SUPREME COURT NO. 95735-5

NO. 34395-2-III

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

DAVID VASQUEZ ALCOCER,

Petitioner.

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

The Honorable Carrie Runge, Judge
The Honorable Cameron Mitchell, Judge

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

Petitioner David Vasquez Alcocer asks this Court to review the decision of the Court of Appeals referred to in section B.

B. COURT OF APPEALS' DECISION

The petitioner seeks review of the Court of Appeals' published decision in State v. Alcocer, filed March 22, 2018 ("Opinion" or "Op."), which is appended to this petition.[1]

C. ISSUE PRESENTED FOR REVIEW

As a condition of community custody, the trial court ordered the petitioner to "not use or possess any pornographic materials, to include magazines, internet sites, and videos." CP 96. The Court of Appeals found the condition unconstitutionally vague, and remanded to the trial court on that ground.

But, adhering to its prior decision in State v. Magana, 197 Wn. App. 189, 389 P.3d 654 (2016), the Court held that a related prohibition on access to sexually explicit materials could be considered crime-related simply because the underlying crimes were considered sex offenses.

[1] The opinion can also be found at State v. Alcocer, ___ Wn. App. 2d ___, 404 P.3d 83 (2017).

Because such a prohibition does not directly relate to any circumstance of the petitioner's crimes, does the condition exceed the trial court's statutory sentencing authority?[2]

D. STATEMENT OF THE CASE

The State charged Alcocer with two counts of second degree child rape based on allegations that he inappropriately touched his then-12-year-old stepdaughter. CP 1-5. He ultimately pleaded guilty to two counts of third degree assault with sexual motivation. CP 62-72; 2RP 15-20; see also RCW 9A.36.031(1)(f) (third degree assault); RCW 9.94A.533(8) (providing for sentence enhancement); RCW 9.94A.835 (addressing allegations of sexual motivation).

At sentencing, the court imposed a total sentence of 27 months of confinement. This total included concurrent three-month base sentences, with two 12-month "sexual motivation" sentence enhancements running consecutive to the base sentence, and to each other. CP 88-89; 2RP 26. The court also sentenced Alcocer to 36 months of community custody. CP 89; RCW 9.94A.701(1)(a); RCW 9.94A.030(47)(c).

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[2] This Court has granted review of this issue in State v. Nguyen and State v. Norris, consolidated under case no. 94883-6. Oral argument in those consolidated cases is set for May 10, 2018.

The court ordered Alcocer to have no contact with the complainant for five years, the statutory maximum for the offense. CP 90; 2RP[3] 27-28. The court imposed community custody conditions as recommended by a presentence investigation report.[4] CP 84, 96; 2RP 26-28. These included that Alcocer obtain a sexual deviancy evaluation and "follow through with recommended treatment if directed by [his Community Corrections Officer (CCO)] or therapist[.]" CP 96.

The following conditions were also included: That Alcocer (1) "[h]ave no contact with minors under the age of 18 without prior approval from his supervising [CCO] and/or sex offender treatment provider," (2) "[s]ubmit to a polygraph and/or plethysmograph [(PPG)] testing upon the request of [his] therapist and/or [CCO], at [his] own expense," and (3) "not use or possess any pornographic materials, to include magazines, internet sites, and videos." CP 96.[5]

Alcocer appealed, arguing that the condition and order prohibiting contact with minors, including Alcocer's own biological children, was not narrowly tailored or reasonably necessary to protect the biological children

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[3] "2RP" contains 4/15/15, 12/2/15, 2/10/16, 2/29/16, and 4/20/16 hearings.

[4] RCW 9.94A.500.

[5] The court also incorporated by reference these conditions into the sentence itself. CP 90.

from harm. He also argued that the sentencing court exceeded its authority, and violated Alcocer's constitutional rights, by requiring him to submit to PPG testing solely at the request of his CCO. Finally, he challenged the condition prohibiting him from possessing pornographic materials on two grounds. First, he argued, it was vague. Second, he argued, it was not crime-related.

The Court of Appeals agreed the sentence should be corrected to indicate the CCO could not unilaterally require PPG testing. Op. at 6. The Court did not address the issue of contact with biological children because the trial court record was too sparse. But it indicated that Alcocer was free to raise the issue of contact with biological children on remand to the superior court. Op. at 6-7.

