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SUPREME COURT NO. _____ Case #: 1045531
COA NO. 57744-5-II

THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

PAUL CLARK,

Petitioner.

ON APPEAL FROM
THE GRAYS HARBOR COUNTY SUPERIOR COURT

The Honorable David Edwards, Judge

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

Paul Clark is the petitioner.

B. COURT OF APPEALS DECISION

Clark requests review of the decision in State v. Paul Thomas Clark, Court of Appeals No. 57744-5-II (slip op. filed August 12, 2025), attached as Appendix A.

C. ISSUE PRESENTED FOR REVIEW

Must the community custody condition prohibiting the consumption, possession or purchase of cannabis incorporate an exception for the lawful use of medical cannabis authorized by a medical professional because it aligns with state legislative intent to provide compassionate medical care, avoids absurd results and a potential equal protection problem, and does not perpetuate the racist origins of federal law?

D. STATEMENT OF THE CASE

Paul Clark pled guilty to several felony offenses. CP 29-41; 1RP¹ 5-16. According to the probable cause statement and the DOC pre-sentence investigation report, cannabis had nothing to do with the offenses. CP 8-13, 166.

The trial court imposed a total of 77 months in confinement followed by 36 months of community custody. CP 48-49; 1RP 24-25. Appendix H to the judgment and sentence lists a variety of community custody conditions, including conditions that prohibit controlled substances without a lawful prescription. CP 62-64.

Clark subsequently filed a pro se CrR 7.8 motion challenging various conditions of community custody.

¹ The verbatim report of proceedings is cited as follows: 1RP – one volume consisting of 11/1/21, 11/22/21, 12/6/21; 2RP – one volume consisting of 10/10/22, 11/14/22.

CP 67-91. One of those challenged conditions provides: "Do not purchase, possess, or consume alcohol or marijuana." CP 63 (App. H – Other Condition 23). The trial court modified or struck some conditions, but left others intact, including the prohibition on cannabis. CP 126-27; 2RP 5-6.

On appeal from the trial court's CrR 7.8 decision, Clark challenged various community custody conditions. Among other things, Clark argued the prohibition on cannabis needed to make an exception for lawful medical use. Brief of Appellant at 67-69. The Court of Appeals disagreed and affirmed the condition on the basis that the community custody statute only makes an exception for "prescriptions" issued by a medical professional, whereas medical professionals only give "authorization" for medical cannabis. Slip op. at 10.

E. WHY REVIEW SHOULD BE ACCEPTED

- 1. To honor legislative intent and avoid absurdity, the prohibition on cannabis as a community custody condition needs to make an exception for lawful medical use.**

Clark asks this Court to review the validity of the community custody condition in the judgment and sentence that provides "Do not purchase, possess, or consume alcohol or marijuana." CP 63 (App. H – Other Condition 23).

As a matter of humanitarian compassion, the legislature intended that the people of this state have lawful access to cannabis to treat serious medical conditions. The legislature also intended to allow those serving community custody to lawfully use controlled substances when a medical professional deems it appropriate. Any community custody condition that

prohibits cannabis without making an exception for its lawful medical use is contrary to legislative intent.

The stopgap rule of statutory construction that prohibits strained, unlikely or absurd results mandates this conclusion, as does the rule that statutes will be construed to avoid constitutional doubt.

- a. **The legislature intended that people be able to use cannabis to treat medical conditions when authorized by a medical professional, and those serving community custody subject to DOC supervision be permitted to use medical cannabis without being sanctioned.**

Courts discern legislative intent "from the plain language enacted by the legislature, considering the text of the provision in question, the context of the statute in which the provision is found, related provisions, amendments to the provision, and the statutory scheme as a whole." State v. Hawkins, 200 Wn.2d 477, 490, 519 P.3d 182 (2022) (quoting Ass'n of

Wash. Spirits & Wine Distribs. v. Wash. State Liquor Control Bd., 182 Wn.2d 342, 350, 340 P.3d 849 (2015)).

Also, "related statutory provisions must be harmonized to effectuate a consistent statutory scheme that maintains the integrity of the respective statutes." State v. Velasquez, 176 Wn.2d 333, 336, 292 P.3d 92 (2013).

