

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	
Petitioner,)	No. 104095-4
)	
vs.)	
)	STATEMENT OF
TYRE M JOHNSON,)	ADDITIONAL
)	AUTHORITIES
Respondent.)	
)	
)	

Pursuant to RAP 10.8, the State of Washington respectfully provides the following two opinions as additional authority in support of its Petition for Review:

This Court recently issued an opinion rejecting a constitutional challenge to community custody conditions of urinalysis and breath analysis. *State v. Nelson*, 565 P.3d 906 (March 29, 2025). This Court held that pre-enforcement challenges to community custody conditions are not ripe for

review where they rest on the factually unsupported assumption that the condition will be imposed “in an unreasonable manner” and that there is no evidence as to whether or how the State will enforce the condition. *Id.* at 914. The opinion relied on pre-enforcement vagueness challenges, similar to the one made here, where the challenger’s argument is based on the potential for “[s]ome future misapplication of the community custody condition,” which necessarily depends “on the particular circumstances of the attempted enforcement” *Id.* at 913 quoting *State v. Cates*, 183 Wn.2d 531, 534, 354 P.3d 832 (2015).

Additionally, Division Two issued an opinion yesterday rejecting a vagueness challenge to the same community custody condition challenged here. *State v. Akeem Ali Moore*, 59282-7-II, 2025 WL 1807935 (Unpublished, July 1, 2025).¹ The court held that the “conduct proscribed is clear and unambiguous, [the defendant] must comply with the written restrictions

¹ This opinion is cited per GR 14.1. Additionally, the State understands that a motion to publish is likely to be filed in *Moore*.


provided by DOC; any reasonable person would understand what is prohibited. Further, the condition is not vague because DOC does not have unbridled discretion to set the geographic boundaries.” Slip Op. at 2. Division Two also noted that the condition is presumed constitutional because it mirrors the statutory language of RCW 9.94A.704(3) and that the defendant must carry the burden to prove unconstitutionality beyond a reasonable doubt.

The State’s Petition for Review urged this court to accept review pursuant to RAP 13.4(b)(1), (2), and 3. These two recent opinions provide additional support for review per RAP 13.4(b)(1) and (2) because Division One’s opinion in this matter is in conflict with binding Supreme Court authority and with opinions of other divisions of the court of appeals.

The body of this statement contains 338 words, in
compliance with the 350-word limit set out in RAP 10.8(b).

Dated this 2nd day of July, 2025.

LEESA MANION (she/her)
King County Prosecuting Attorney

By: 
Samantha D. Kanner, WSBA #36943
Deputy Prosecuting Attorney
Attorneys for Petitioner
Office WSBA #91002

Appellate Unit
W554 King County Courthouse
516 Third Avenue
Seattle, WA 98104-2385
(206) 477-9497 FAX (206) 259-2795

KING COUNTY PROSECUTOR'S OFFICE - APPELLATE UNIT

July 02, 2025 - 9:11 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 104,095-4
Appellate Court Case Title: State of Washington v. Tyre M. Johnson

The following documents have been uploaded:

- 1040954_State_of_Add_Authorities_20250702090959SC610196_3542.pdf

This File Contains:

Statement of Additional Authorities

The Original File Name was 104095-4 PETITIONERS STATEMENT OF ADDITIONAL AUTHORITIES.pdf

A copy of the uploaded files will be sent to:

- MoodyE@nwattorney.net
- Sloanej@nwattorney.net
- nielsene@nwattorney.net

Comments:

Sender Name: Bora Ly - Email: bora.ly@kingcounty.gov

Filing on Behalf of: Samantha Dara Kanner - Email: Samantha.Kanner@kingcounty.gov (Alternate Email:)

Address:

King County Prosecutor's Office - Appellate Unit
W554 King County Courthouse, 516 Third Avenue
Seattle, WA, 98104
Phone: (206) 477-9499

Note: The Filing Id is 20250702090959SC610196