The Court agreed that the condition related to pornographic material was unconstitutionally vague. Op. at 3. However, adhering to its prior decision in Magana, 197 Wn. App. 189, the Court rejected Alcocer's argument that the prohibition was not crime-related because there was no evidence Alcocer accessed pornography or sexually explicit materials as part of the offenses. Op. at 3-5; see Amended Supplemental Brief of Appellant at 3-4. The Court asserted that such a prohibition could be considered crime-related in any case involving a sex offense. "An

individual who has been convicted of a sex offense has demonstrated an inability to control sexual stimulation an arousal." Op. at 5. Moreover,

> the State has a legitimate interest in restricting access to sexually explicit content in an effort to reduce recidivism. [T]he sexual activity portrayed in pornography typically fails to model realistic behavior or affirmative consent by equal partners. The simple fact of a sex offense conviction is indicative of a defendant's manifest inability to process the complex messages sent by pornography in a healthy and legal manner.

Op. at 5. The Court, however, cited neither record nor authority to support these propositions.

Alcocer now asks this Court to accept review and reverse the Court of Appeals on the issue of crime-relatedness.

E. REASONS REVIEW SHOULD BE ACCEPTED

THIS COURT SHOULD ACCEPT REVIEW UNDER RAP 13.4(b)(2) BECAUSE THE CASE HIGHLIGHTS A CONFLICT BETWEEN DIVISIONS OF THE COURT OF APPEALS AND BECAUSE THE ISSUE OF CRIME-RELATEDNESS IS CURRENTLY PENDING IN THIS COURT.

This Court should grant review under RAP 13.4(b)(2) because the case represents a conflict between divisions of the Court of Appeals. Moreover, the issue of crime-relatedness of a similar condition is currently

pending in this Court. This Court should grant review, stay the case pending a decision in Norris / Nguyen, and reverse the Court of Appeals.

1. There is a conflict among divisions of the Court of Appeals on the issue of crime-relatedness, and the issue is now being considered by this Court.

There is a conflict among divisions of the Court of Appeals. The Court of Appeals' published decision in this case—like the Court's prior decision in Magana—conflicts with State v. Norris, 1 Wn. App. 2d 87, 92-100, 404 P.3d 83 (2017), review granted, 190 Wn.2d 1002 (2018), a published decision from Division One. The decision also conflicts with several unpublished decisions from Divisions One and Two. See note 8, infra (collecting cases).

This Court has granted review in Norris and is addressing related conditions in that case and the consolidated case, State v. Nguyen (consolidated under case number 94883-6, oral argument set for May 10, 2018).

This Court should grant review in this case. Based on the timing of this petition, consolidation with those cases would not be practical. Instead, this Court should grant review and stay this case pending a decision in Norris / Nguyen.

2. The prohibition related to pornographic materials is not directly related to any circumstance of Alcocer's crimes and therefore exceeded the trial court's sentencing authority

The prohibition related to pornographic materials is not directly related to any circumstance of Alcocer's crimes. Thus, even if the condition were corrected to remedy the vagueness issue, such a condition exceeds the trial court's statutory sentencing authority.

"A trial court's sentencing authority is limited to that expressed in the statutes." State v. Skillman, 60 Wn. App. 837, 838, 809 P.2d 756 (1991); accord State v. Johnson, 180 Wn. App. 318, 325, 327 P.3d 704 (2014).

A trial court has authority to require an offender to comply with "any crime-related prohibitions." RCW 9.94A.703(3)(f). Crime-related prohibition "means an order of a court prohibiting conduct that *directly relates to the circumstances of the crime for which the offender has been convicted*, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct." RCW 9.94A.030(10) (emphasis added).[6]

[6] Cf. RCW 9.94A.703(3)(d) ("As part of any term of community custody, the court may order an offender to . . . [p]articipate in rehabilitative programs or otherwise perform affirmative conduct *reasonably related* to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community" (emphasis added)).

Courts interpret statutes by first looking to their plain language as the indicator of legislative intent. TracFone Wireless, Inc. v. Dep't of Revenue, 170 Wn.2d 273, 281, 242 P.3d 810 (2010)). Although the issue of crime-relatedness arises frequently in Washington, no court has squarely tackled the phrase "directly relates to the circumstances of the crime" based on its plain meaning.

