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Court of Appeals
Division III
State of Washington

31678-5-III

COURT OF APPEALS

DIVISION III

OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, RESPONDENT

v.

DANILE LYLE SCHRECENGOST, APPELLANT

APPEAL FROM THE SUPERIOR COURT

OF SPOKANE COUNTY

HONORABLE HAROLD D. CLARKE, III

BRIEF OF RESPONDENT

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I.

APPELLANT'S ASSIGNMENTS OF ERROR

1. The trial court abused its discretion denying Mr. Schrecengost the requested Special Sexual Offender Sentencing Alternative ("SSOSA").
2. The trial court abused its discretion by failing to consider the defendant's right to parent his minor daughter when it imposed the condition of no contact with minor females in the judgment and sentence.

II.

ISSUES PRESENTED

1. Can the defendant appeal the decision to impose a standard range sentence, rather than a SSOSA?
2. Did the trial court abuse its discretion by not imposing a SSOSA rather than a standard range sentence?
3. Did the trial court abuse its discretion by imposing the no contact with minor females in contravention of the defendant's right to parent his minor-aged Daughter?

III.

STATEMENT OF THE CASE

The Respondent accepts the Appellant's statement for the purposes of this appeal only with the following additions.

The defendant acknowledged that he understood that the trial court was not required to follow any sentencing recommendations. March 12, 2013 -Report of Proceedings ("031313-RP") at 9.

The trial court specifically cited all the documentation it had received and duly reviewed in preparation for the sentencing hearing. 050713-RP 18-20. The trial court noted that the information received, included: a Pre-Sentence Investigation Report of 4/26/13; letters from Deanette Palmer, Ph.D.; a report from Dr. Wert; a polygraph test result; and a packet of seven letters delivered in support of the defendant. 050713-RP 18-20. The trial court also noted that it had read the probable cause affidavit in the court file to gain the investigating officer's perspective. 050713-RP 18-20. Finally, the trial court took testimony from several individuals that addressed the court both in support of and against the imposition of a SSOSA sentence. 050713-RP

Brandy Tincup, the Mother of the victim, J.G., testified in opposition of a SSOSA that:

Dan was a trusted family friend since my children were both very little. I wish I would have known how [he] would betray that trust so that I could have protected my daughter Jade from all the terrible things he's done to her. She was only 12 years old the first time he assaulted her. And he continued assaulting her for over a year. His actions have caused unimaginable pain to my daughter and everyone who loves her. She has undergone psychiatric care and has been diagnosed with post-traumatic stress disorder. She has nightmares about Dan frequently... Before this happened to Jade, she was outgoing and had lots of friends. She also regularly won academic achievement awards, including student of the year. She [is] less trusting and more withdrawn now...she has difficulty making new friends. Her grades have also suffered. And sometimes she is too depressed to...go to school...My hope is that the outcome today will show Dan that his actions have not only had negative and lasting consequences for us, but for him as well.

050713-RP 21-22.

Dakota Goodwin, the Brother of the victim, testified in opposition of a SSOSA that:

I take the side of my sister...I strongly believe the defendant should be put in prison for a minimum of 11 years...what Daniel has done is against the law, and is one of the most highly recognizable crimes in today's society that should exclude the offenders from the general public for their safety...The acts that Dan committed over a long period of time shall not be looked past...Daniel has already gotten away with enough...he's being charged with a fraction of his crimes...When I lived with Daniel he had a lot of bad habits...smoking...[H]is addictive mindset leaves him as a threat...to others since he obvious[ly]

doesn't value the lives of others...Daniel used to be like an uncle to us...I looked up to him. When I found out about this I was filled with shock, hate, and...anger. As I have grown older and more mature, I know not to hate Dan...My sister has been through so much that she is constantly looking over her back, and requires therapy...She used to be such a strong, talented young lady, but now she is scared to try anything that will make her get noticed by anyone... My sister is everything to me. And I have done everything I could to protect her...