A comprehensive view of the legislature's treatment of cannabis and its interaction with community custody obligations is necessary to fully grasp how the various statutes are intended to operate in harmony.

In enacting the medical cannabis statute, the legislature found that "some patients with terminal or debilitating medical conditions may, under their health care professional's care, benefit from the medical use of cannabis." RCW 69.51A.005(1)(a). "Humanitarian

compassion necessitates that the decision to use cannabis by patients with terminal or debilitating medical conditions is a personal, individual decision, based upon their health care professional's professional medical judgment and discretion." RCW 69.51A.005(1)(b).

The medical cannabis statute allows a health care professional to "provide a qualifying patient or that patient's designated provider with an authorization for the medical use of cannabis in accordance with this section." RCW 69.51A.030(2)(a). The patient must have a "terminal or debilitating medical condition" that may may benefit with medical use of cannabis. RCW 69.51A.030(2)(b)(iii).

The legislature expressly intended that "[q]ualifying patients with terminal or debilitating medical conditions who, in the judgment of their health

care professionals, may benefit from the medical use of cannabis, *shall not be arrested, prosecuted, or subject to other criminal sanctions* or civil consequences under state law based solely on their medical use of cannabis, *notwithstanding any other provision of law[.]*" RCW 69.51A.005(2)(a) (emphasis added).

The medical cannabis statute does not foreclose medical cannabis use while being supervised in the community following a criminal conviction, recognizing DOC's authority to oversee the matter. RCW 69.51A.005(4).² Following this statutory authorization, the DOC "has established processes for the authorization of medical cannabis use for an individual

² "Nothing in this chapter diminishes the authority of correctional agencies and departments, including local governments or jails, to establish a procedure for determining when the use of cannabis would impact community safety or the effective supervision of those on active supervision for a criminal conviction." RCW 69.51A.005(4).

on community supervision with an imposed condition not to use cannabis." DOC Policy 380.430 (attached as Appendix B).³ The DOC has a form it uses to permit cannabis use during supervision when medically appropriate. See Use of Medical Cannabis Verification, DOC 15-053 (2/24/23) (attached as Appendix C).⁴

Another statute, meanwhile, authorizes dispensation of controlled substances by medical prescription. A practitioner may dispense or deliver a controlled substance to an individual "only for medical treatment," which includes dispensing or administering a narcotic drug for pain, including intractable pain." RCW 69.50.308(j).

Further: "The possession, by a person 21 years of age or older, of useable cannabis, cannabis

³ Available at: <https://doc.wa.gov/sites/default/files/data/files/380430.pdf>

⁴ Available at: <https://doc.wa.gov/sites/default/files/2025-02/14-053.pdf>

concentrates, or cannabis-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law." RCW 69.50.4013(3)(a).

Also, it is not unlawful to knowingly possess or use a controlled substance in a public space when the substance is " obtained directly from, or pursuant to, *a valid prescription or order of a practitioner* while acting in the course of his or her professional practice." RCW 69.50.4013(1)(a) (b) (emphasis added).

As per the community custody statute, a court may order a person to "Refrain from possessing or consuming controlled substances *except pursuant to lawfully issued prescriptions*." RCW 9.94A.703(2)(c) (emphasis added). The exception for lawful prescriptions became part of the Sentencing Reform

Act decades ago, long before the legislature authorized medical cannabis. Former RCW 9.94A.120(8)(b)(iii) (1988). Those who violate a community custody condition are subject to arrest and criminal sanctions, including jail time. RCW 9.94A.631; RCW 9.94A.737; RCW 9.94A.6332; RCW 9.94A.6333.

The trial court in Clark's case included the prescription exception for community custody conditions that generally address controlled substances. CP 50 (Section 4.2(b) – Condition 4); CP 63 (App H, Mandatory Condition 3; Other Condition 21). But no exception for the lawful use of medical cannabis was made in Condition 23. CP 63.

b. The racist history of cannabis prohibition and Washington's attempt to overcome it.

Cannabis is a schedule I controlled substance under federal law, designated as having "no currently

accepted medical use in treatment." 21 U.S.C. § 812(b)(1)(B), Schedule I (c)(17). Cannabis remains a controlled substance under Washington law, as the legislature defines a controlled substance as a drug included in Schedules I through V as set forth in federal law. RCW 69.50.101(15).