Generally, where the words in a statute are undefined, a court will rely on dictionary definitions. State v. Kintz, 169 Wn.2d 537, 547, 238 P.3d 470 (2010). If a statute's meaning is plain on its face, the court must apply that meaning. State v. Costich, 152 Wn.2d 463, 470, 98 P.3d 795 (2004).

The word "circumstance" appears in the statutory definition of crime-related prohibition. "Circumstance" is undefined in the statute but is defined in the dictionary as

> a specific part, phase, or attribute of the surroundings or background of an event, fact, or thing or of the prevailing conditions in which it exists or takes place : a condition, fact, or event accompanying, conditioning, or determining another : an adjunct or concomitant that is present or logically is likely to be present[.]

WEBSTER'S THIRD NEW INT'L DICTIONARY 410 (1993). Thus, a circumstance of the crime is a part or attribute of the crime, or something that accompanies, conditions, or determines the crime. The fact that sex-

related business played no part in Alcocer's crimes means they do not qualify as a circumstance of the crimes.

RCW 9.94A.030(10) is even more demanding. It does not permit a prohibition based upon a loose connection to a circumstance of the crime but only one that "directly relates" to such a circumstance. To "relate" means "to show or establish a logical or causal connection between." WEBSTER'S, supra, 1916. "Directly" means "in close relational proximity." Id. at 641. Understood in this manner, the prohibition must pertain to the actual crime, not just to any potential crime within a broad and varied category of criminal activity.[7]

As a leading commentator indicates, the Sentencing Reform Act represented a shift in in sentencing philosophy, away from the broad notion of coerced rehabilitation, and toward a more circumscribed view of a sentencing court's powers. State v. Parramore, 53 Wn. App. 527, 530, 768 P.2d 530 (1989) (quoting David Boerner, SENTENCING IN WASHINGTON: A LEGAL ANALYSIS OF THE SENTENCING REFORM ACT OF 1981 § 4.5 (1985)). The SRA "'does not specify how certain the sentencing judge must be that

[7] This formulation does not eschew caselaw indicating that no strict *causal* link is required between prohibited activity and the underlying crime. E.g. State v. Llamas-Villa, 67 Wn. App. 448, 456, 836 P.2d 239 (1992), overruled on other grounds by State v. Riles, 135 Wn.2d 326, 349-50, 957 P.2d 655 (1998).

the conduct being prohibited is directly related to the crime of conviction.'" Moreover, "'[t]he existence of such a relationship will always be subjective.'" Parramore, 53 Wn. App. at 530 (quoting Boerner, §4.5). But, "'[t]here must be some basis for the "crime-related" determination if the limitation is to have any meaning. For a sentencing judge to base the determination that conduct is crime-related upon belief alone, without some factual basis, would be to read the crime-related requirement out of the statute.'" Parramore, 53 Wn. App. at 531 (quoting Boerner, § 4.5).

Case law is in accord. Division One struck down a prohibition related to establishments selling sexually explicit materials where "no evidence suggested that such materials were related to or contributed to [the] crime." State v. Kinzle, 181 Wn. App. 774, 785, 326 P.3d 870 (2014).[8]

Likewise, in State v. O'Cain, 144 Wn. App. 772, 184 P.3d 1262 (2008), that Court struck a condition prohibiting Internet access because there was

> no evidence O'Cain accessed the internet before the rape or that internet use contributed in any way to the crime. This is

[8] Although the Court of Appeals in this case noted that Kinzle involved a State's concession, Op. at 3 n. 2, Division One accepted the concession as a correct statement of the law. See Norris, 1 Wn. App. 2d at 98 (observing that in Kinzle "State conceded, and we agreed, conditions prohibiting a sex offender from possessing sexually explicit material and frequenting establishments selling such materials were not crime-related 'because no evidence suggested that such materials were related to or contributed to his crime'") (quoting Kinzle, 181 Wn. App. at 785).

> not a case where a defendant used the internet to contact and lure a victim into an illegal sexual encounter. The trial court made no finding that internet use contributed to the rape.

Id. at 775.

In State v. Zimmer, 146 Wn. App. 405, 413-14, 190 P.3d 121 (2008), Division Two struck a condition prohibiting possession of cell phones or data storage devices because no evidence in the record showed Zimmer used or intended to use such devices to possess or distribute methamphetamine. This was so even recognizing that such devices were commonly used to distribute illegal drugs. Id. at 414.