050713-RP 22-24.

William Fowler, the victim's current boyfriend, testified in opposition of a SSOSA that:

I've been in a relationship with J.G. for almost two years...It was not until several months into the relationship that she...told me what happened. She told me not to tell anyone because she feared for her family's well-being... Through this horrid molestation and rape that occurred almost on a daily basis without anything to stop it, Jade was stripped of any self-confidence or self-respect. She has experienced episodes of extreme depressive anxiety attacks from minute triggers that remind her of what happened. She slept on the very couches where Dan had molested and raped her two years after it happened...her family cannot afford to replace them, so she is forced to see them every day...Whenever her mother would go to work and her brother would go to hang out with friends, she would be at the sick mercy of this pedophile rapist. While her family was completely trusting of Dan, they had no clue that this lifetime family friend would even think of doing such things...I have done my best to help her cope with these issues...but the damage is immense and permanent...the years of pain she felt holding all of this inside for nearly two years...Dan's sick, twisted manipulation of Jade's thoughts made her think she needed to bear this painful

anger in her heart for the sake of her family...this man has hurt someone beyond repair.

050713-RP 24-26.

Jade Goodwin, the victim, testified in opposition to a SSOSA that:

[T]here is a lot of things that...there's probably going to be said for why he shouldn't go to prison, starting with, he has a daughter...that is not a good defense because just days before he started molesting me, he would tell me that I reminded him so much of her. Another thing is...that he goes to church. And he has a job...I don't think that should be a defense because of all the time he lived in the same house...he never went to church...never had any religious beliefs...the job he has allows him to be around all the kids he wants because he's a landscaper...This man deserves nothing better than prison...he has taken away my life...he needs to see the consequences of his actions. When he ruined my life, I was 12 years old...After the abuse I was depressed and pessimistic...afraid of everything...shut everyone out...died my hair black and started dressing in all black...By the end of 8th grade I had no friends...was shy and never spoke...I was terrified to talk to new people and put myself out there. I have been in counseling and...learned to cope with what happened...but that doesn't mean it doesn't impact every aspect of my life...Daniel needs to go [to] prison...be put away. He's at risk to all girls in the community...Daniel destroyed all of the beauty in the world for me for a very long time...he needs to be somewhere where he can't hurt more people.

050713-RP 26-28.

The defense proffered testimony in support of the imposition of a SSOSA sentence from defendant's employer, Jeff Brady, that:

I have known Dan since 1992 when he first came to work for me...he has grown and advanced within the company to become one of my best supervisors and foremen...my only

supervisor who can perform all tasks that we do as a landscape contractor...an extremely intelligent person... very organized...has a lot of responsibility...has great leadership and organizational skills...it would be hard to find anyone to replace him that performs as well as he does...

050713-RP 31-32.

Defendant's Aunt testified in support of a SSOSA sentence that:

I'm one of those that wrote...the letters...Dan is my favorite nephew...always been close...always known Dan as a kind and loving and gentle person; a very caring person... He knows that he made a terrible mistake...I would wish that he...get the chance to be able to have counseling...he has a precious little daughter named Anna who is 11 years old, who adores her father...Dan wants to be with his daughter.

050713-RP 36.

Defendant's co-worker Zachary Garlick testified in support of a

SSOSA sentence that:

I met Dan at [work] about five years ago...relationship grew outside of work because he was able to show me how to do things at the company that I wouldn't have otherwise been able to learn otherwise...he has become a member of our family...time in prison will go against his positive glow...

050713-RP 37.

Defendant's cousin, Joe Tripp, testified in support of defendant

that:

I'm Dan's cousin...Dan went through a lot of difficult times...he knows he made a tremendous mistake. But...he

had done everything to atone for those mistakes and to seek every counsel and everything that he's been asked to do by the courts and the legal system...his daughter...Anna...the most well-adjusted... well-mannered, intelligent little girl that I know...I would hate to see him separated from her in such a way...