Why was cannabis listed as a schedule I controlled substance under federal law back in 1972? John Ehrlichman, President Nixon's aide, pulled back the curtain decades later:

The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings and vilify them night after night on the

evening news. Did we know we were lying about the drugs? Of course we did.⁵

The Washington legislature is sensitive to the racist history involving cannabis. As noted by the Supreme Court, use of the term "marijuana" is rooted in racism, and for this reason, the legislature has enacted a law to replace the term in statutes with the term "cannabis." State v. Fraser, 199 Wn.2d 465, 469 n.1, 509 P.3d 282 (2022). "The transition from using the scientific 'cannabis' to 'marijuana' or 'marihuana' in the early 20th century stems from antiMexican, and other racist and anti-immigrant, sentiments and efforts to demonize cannabis." Id. (quoting Michael Vitiello, Marijuana Legalization, Racial Disparity, and

⁵ David Downs, The Science Behind the DEA's Long War on Marijuana, April 19, 2016 (available at: <https://www.scientificamerican.com/article/the-science-behind-the-dea-s-long-war-on-marijuana/>) (quoting Dan Baum, Legalize It All: How to Win the War on Drugs, Harper's Magazine, April 2016 (<https://harpers.org/archive/2016/04/legalize-it-all/>)).

the Hope for Reform, 23 Lewis & Clark L. Rev. 789, 797-98 (2019)).

Washington's medical cannabis statute represents a repudiation of the racist, anti-scientific origins of the federal law. The only reason why medical professionals in Washington cannot write a "prescription" for medical cannabis is because cannabis is listed under federal law as a Schedule I controlled substance with no medical value and the Federal Drug Administration has not generally approved cannabis for prescription use. 21 U.S.C.A. § 355. This is why Washington's medical cannabis statute provides for medical professionals to provide an "authorization" for medical cannabis rather than a "prescription." RCW 69.51A.030(2)(a).

- c. The Court of Appeals' interpretation of the community custody statute conflicts with expressed legislative intent, yields a strained result, and renders the statute subject to constitutional doubt.**

There is no precedent interpreting legislative intent for the "prescription" exception in RCW 9.94A.703(2)(c). The Court of Appeals rejected Clark's argument that an exception for authorized use of medical cannabis be incorporated into Condition 23, perfunctorily reasoning "Cannabis is a controlled substance, and an authorization to use medical cannabis is not a prescription." Slip op. at 10 (citing RCW 69.50.204(c)(17); RCW 69.51A.010(1)(b)).

Clark agrees an "authorization" to use medical cannabis is not a "prescription," but that hypertechnical distinction does not triumph over a reasonable reading of legislative intent.

In construing statutes, courts should "avoid a literal reading if it would result in unlikely, absurd or strained consequences" because the statute's purpose "should prevail over express but inept wording." Bearden v. City of Ocean Shores, __Wn.3d__, 570 P.3d 684, 689 (2025) (quoting Whatcom County v. City of Bellingham, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996)). Courts employ this "stopgap principle" because it is presumed the legislature does not intend such results. State v. J.P., 149 Wn.2d 444, 450, 69 P.3d 318 (2003).

From the plain language of RCW 9.94A.703(2)(c), the legislature intended that those on community custody are not prohibited or punished for possessing and consuming controlled substances when a medical professional lawfully authorizes their use. It would be absurd for the legislature to authorize an exception for the lawful use of more serious controlled substances

such as opioids (including fentanyl) but no corollary exception for cannabis, which is legal under Washington law in limited quantities without medical authorization ⁶ and legal in larger amounts with medical authorization. RCW 69.51A.030(2)(a). There is no conceivable, reasonable justification for such a disparity in treatment. The Court of Appeals offered none.

"In patients with chronic pain, medical cannabis treatment has been associated with an improvement in pain-related outcomes, increased quality of life, improved function, *and a reduced requirement for opioid analgesia.*" Michael D. Sousa, Foreshadowing an Inevitable Clash: Criminal Probation, Drug Treatment Courts, and Medical Marijuana, 56 Suffolk U.L. Rev. 521, 551 (2023) (quoting Arun Bhaskar et al.,

⁶ RCW 69.50.4013(3)(a); RCW 69.50.360(3).