And in State v. Riles, 135 Wn.2d 326, 350, 957 P.2d 655 (1998), overruled on other grounds by State v. Sanchez Valencia, 169 Wn.2d 782, 239 P.3d 1059 (2010), this Court struck a community custody condition prohibiting contact with "any minor-age children" because "[i]t is not reasonable . . . to order even a sex offender not to have contact with a class of individuals who share no relationship to the offender's crime."

These cases are clear. Where the record does not support a factual nexus between the prohibition and the commission of the crime, the prohibition may not be imposed as a crime-related prohibition under RCW 9.94A.030(10).[9]

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[9] Several recent unpublished cases are in accord. See State v. Starr, noted at 200 Wn. App. 1070, 2017 WL 4653443, at *5 (2017) (in child molestation case, prohibition on sexually explicit materials not crime

In Magana, however, Division Three simply concluded, without analysis, that "[b]ecause Mr. Magana was convicted of a sex offense, conditions regarding access to X-rated movies, adult book stores, and sexually explicit materials were all crime related and properly imposed." 197 Wn. App. at 201. In this case, Division Three provides additional discussion of the matter. However, as noted at pages 4-5 above, the Court does not support its additional discussion with citation to the record or to legal authority—or any authority whatsoever.

In Norris, in contrast, the Court of Appeals correctly rejected the Magana "categorical approach," that is, "the broad proposition" that a sex offense conviction alone justifies imposition of any sex-related prohibition. Norris, 1 Wn. App. 2d at 98.

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related where there was no evidence such materials related to offense); State v. Dossantos, noted at 200 Wn. App. 1049, 2017 WL 4271713, at *5 (2017) (same); State v. Stewart, noted at 196 Wn. App. 1046, 2016 WL 6459834, at *3 (2016) (in indecent liberties case, same); State v. Hesselgrave, noted at 184 Wn. App. 1021, 2014 WL 5480364, at *12 (2014) (prohibition on going to establishments promoting "commercialization of sex" not reasonably crime-related where no evidence suggested such establishments related to child rape); State v. Clausen, noted at 181 Wn. App. 1019, 2014 WL 2547604, at *8 (2014) (conditions prohibiting possessing sexually explicit material and patronizing establishments that promote commercialization of sex not crime-related because no evidence suggested Clausen possessed sexually explicit material relating to child rape); State v. Whipple, noted at 174 Wn. App. 1068, 2013 WL 1901058, at *6 (2013) (prohibition on possessing and frequenting establishments that deal in sexually explicit materials not crime-related where nothing in record suggested child rape offenses involved such materials or establishments).

In summary, for a condition to be considered crime-related, there must be support in the record. Parramore, 53 Wn. App. at 531. Division Three's categorical approach is untenable and inconsistent with the plain language of the SRA.

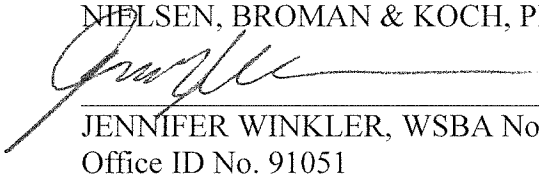
F. CONCLUSION

This Court should accept review under RAP 13.4(b)(2), stay the case pending a decision in Norris / Nguyen, and reverse the Court of Appeals.

DATED this 18th day of April, 2018.

Respectfully submitted,

NIELSEN, BROMAN & KOCH, PLLC



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APPENDIX

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

STATE OF WASHINGTON, Respondent,	)	No. 34395-2-III
v.	)	
DAVID VASQUEZ ALCOCER, Appellant.	)	PUBLISHED OPINION

KORSMO, J. — David Alcocer appeals from his convictions on two counts of third degree assault with sexual motivation, challenging three of the conditions of community custody imposed by the trial court. Adhering to our decision in *State v. Magana*, 197 Wn. App. 189, 389 P.3d 654 (2016), we largely affirm the trial court, but the matter is remanded for clarification of the language and scope of some of the conditions.