050713-RP 40.

Dawn Garlick testified in support of defendant that:

He's...a wonderful family friend. We have two daughters who are 11 and three...they...absolutely love Dan...there is no threat with Dan at all...He's an amazing person...he has expressed nothing but remorse and regret for everything that has transpired...it would be a terrible injustice to his daughter if he would go to have a longer sentence...

050713-RP 41.

Defendant's Mother, Joanne Tripp, testified that:

This is very hard on me. I haven't been well for many years...Danny has been such a big help to me at home...He's a good person...He used to live out at the lake...Danny and Annie used to swim out there because they lived out there...if Jade [Goodwin] was truly afraid of Dan, that he was going to hurt her, I would like to know why she used to always swim out to the dock to be with him...I find that odd. I never saw her run away from him in all the times that she was around him...I was there...She came to my house for dinner when Danny was there...if you are afraid of somebody, truly afraid they are going to hurt you, you don't go to them...write them love letters.

050713-RP 41-42.

Priscilla Hannon, Defendant's Sex Offender Treatment Provider,

testified that:

[Defendant] was in a treatment group...I facilitated... started...February 2 of 2012...it was my understanding he had been charged with a sex offense and had a psycho-sexual evaluation completed...he wanted to start treatment so he could understand what had happened and try to get help...[Defendant]...immediately began to participate...It was a group...of eight...members...he had two excused absences...his account was paid in full...he wasn't ordered to be in treatment, so it was voluntary...his participation was above and beyond...the expectation...it was a full year with two absences...He was very committed...making progress... making the connection to some of the events in his childhood that contributed to some of his poor boundaries and poor decision-making and awareness of the decision... as a treatment provider, my role is to look at the amenability to treatment and whether the client can make the changes in it and complete treatment...I used the...actuarial risk assessment tool...I'm certified to use... he scored a 0, which puts him in the low risk to reoffend... He has presented as extremely remorseful and very sad for the damage that he caused the family...Mr. Schrecengost believed that he was in a relationship with the victim, regardless of the fact that that was illegal. He saw her as a partner...so certainly that is a treatment issue that has to be addressed. He cognitively understands that it was illegal... it takes a little bit of time for the offender to catch up with the emotional piece of that...[Defendant] has made no attempts to contact the victim...he was actively discussing other relationships that he was building during the treatment process. And was processing Jade as a victim... not a partner...he took it seriously...he knew that nonpayment could result in termination from the treatment group.

050713-RP 42-55.

The defendant addressed the trial court with regard to sentencing

that:

I come before the court remorseful, sorry, humbled and ashamed of my actions...like to extend my deepest and most sincere apology to Jade and her family. I have never denied what happened...I'm thankful that Jade had the courage to bring these actions to light. It is a tragedy for both of us...I never felt good enough or accepted...Hannon and...Palmer have been so helpful...to see and understand how I can change...I was able to open up to the events of my childhood that I repressed most of my life. These events led me to most of my thinking errors...I would like to be there for my mother who I give financial, physical and emotional support...I want to be there for my daughter... to give her all a dad can. I love her so much...I take full responsibility for what had occurred between Jade and myself...it is my hope the court would grant me the privilege to be considered in the SSOSA program.

050713-RP 86-87.

The trial court then made the following comments in sentencing

defendant:

