

62090-8

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NO. 62090-8-1

COURT OF APPEALS  
STATE OF WASHINGTON  
DIVISION I

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STATE OF WASHINGTON,

Plaintiff/Respondent,

v.

GENE A. CAMARATA,

Defendant/Appellant.

FILED  
COURT OF APPEALS  
STATE OF WASHINGTON  
2009 AUG -5 AM 11:26

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RESPONDENT'S BRIEF

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## **RESPONSE TO ASSIGNMENT OF ERROR**

1. The State agrees for the limited purpose of this specific case that there is insufficient record to statutorily support the community custody condition that appellant shut down all currently existing websites and domains within 30 days.

## **STATEMENT OF THE CASE**

The State hereby adopts in its entirety the statement of the case prepared by appellant's counsel.

## **ARGUMENT**

The community custody condition that appellant shut down all currently existing websites and domains within 30 days was by agreement part of the joint recommendation for resolving this case, and ordinarily the State would argue that by virtue of it being a joint recommendation the appellant has waived his right to appeal it's imposition.

However, in this specific case the State is willing to agree to the removal of this community custody condition, primarily because the required effect of said condition has substantially occurred even without strict compliance being enforced. Specifically, the content of the "offending" websites has been altered such that the victim on

the underlying charge of witness tampering is not the current target of appellant's internet activity. The State agrees to a mandate from the Court of Appeals vacating this condition from the Judgment and Sentence.

The State does not agree that it would be unconstitutional to impose said condition. However, due to the State's agreement that the condition should be vacated the State would respectfully request that this issue not be addressed.

#### **CONCLUSION**

The State agrees for the limited purpose of this specific case that there is insufficient record to statutorily support the community custody condition that appellant shut down all currently existing websites and domains within 30 days. For this reason the State respectfully agrees with the Appellant's request for that condition to be vacated.

Respectfully submitted on August 3, 2009.

  
Paul R. Sander # 35250  
Deputy Prosecuting Attorney  
Kittitas County  
Attorney for Respondent

COURT OF APPEALS FOR THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON, )  
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STATE OF WASHINGTON )  
 ) ss.  
County of Kittitas )

The undersigned being first duly sworn on oath, deposes and states:

That on the 3<sup>rd</sup> day of August, 2009, affiant deposited into the mail of the United States a properly stamped and addressed envelope directed to:

Richard D. Johnson, Clerk  
Court of Appeals  
Division I  
One Union Square  
600 University St  
Seattle WA 98101-4170

Eric Broman  
Nielsen Broman & Koch PLLC9  
1908 E. Madison St.  
Seattle WA 98122

Gene Camarata  
Kittitas Co. Jail  
205 W. 5th  
Ellensburg WA 98926

containing copies of the following documents:

- (1) Respondent's Brief
- (2) Affidavit of Mailing

*Gene Camarata*  
\_\_\_\_\_

SIGNED AND SWORN to (or affirmed) before me on this 3<sup>rd</sup> day of August, 2009.

*Robin Shaap*  
\_\_\_\_\_

NOTARY PUBLIC in and for the  
State of Washington.

My Appointment Expires: 1/15/13