, 889 P.2d 929 (1995). If admitted for other purposes, a trial court must identify that purpose and determine whether the evidence is relevant and necessary to prove an essential ingredient of the crime charged. Evidence is relevant and necessary if the purpose of admitting the evidence is of consequence to the action and makes the existence of the identified fact more probable. Powell, 126 Wn.2d at 258-59. Such evidence is admissible if its probative value outweighs its prejudicial effect. State v. Lough, 125 Wn.2d 847, 853, 889 P.2d 487 (1995). Decisions as to the admissibility of evidence under

ER 404(b) are also within the discretion of the trial court, and are reversible only for abuse of that discretion. Powell, 126 Wn.2d at 258; State v. Smith, 115 Wn.2d 434, 444, 798 P.2d 1146 (1990).

Washington courts have recognized that evidence of misconduct is admissible to prove the alleged victim's state of mind. See State v. Nelson, 131 Wn. App. 108, 116, 125 P.3d 1008 (2006) (allowing evidence of past physical abuse to demonstrate the victim's fear of the defendant and explain the apparent inconsistency of the victim not reporting the full extent of the abuse earlier); State v. Cook, 131 Wn. App. 845, 851-52, 129 P.3d 834 (2006) (approving use of ER 404(b) evidence to show the victim's state of mind).

When an alleged victim acts in a manner that is apparently inconsistent with a disclosure of abuse, such as by failing to timely report the abuse or by recanting or minimizing the accusations, evidence of prior abuse is relevant and potentially admissible under ER 404(b) to illuminate the victim's state of mind at the time of the inconsistent act. See Powell, 126 Wn.2d at 261 ("Evidence of previous disputes or quarrels between the accused and the [accuser] ... 'tends to show the relationship of the parties and their feelings toward the other, and often bears directly upon the state of

mind.”) (quoting State v. Davis, 6 Wn.2d 696, 705, 108 P.2d 641 (1940)). Furthermore, evidence of prior abuse that may affect the victim's behavior may include verbal abuse. State v. Nelson, 131 Wn. App. at 115-16. It may also include abuse of others that causes fear for the current victim. Id.

Washington courts have recognized that a clear understanding of an ongoing domestic violence relationship is important when evaluating the victim's choice to associate with the defendant, and to assess credibility. For example, in State v. Grant, 83 Wn. App. 98, 920 P.2d 609 (1996), the history of domestic violence was relevant to explain the victim's actions. Grant recognized a number of legitimate reasons to admit evidence of prior abuse, including assessing the victim's credibility, assessing a victim's recantation, and to explain delays in reporting or minimization of a defendant's conduct. 83 Wn. App. at 106-08. The defendant in Grant had been convicted of assaulting the victim in the past. Id. at 101. That history was relevant to explain why the victim would voluntarily associate with the defendant despite having a protection order and despite having been hurt by him before. Id. at 108. The court noted that, "Grant's history of domestic violence thus explained why Ms. Grant permitted Grant to see her

despite the no-contact order, and why she minimized the degree of violence when she contacted Grant's defense counsel after receiving a letter from Grant, sent from jail." Id. at 108, 109.

Under Grant, had Adams physically abused L.S., the prior misconduct would be admissible to explain L.S.'s reaction. It is the victim's reaction to the domestic violence that is relevant to the victim's behavior. L.S. was a minor, and lived in a home where she faced abuse on multiple fronts which heightened her fears. As the trial court pointed out, L.S.'s reaction to that abuse was relevant, and the fact Adams was not implicated in the physical abuse made it less prejudicial. The trial court did not abuse its discretion by admitting evidence of the physical abuse of L.S.

Adams relies primarily on State v. Fisher, 165 Wn.2d 727, 202 P.3d 937 (2009), but that case is inapposite. In Fisher, the defendant was charged with sexually abusing his stepdaughter. Id. at 733. The State sought to admit the defendant's prior physical abuse of his other children to explain the stepdaughter's delayed reporting. Id. at 743. The trial court ruled that the prior misconduct was not admissible until the defense raised the delayed reporting. Id. The prosecution blatantly ignored the pretrial ruling, elicited prior misconduct that was irrelevant to the delayed reporting

because the victim was not aware of it, and urged the jury to use the evidence as propensity evidence, and to seek justice for the other victims. Id. at 735-40.

The Supreme Court held the trial court did not abuse its discretion by making admission of the prior misconduct contingent on the defense making an issue of the delayed report and held the prosecutor's violations of the court's pretrial rulings was reversible error. Id. at 746. However, the Supreme Court did not hold that such a contingent ruling was required as a matter of law. In fact, the Supreme Court noted that evidence of prior misconduct was relevant to a victim's state of mind. Id. at 744-45. The Supreme Court cited to Nelson and Cook with approval. Id. A very different balance of probative value and potential prejudice was presented in Adams's case.

In the present case, the trial court did not abuse its discretion by finding the evidence more probative than prejudicial. Unlike Fisher, in this case there was more than simply a delay in reporting. There was a documented recantation, with inconsistent statements about the crimes charged, and L.S.'s return to the home and evading CPS. Furthermore, in Fisher, the alleged misconduct was attributable to the defendant and, hence, more prejudicial. The

State also improperly urged the jury to misuse the evidence to show propensity. In the present case, the physical abuse was attributed to Sly and L.S. specifically testified that Adams did not participate in the physical abuse. The State did not elicit any details of the physical abuse from any witness other than L.S. The prosecution did not attempt to offer evidence of the sexual abuse by other members of Adams's household, or the abuse of L.S.'s sister. The present case is distinguishable from Fisher because the state was addressing more than just a delayed report, and the evidence of prior misconduct was not unduly as prejudicial to Adams.