I have listened carefully...First...I certainly agree that Mr. Schrecengost needs treatment...counseling...it's also evident...all the collateral consequences that come out of these things. Family members are impacted adversely. Employers are impacted. Friends. Relationships...And that impact...ripples out...is difficult to...stop... difficult to undo all these impacts...One of the difficult concepts...in sentencing is to take into account what occurred two-and-a-half years ago and sentence for that...Defendant has made some steps towards rectifying or...addressing some issues in his life...That is a difficult concept anytime we're way down the road from an alleged criminal act. What are we sentencing for at that point? I'm not sure I have the answer...I share some of Mr. Bugbee's

observations...as to the criminal dependency world...But ...for some individuals...at some point we've run out of answers, and occasionally there is just time that is to be spent, and that is just the way it is. Is that the best answer? Probably not. Then I come to this case...I have sort of a cliff here...That is the policy of the State...not mine. I didn't write the statute...A cliff is either one year...then supervision for ...11 years...or life...that is the choice...the policy of the state...I'm not given the discretion to simply pick sentences out of the air. They are what they are...I was trying to offer my insights or opinions where I was...aware of the statutes as to what weight I'm to give to each particular portion of this matter, including the victim's wishes...

Certainly there is a possibility that Mr. Schrecengost would do well under a SSOSA...the issue comes back to what I think is the appropriate sentence in this case at this point in time given the statutory factors...Here are the notes that I made...a 37 year old gentleman having...more than a one-time contact...with a 12 year old. This did go on for a period of time. And despite how we look at it this morning, it came to light some time later because someone else was involved. Otherwise...I don't know if it would have come to light...We talked about legal and other types of consent. [L]egally that is an inappropriate relationship...And in terms of that kind of repeated act, that sort of activity that occurred over the time period...it did, between someone who is 37 or 38 and someone who is 12 or 13...is ...way outside the bounds...is it appropriate to sentence to a SSOSA in this type of a situation? My answer is, no. I'm going to impose a standard-range sentence in this case...not ...the SSOSA...going to impose the minimum of 102 months...the maximum is life...community custody is up to life...As to Appendix H...I am not going to impose conditions 16 and 17. I have no information...that those are related in a causal way in this case. I don't think I can impose the conditions without some causal relationship...I will strike those.

050713-RP 89-97.

The court listened to the comments of the victims and their families, friends and supporters of defendant, and the defendant before imposing the sentence. 050713-RP 16-97.

The court noted what the court has to consider when sentencing someone in defendant's position. 050713-RP 89-97. The court noted that the statute provided that it shall give weight to the victim's opinion whether the offender should receive a treatment disposition under this section. 050713-RP 89-97.

The court then indicated that it could not justify giving the defendant a SSOSA sentence, not because the defendant did not need treatment, but because this case necessitates punishment due to the repeated commissions of the crime over a long period of time. 050713-RP 89-97. The court found that Mr. Schrecengost victimized a 12-year-old innumerable times for over a year period. 050713-RP 89-97. The court found the relationship between the 37-38 year old defendant and the 12-13 year old victim was an inappropriate relationship. 050713-RP 89-97. Accordingly, the trial court concluded that a SSOSA sentence was not appropriate under the circumstances of this case. 050713-RP 89-97.

This appeal followed. CP 116-144.

IV.

ARGUMENT

A. A DEFENDANT CANNOT APPEAL THE IMPOSITION OF A STANDARD RANGE SENTENCE WHEN HE FAILED TO OBJECT TO THE TRIAL COURT'S DECISION TO NOT IMPOSE A REQUESTED SPECIFIC SENTENCE.

It is noteworthy that the defendant did not raise this specific issue before the trial court. Only after the court declined to grant the SSOSA sentence did the defendant raise the issue. “Generally, appellate courts will not consider an issue raised for the first time on appeal unless it rises to the level of a manifest error affecting a constitutional right.” *State v. Quigg*, 72 Wn. App. 828, 866 P.2d 655 (1994). A defendant does not have a constitutional right to a specific sentence. *See Townsend v. Burke*, 334 U.S. 736, 68 S. Ct. 1252, 92 L. Ed. 1690 (1948) (upon conviction a defendant is entitled only to have his sentence correctly determined in accordance with the applicable law and based upon reliable evidence). The defendant’s claim of error should be rejected as it is a non-constitutional matter being raised for the first time on appeal.