Consensus Recommendations on Dosing and Administration of Medical Cannabis to Treat Chronic Pain: Results of a Modified Delphi Process, 3 J. Cannabis Rsch. 1, 2 (2021)) (emphasis added). "[W]hile both drugs have the potential for abuse, opioid addiction and overdose can result in death, but in more than several thousand years of documented use, there has never been a reported death due to an overdose of marijuana." Id.

Fentanyl is listed as a Schedule II controlled substance under federal law, meaning it "has a currently accepted medical use in treatment in the United States." 21 U.S.C. § 812(b)(2)(B), Schedule II (b)(6). The Washington legislature recognizes the lethality of "high-potency synthetic opioids, including fentanyl." RCW 26.44.063(5).

According to the Court of Appeals, though, the legislature intended controlled substances with a high potential for abuse and death, such as fentanyl, be made available to those serving community custody when authorized by a medical professional, but not medical cannabis. That doesn't make sense.

Courts "construe statutes to avoid constitutional doubt." Utter ex rel. State v. Bldg. Indus. Ass'n of Wash., 182 Wn.2d 398, 434, 341 P.3d 953 (2015). There is no rational basis to treat cannabis used for medical treatment different than other controlled substances used for medical treatment in the context of community custody. If an exception is made for one, an exception must be made for the other.

The Court of Appeals' interpretation of RCW 9.94A.703(2)(c) raises an equal protection problem. Equal protection under the state and federal

constitutions guarantees "persons similarly situated with respect to the legitimate purpose of the law must receive like treatment." State v. Manussier, 129 Wn.2d 652, 672, 921 P.2d 473 (1996); U.S. Const. amend. XIV, § 1; Wash. Const. art. I, § 12. Under a rational basis test, a legislative classification will be invalidated on equal protection grounds if "it rests on grounds wholly irrelevant to the achievement of legitimate state objectives." State v. Shawn P., 122 Wn.2d 553, 561, 859 P.2d 1220 (1993). "[T]he relationship of a classification to its goal must not be so attenuated as to render the distinction arbitrary or irrational." DeYoung v. Providence Med. Ctr., 136 Wn.2d 136, 149, 960 P.2d 919 (1998).

The Court of Appeals' reliance on the distinction between a "prescription" for controlled substances and an "authorization" for medical cannabis as the basis to

categorically deprive medical cannabis users of relief while on community custody is arbitrary and irrational in light of the legislative goal of promoting compassionate treatment for serious medical conditions.

Courts are not supposed to "give a hypertechnical reading of a statute" when doing so would "yield an absurd result." Pudmaroff v. Allen, 138 Wn.2d 55, 65, 977 P.2d 574 (1999). "We need not leave our common sense at the doorstep when we interpret a statute." Allison v. Hous. Auth. of City of Seattle, 118 Wn.2d 79, 86, 821 P.2d 34 (1991) (quoting Price Waterhouse v. Hopkins, 490 U.S. 228, 241, 109 S. Ct. 1775, 104 L. Ed. 2d 268 (1989)).

Humanitarian compassion to treat painful medical conditions was the driving force behind the medical cannabis statute. RCW 69.51A.005(1)(b). The

DOC is authorized to permit medical cannabis during community custody. RCW 69.51A.005(4). The only reasonable interpretation of the prescription exception for controlled substances in RCW 9.94A.703(2)(c) is that the legislature intended those serving community custody likewise have access to controlled substances to treat medical conditions when authorized by a medical professional as a matter of humanitarian compassion.

The Court of Appeals decision implies that those on community custody are categorically excluded from receiving an exception for medical cannabis because a "prescription" is never available for cannabis. That approach cannot be squared with legislative intent that those complying with the medical cannabis statute are immune from criminal sanction, those on supervision can use medical cannabis subject to DOC review, and

DOC's implementation of that statutory directive in its policy permitting medical cannabis during community custody. RCW 69.51A.005(2)(a), (4); DOC Policy 380.430.