The trial court did not abuse its discretion by permitting the State to address L.S.'s prior recantation and prior inconsistent statements in its case in chief.

b. Any Error Was Harmless.

Even if the trial court erred by admitting the evidence of Sly's prior physical abuse of L.S., it was harmless. Erroneous admission of evidence under ER 404(b) is reviewed under the non-constitutional harmless error standard. State v. Ray, 116 Wn.2d 531, 546, 806 P.2d 1220 (1991). Reversal is not required unless

there is a reasonable probability that the outcome of the trial was materially affected by the error. Id.

The evidence did not implicate Adams in any of the prior physical abuse. The only prejudice articulated by Adams was that the jury may believe "acorn does not fall far from the tree." 3/23/11 RP 33. The trial court correctly rejected this argument noting, "I don't think it is unduly prejudicial in the sense that a jury, because mom was physically abusive, is going to say that he must have raped her because he's her child." RP 39. The State did not overemphasize the evidence of prior abuse, nor use the evidence for an improper purpose. L.S. was the only witness that discussed the actual abuse. The State did not emphasize the evidence during closing arguments. The prosecution appropriately limited its references to the prior physical abuse during closing argument. Furthermore, the State used the evidence for the proper purpose of assessing the context in which the crime occurred and assessing L.S.'s credibility.

In sum, there is no reasonable probability that the jury's verdict was materially affected by the evidence of Sly's prior physical abuse. The trial court properly found evidence of abuse in L.S.'s household was admissible to explain her fear, her

inconsistent statements, and delayed reporting of this sexual abuse. This Court should affirm.

2. THE TRIAL COURT PROPERLY PROHIBITED CONTACT WITH MINORS.

Adams was convicted of rape and attempted rape in the third degree. L.S. was a minor (under eighteen) at the time the crimes were committed. The trial court properly ordered that Adams have no unsupervised contact with minors as a condition of his sentence. The court did permit Adams to have contact with his own children.

The Sentencing Reform Act (SRA) authorizes the trial court to impose “crime-related prohibitions” as a condition of a sentence. RCW 9.94A.505(8). A “crime-related prohibition” prohibits conduct that “directly relates to the circumstances of the crime for which the offender has been convicted.” RCW 9.94A.030(10). “[B]ecause the imposition of crime-related prohibitions is necessarily fact-specific and based upon the sentencing judge’s in-person appraisal of the trial and the offender, the appropriate standard of review [is] abuse of discretion.” In re Pers. Restraint of Rainey, 168 Wn.2d 367, 374-75, 229 P.3d 686 (2010). With regard to the imposition of a crime-related prohibition, the trial court abuses its discretion if it applies the wrong legal standard. Rainey, 168 Wn.2d at 375.

“More careful review of sentencing conditions is required where those conditions interfere with a fundamental constitutional right.” State v. Warren, 165 Wn.2d 17, 32, 195 P.3d 940 (2008). The right to the care, custody, and companionship of one's children constitutes such a fundamental constitutional right. Rainey, 168 Wn.2d at 374. Thus, sentencing conditions burdening this right “must be ‘sensitively imposed’ so that they are ‘reasonably necessary to accomplish the essential needs of the State and public order.’” Id. 373 (quoting Warren, 165 Wn.2d at 32).

A crime-related prohibition that interferes with a fundamental constitutional right is lawful only where there is no reasonable alternative way to achieve the State's interest. Warren, 165 Wn.2d at 34-35. For instance, this Court has held that a no-contact order prohibiting a defendant from all contact with his children was “extreme and unreasonable given the fundamental rights involved,” where less stringent limitations on contact would successfully further the State's interest in protecting the children. State v. Ancira, 107 Wn. App. 650, 655, 27 P.3d 1246 (2001).

In Rainey, the court reversed the lifetime no-contact order because the sentencing court provided no justification for the order's lifetime duration and the State failed to show why the prohibition was reasonably necessary. Rainey, 168 Wn.2d at 381. The court remanded to the trial court for resentencing so that the court could “address the parameters of the no-contact order under the ‘reasonably necessary’ standard.” Id. at 382.

Adams was convicted of a sex offense and the victim of the crime was a minor. Prohibiting a convicted sex offender from having unsupervised contact with minors was a crime-related prohibition. The order permitted contact with minors with supervision by an adult with knowledge of Adams’s conviction. CP 238. Furthermore, the court took steps to tailor the prohibition narrowly enough to allow Adams to have contact with his own children and stepchildren. 5/6/11 RP 16, 20-21. Adams argues that he has a first amendment right to freedom of association. However, he provides no authority to suggest that a sex offender, convicted of abusing a minor, has a right to unsupervised contact with minors. The trial court did not abuse its discretion. This Court should affirm Adams's conditions of sentence.

D. CONCLUSION

For the foregoing reasons, the State asks this Court to affirm Adams's convictions and sentence.

DATED this 13th day of January, 2012.

Respectfully submitted,

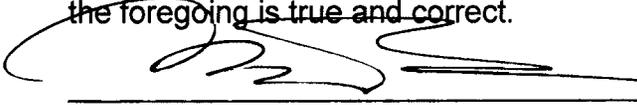
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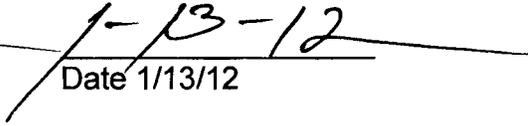
Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to Susan Wilk, the attorney for the appellant, at Washington Appellate Project, 701 Melbourne Tower, 1511 Third Avenue, Seattle, WA 98101, containing a copy of the Brief of Respondent, in STATE V. JAMEL ADAMS, Cause No. 67114-6-I, in the Court of Appeals, Division I, 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.



Name
Done in Seattle, Washington



Date 1/13/12