B. A DEFENDANT CANNOT APPEAL THE DECISION TO IMPOSE A STANDARD RANGE, RATHER THAN AN ALTERNATIVE, SENTENCE WHEN DEFENDANT HAS NOT IDENTIFIED A PROCEDURE THAT THE TRIAL COURT FAILED TO FOLLOW.

Appellant claims that the court abused its discretion by denying him a SSOSA sentence.

Initially, it must be determined whether appellant can challenge the court's decision regarding the SSOSA sentence. The provisions of the Sentencing Reform Act ("SRA") do not permit such challenges. Standard range terms can not be challenged on appeal. Here, the defendant received a standard range sentence and has no basis for appeal unless he can establish that the trial court erred in failing to follow a procedure mandated by the SRA. He has made no such showing.

The governing authority is RCW 9.94A.585(1), the first sentence of which states in part: "A sentence within the standard range ... shall not be appealed." Such is the circumstance in this case. Defendant received a standard range sentence, so he cannot challenge it. *State v. Mail*, 121 Wn.2d 707, 854 P.2d 1042 (1993). A trial court's decision whether to impose a SSOSA is not appealable, although a party can challenge a court's determination as to eligibility for the alternative sentence.

State v. Onefrey, 119 Wn.2d 572, 574, 835 P.2d 213 (1992); *State v. Williams*, 149 Wn.2d 143, 146-147, 65 P.3d 1214 (2003).

A party can appeal the trial court's failure to follow a *mandatory* sentencing procedure. *State v. Mail, supra* at 713-714; *State v. Williams, supra*. What thus can be challenged when a standard range is imposed is the *process* by which it was imposed. *State v. Conners*, 90 Wn. App. 48, 950 P.2d 519, *review denied* 136 Wn.2d 1004 (1998); *State v. Garcia-Martinez*, 88 Wn. App. 322, 330, 944 P.2d 1104 (1997) [refusal to exercise discretion can be challenged]. Appellant, however, has not established that the trial court failed to follow a mandatory process or otherwise erred at sentencing.

Here, defendant is challenging the court's discretionary decision on whether to impose SSOSA. "The decision to employ SSOSA is *entirely* within the trial court's discretion." *State v. Onefrey, supra* at 575 (emphasis supplied). Any challenge to this standard range sentence is limited to "the correction of legal errors or abuses of discretion in the determination of what sentence applies." *State v. Williams, supra* at 147 (citing *State v. Ford*, 137 Wn.2d 472, 479, 973 P.2d 452 (1999)).

Why the court exercised its discretion as it did is simply not reviewable in this case of a standard range sentence. There was no failure

to follow a required procedure. The decision not to impose the defendant requested SSOSA sentence is not reviewable here.

Appellant acknowledges that the court has the discretion and final responsibility for determining whether to grant a SSOSA sentence in light of the specifics of each case. Appellant's claim that the trial court's procedure in taking defendant's guilty plea was flawed, is not supported by a careful review of the record.

C. A TRIAL COURT IS NOT BOUND TO IMPOSE
A SENTENCE THAT IS REQUESTED OR
RECOMMENDED BY A PARTY.

Appellant claims that that the trial court abused its discretion in not granting a SSOSA sentence despite the agreement of the parties that the defendant could request a SSOSA sentence from the court. RCW 9.94A.431 provides, in pertinent part:

(2) The sentencing judge is not bound by any recommendations contained in an allowed plea agreement and the defendant shall so be informed at the time of the plea.

RCW 9.94A.431.

Here, the court reviewed the statement of defendant on plea of guilty to a sex offense with the defendant section by section prior to accepting his guilty plea. 031213-RP 3-12. The court acknowledged its finding that the defendant had entered his guilty pleas knowingly,

intelligently, and voluntarily with its signature on the guilty plea statement. CP 35-45; 031213-RP 11-12. In section 6(h) of the Statement on Plea of Guilty to a Sex Offense the defendant specifically acknowledges that the court is not bound to follow any recommendation. Specifically, the section provides, in pertinent part:

The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. ... ***I understand ... that if the court imposes a standard range sentence, then no one may appeal the sentence.***

CP 35-45. (Emphasis added).