FACTS

Mr. Alcocer pleaded guilty to charges involving his stepdaughter, whom we need not identify by name. Mr. Alcocer has two biological children with the stepdaughter's mother, who also has two other children from a previous relationship. The record reflects that the victim was twelve years of age. The ages of the other children are not revealed in the record, although it is likely that his biological children are younger than the victim.

The court imposed a standard range sentence of 27 months in prison, followed by 36 months of community supervision during which he must be evaluated and, if necessary, undergo treatment for sexual deviancy. In addition to typical conditions of supervision, the court imposed the following "other conditions" of community custody:

- Have no contact with minors under the age of 18 without prior approval from his supervising Community Corrections Officer and/or his sex offender treatment provider.
- Obtain a sexual deviancy evaluation, at your own expense, and follow through with recommended treatment if directed by your community corrections officer or therapist;
- Submit to a polygraph and/or plethysmograph testing upon the request of your therapist and/or community corrections officer, at your own expense.
- Shall not use or possess any pornographic materials, to include magazines, internet sites, and videos.
- Have absolutely no contact with the victim.

Clerk's Papers at 96.

Mr. Alcocer timely appealed to this court, challenging three of the "other conditions" of his community custody. A panel considered the case without oral argument.

ANALYSIS

Mr. Alcocer challenges the possession of pornographic materials restriction, the plethysmograph requirement, and the restriction on his contact with minors. We address those contentions in the order listed.[1]

[1] Mr. Alcocer also filed a statement of additional grounds alleging ineffective assistance by his trial counsel. His allegations involve matters outside the record of this appeal. His remedy is to file a personal restraint petition in which he can marshal his evidence and attempt to prove his argument. *State v. Norman*, 61 Wn. App. 16, 27-28, 808 P.2d 1159 (1991).

Possession of Pornographic Materials

Mr. Alcocer challenges this condition on the basis that it is unconstitutionally vague and that it was unrelated to his crime. We agree with the former contention, but not the latter.

This initial contention involves an issue that has been settled long enough that it should not be recurring. Appellant argues, and respondent agrees, that the possession of "pornography" condition is unconstitutionally vague. We also agree. *State v. Bahl*, 164 Wn.2d 739, 752-53, 193 P.3d 678 (2008); *State v. Sansone*, 127 Wn. App. 630, 639, 111 P.3d 1251 (2005). We remand for the court to change the restriction to limit use or possession of materials depicting "sexually explicit conduct" as defined in RCW 9.68A.011.

Mr. Alcocer, however, also argues that sexually explicit material was not involved in his offenses and should not, therefore, be a crime-related prohibition in his case. Although acknowledging our decision in *Magana*, he urges that we recede from it because the decision (allegedly) conflicts with the legislature's narrow definition of crime-related prohibitions.[2] We disagree.

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[2] Appellant also contends *Magana* is inconsistent with *State v. Kinzle*, 181 Wn. App. 774, 785, 326 P.3d 870 (2014). Although we agree that *Kinzle* is inconsistent in result with *Magana*, and now with this decision, we simply note that in *Kinzle* the prosecutor conceded the issue and the court accepted the concession without significant discussion.

Crime-related prohibitions are orders directly related to "the circumstances of the crime." RCW 9.94A.030(10). Determining whether a relationship exists between the crime and the condition "will always be subjective, and such issues have traditionally been left to the discretion of the sentencing judge." *State v. Parramore*, 53 Wn. App. 527, 530, 768 P.2d 530 (1989). Thus, we review sentencing conditions for abuse of discretion. *State v. Riley*, 121 Wn.2d 22, 37, 846 P.2d 1365 (1993). An abuse of discretion occurs when the imposition of a condition is manifestly unreasonable. *State v. Valencia*, 169 Wn.2d 782, 791-92, 239 P.3d 1059 (2010).

In *Magana*, the trial court imposed a restriction on access to sexually explicit materials upon an offender convicted of third degree child rape. 197 Wn. App. at 193-94, 201. We found the appellant's argument that the condition was unrelated to his offense "unpersuasive" in light of the fact that he had been convicted of a sex offense. *Id.* at 201.

Believing that conviction for a sex offense is insufficient justification for a limitation on possessing sexually explicit materials, Mr. Alcocer asks that we reconsider our position. Having reconsidered the issue at his request, we adhere to that position. *Magana* did not create a new condition of community custody; it simply recognized the trial court's discretionary authority to impose the restriction when deemed necessary.