Section 12 of the Defendant's Statement on Plea of Guilty to Sex Offense provides the defendant's acknowledgement of all the rights he is waiving by entering his guilty plea with his signature affixed. CP 35-45. Defendant contends on appeal that the trial court abused its discretion in denying a SSOSA sentence, yet the record reveals that he acknowledged that the trial court did not have to follow the parties agreement that defendant could request a SSOSA.

Appellant claims that the trial court abused its discretion by basing its decision not to grant a SSOSA on untenable grounds. Specifically, the appellant contends that the trial court "ignored the factors set forth in RCW 9.94A.670...[because] most of the factors weigh in favor of

defendant's SSOSA request...it appears the trial court relied on the factor that a SOSA would be too lenient in light of the extent and circumstances of the crimes." Brief of Appellant at 9. The record reflects that the court declined to grant a SSOSA only after carefully reviewing the pleadings and information provided. 050713-RP 18-20.

RCW 9.94A.670 set forth the eligibility requirements for a defendant to receive a SSOSA sentence. Section (2) provides that:

An offender is eligible for the SSOSA if: ...
(d) The offense did not result in substantial bodily harm to the victim;
(e) The offender has an established relationship with, or connection to, the victim such that the sole connection with the victim was not the commission of the crime.

RCW 9.94A.670(2).

With respect to section RCW 9.94A.670(2)(d), the trial court was faced with evidence of the extent to which the defendant's actions had inflicted substantial physical harm on the victim. Specifically, as the victim advised the court ---

This man deserves...he has taken away my life. When he ruined my life, I was 12 years old...After the abuse I was depressed and pessimistic...afraid of everything...shut everyone out...dyed my hair black and started dressing in all black...By the end of 8th grade I had no friends...was shy and never spoke...I was terrified to talk to new people and put myself out there. I have been in counseling and...learned to cope with what happened...but that doesn't mean it doesn't impact every aspect of my life...Daniel

destroyed all of the beauty in the world for me for a very long time.

050713-RP 26-28. The testimony from the victim's family corroborates the extent of the physical harm that she incurred as a result of defendant's actions. The evidence does not weigh in favor of the trial court finding that this factor supports a SSOSA sentence in this case.

With respect to RCW 9.94A.670(2)(e), the trial court was faced with the fact that the defendant had perpetrated repeated rapes of a 12 year old for over a year. The defendant admitted the number of times he had raped the victim was at least two dozen. CP 107-115 (Psychological/Sexual Risk Assessment of December 20, 2011 by Dr. Wert at page 5) ("Dr. Wert Assessment"). Defendant admitted that he knew the victim was eleven when they first met and he had a "hard time seeing her as that age." CP 107-115 (Dr. Wert Assessment at 4) Defendant admitted that his sexual contacts with the victim were illegal, but he did not think that she would disclose. CP 107-115 (Dr. Wert Assessment at 5). By no tenable inference of the evidence can the situation between the defendant and the victim be characterized as "an established relationship with, or connection to, the victim such that the sole connection with the victim was not the commission of the crime" under RCW 9.94A.670(2)(e). Again, the evidence does not weigh in favor

of the trial court finding that this factor supports a SSOSA sentence in this case.

Finally, the trial court was statutorily required to factor into its decision the victim's perspective of whether a SSOSA sentence was appropriate. The evidence before the trial court was that the victim strongly opposed the imposition of a SSOSA sentence. Mr. Schrecengost had several factors that the trial court considered pursuant to RCW 9.94A.670 that did not support his request for a SSOSA sentence, accordingly the trial court properly exercised its discretion in denying same.

D. THE TRIAL COURT PROPERLY IMPOSED THE NO CONTACT PROVISION IN THE JUDGMENT AND SENTENCE TO INCLUDE DEFENDANT'S MINOR DAUGHTER.

Appellant claims that his constitutional right to parent his daughter is violated by the trial court's imposition of the no contact with minor-aged females provision of the judgment and sentence. Appellant is correct that the trial court amended the conditions of defendant's pretrial release to facilitate contact with his daughter. The key aspect of that action is that it was a *pretrial* condition when defendant is presumed not guilty of the charged crime. The Jury's return of guilty verdicts of two counts of child rape replaced the presumption of innocence with the fact of guilt.

Appellant challenges the no contact with female minors because it prohibits his contact with his biological daughter and thereby violates his constitutional right to parent his child. However, the trial court is generally empowered to impose crime-related prohibitions and affirmative conditions pursuant to RCW 9.94A.505(8). A “crime-related prohibition” typically is an order prohibiting specific conduct that is directly related to the circumstances of the crime. RCW 9.94A.030(13). Whether a condition of a judgment and sentence is “crime-related” is reviewed for abuse of discretion. *State v. Autrey*, 136 Wn. App. 460, 466, 150 P.3d 580 (2006) citing *State v. Riley*, 121 Wn.2d 22, 37, 846 P.2d 1365 (1993).

Here, Mr. Schrecengost entered guilty pleas to two counts of rape of a child in the second degree as consideration for the State dismissing the other two counts. Mr. Schrecengost admitted raping the minor female victim almost daily for over a year. The State could have charged defendant with two dozen counts based upon his own admissions, yet filed only four and agreed to his pleading guilty to only two counts. As a condition of his community custody, defendant is prohibited from having contact with any minor females. The prohibition clearly qualifies as “crime-related” under the RCW. Accordingly, the trial court did not abuse its discretion entering the challenged prohibition.

Appellant contends that the prohibition violates his constitutional right to parent his minor-aged daughter. Defendant's marriage to the mother of his daughter ended after only three years with residential custody granted to the mother. CP 107-115 (Dr. Wert Assessment at 3). The trial court considered defendant's circumstances, including his relationship with his daughter, and still entered a pretrial prohibition of defendant having unsupervised contact with his daughter. CP 107-115 (Dr. Wert Assessment at 3). The jury returned two verdicts finding defendant guilty of criminal acts involving a child too young to legally consent to those acts. The record from the sentencing hearing included the testimony of Mr. and Mrs. Garlick that they had no problem with the defendant spending time with their minor-aged daughters. Clearly, the trial court did not abuse its discretion by finding the no contact with minor females, including the defendant's daughter, reasonably necessary to fulfill the State's purpose of protecting the public.

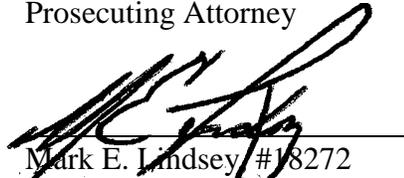
V.

CONCLUSION

For the reasons stated above the defendant's convictions and the sentences imposed should be affirmed.

Dated this 14th day of February, 2014.

STEVEN J. TUCKER
Prosecuting Attorney

A handwritten signature in black ink, appearing to read 'M. Lindsey', is written over a horizontal line.

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Attorney for Respondent

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION III

STATE OF WASHINGTON,)
)
 Respondent,) NO. 31678-5-III
 v.)
)
DANIEL L. SCHRECENGOST,)
)
 Appellant,)

I certify under penalty of perjury under the laws of the State of Washington, that on February 4, 2014, I e-mailed a copy of the Respondent's Brief in this matter, pursuant to the parties' agreement, to:

Dennis W. Morgan
nodblspk@rcabletv.com

and mailed a copy to:

Daniel L. Schrecengost
DOC #364729
191 Constantine Way
Aberdeen, WA 98520

2/4/2014
(Date)

Spokane, WA
(Place)


(Signature)