Written or visual depictions of sexually explicit conduct do not enjoy robust First Amendment protections. U.S. Const. amend. I; *see Ginsberg v. New York*, 390 U.S. 629, 88 S. Ct. 1274, 20 L. Ed. 2d 195 (1968). Such depictions have no overriding artistic or

scholarly value. Instead, they consist of "material intended to stimulate, arouse, or the like." *United States v. Gnirke*, 775 F.3d 1155 (9th Cir. 2015). An individual who has been convicted of a sex offense has demonstrated an inability to control sexual stimulation and arousal. Accordingly, the State has a legitimate interest in restricting access to sexually explicit content in an effort to reduce recidivism. In addition, the sexual activity portrayed in pornography typically fails to model realistic behavior or affirmative consent by equal partners. The simple fact of a sex offense conviction is indicative of a defendant's manifest inability to process the complex messages sent by pornography in a healthy and legal manner. Just as the State has an interest in restricting access to explicit pornography by minors, *see Ginsberg*, so too does it have a legitimate interest in restricting access to those convicted of sex offenses.

Accordingly, we believe it is not manifestly unreasonable for trial judges to restrict access to sexually explicit materials for those convicted of sex offenses.[3] Therefore, the trial court did not abuse its discretion by imposing this condition.

Plethysmograph Requirement

The remaining issues are controlled by settled law and need only briefly be discussed. Plethysmograph testing may be used only for sexual deviancy treatment and

[3] In those instances, such as in this case, where the court has ordered deviancy treatment, the restriction should carry language that exempts use of sexually explicit materials at the direction of a treatment provider. *E.g.*, *State v. O'Cain*, 144 Wn. App. 772, 775, 184 P.3d 1262 (2008).

may not be used for monitoring. *State v. Riles*, 135 Wn.2d 326, 342-46, 957 P.2d 655 (1998); *State v. Castro*, 141 Wn. App. 485, 494, 170 P.3d 78 (2007). Although we appreciate the clear and succinct language used by the trial court to alert Mr. Alcocer to his obligation to undergo polygraph or plethysmograph testing upon direction of supervising authorities, combining those directives in this instance could be read as improperly authorizing the community corrections officer to require plethysmograph testing. That is an improper use of the monitoring authority given to the community corrections officer. *Riles*, 135 Wn.2d at 344-46.

Upon remand, the court should clarify that the plethysmograph should only be used at the direction of the sexual deviancy evaluator and/or treatment provider.[4]

Contact with Minors

Mr. Alcocer also contends that the no contact with minors provision improperly limits his contact with his own biological children. However, he did not challenge the provision in the trial court and the record does not support the allegation since we cannot tell the ages of his two children. Although it is likely that they are younger than the victim, that is not a foregone conclusion.

[4] For example, the provision might be rewritten along the following lines: "Submit to polygraph testing upon request of CCO; and if the sexual deviation evaluation recommends treatment, the defendant shall also submit to polygraph and plethysmograph testing in conjunction with such treatment."

However, since the case is being remanded for other reasons, Mr. Alcocer is free to raise this issue before the trial court. Limitations on contact with one's own children must be imposed sensitively with respect for the offender's constitutional right to parent and are subject to strict review. *In re Pers. Restraint of Rainey*, 168 Wn.2d 367, 377, 229 P.3d 686 (2010); *State v. Warren*, 165 Wn.2d 17, 32, 195 P.3d 940 (2008), *cert. denied*, 129 S. Ct. 2007 (2009). The State has a compelling interest in preventing harm to children. *State v. Corbett*, 158 Wn. App. 576, 598, 242 P.3d 52 (2010). Thus, it can be permissible to prohibit an offender from contacting his own children. *Id.* at 599-600; *State v. Berg*, 147 Wn. App. 923, 927, 198 P.3d 529 (2008). *Corbett* and *Berg* are factually similar cases and should inform the trial court's decision on this issue.

Remanded for further proceedings.[5]

Korsmo, J.

WE CONCUR:

Lawrence-Berrey, A.C.J.

Pennell, J.

[5] Mr. Alcocer also asks that we waive costs on appeal. That matter will be considered by our commissioner in the event the State seeks costs. RAP 14.2.

NIELSEN, BROMAN & KOCH P.L.L.C.

April 18, 2018 - 4:00 PM

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