The legislature could not have intended the senseless result embraced by the Court of Appeals in this case. "Overriding all technical rules of statutory construction must be the rule of reason upholding the obvious purpose that the legislature was attempting to achieve." State v. Coffey, 77 Wn.2d 630, 637, 465 P.2d 665 (1970). This principle requires an exception for lawful medical use of cannabis in the community custody condition. The obvious purpose of the legislation is to carve out an exception for lawful use of controlled substances, of which cannabis is one, when authorized by a medical professional.

This should not be a controversial position. It is common sense. Indeed, page 8 of the judgment and sentence form on the Washington state court website provides this boilerplate option: "Refrain from possessing or consuming controlled substances, *including cannabis*, except pursuant to lawfully issued prescriptions/*authorizations*." Appendix D.⁷

Some trial courts have begun to follow suit. See, e.g., State v. Nelson, __Wn.3d__, 565 P.3d 906, 910 (2025) ("Appendix H includes the conditions prohibiting Nelson from using controlled substances without a prescription, consuming alcohol, and using

⁷ Available at <https://www.courts.wa.gov/forms/?fa=forms.contribute&formID=18>. The Washington Pattern Forms Committee, established by the Supreme Court, is the central authority for standardized court forms in the State of Washington. https://www.courts.wa.gov/committee/index.cfm?fa=committee.home&committee_id=150#:~:text=The%20Washington%20Pattern%20Forms%20Committee,Oversee%20all%20necessary%20redrafting

cannabis without medical authorization."). But others have not done so, and the Court of Appeals has shown no interest in correcting the problem.

Clark's petition presents an issue of substantial public interest under RAP 13.4(b)(4). As recognized by the legislature, medical cannabis is a legitimate form of treatment for severe health conditions. Those serving community custody should not be excluded from receiving that humane benefit.

F. CONCLUSION

For the reasons stated, Clark respectfully requests that this Court grant review.

I certify that this document was prepared using word processing software and contains 3065 words excluding those portions exempt under RAP 18.17.

DATED this 10th day of September 2025.

Respectfully submitted,

NIELSEN KOCH & GRANNIS, PLLC

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

CASEY GRANNIS

WSBA No. 37301

Attorneys for Petitioner

APPENDIX A

August 12, 2025

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

STATE OF WASHINGTON,

Respondent,

v.

PAUL THOMAS CLARK,

Appellant.

No. 57744-5-II

UNPUBLISHED OPINION

VELJACIC, A.C.J. — Paul Thomas Clark appeals a trial court order partially granting Clark’s CrR 7.8 motion to modify his community custody conditions.

Clark pleaded guilty to multiple crimes, including incest in the first degree and several counts related to soliciting and distributing child pornography. The trial court imposed numerous community custody conditions that Clark challenged in a timely CrR 7.8 motion. The trial court modified or struck several of the conditions, but otherwise denied Clark’s motion.

Clark appeals, arguing that we should strike or modify nine community custody conditions. The State concedes that we should strike or modify several, but not all, of the challenged conditions. Clark also argues that the State breached the plea agreement by arguing to preserve conditions that went beyond those agreed to in the plea agreement, and that judicial estoppel prevented the State from defending the conditions not agreed to in the plea agreement.

We accept the State’s concessions and remand for the trial court to strike or modify several community custody conditions as the State concedes. On remand, the trial court should strike

conditions 11 and 15. The trial court should strike the provisions in condition 6 and appendix H condition 17, requiring that Clark not show deception in polygraph exams. The trial court should also strike the term “or drug paraphernalia” from appendix H condition 21. Clerk’s Papers (CP) at 63. And the trial court should modify appendix H condition 4 to clarify that Clark may possess controlled substances pursuant to lawfully issued prescriptions. We otherwise affirm.

FACTS

I. BACKGROUND AND GUILTY PLEA

Clark has two sons and was married to a woman who has a daughter. In 2020, a social media website contacted police about Clark’s blog. Police investigating the tip found child pornography on Clark’s blog as well as explicit messages exchanged between Clark’s account and accounts belonging to preteen or teenage girls, which included Clark soliciting sexual images from the girls. From these messages, police also learned that Clark was in an active sexual relationship with his stepdaughter, who was roughly 18 years old at the time and had a developmental disability.

The State charged Clark with three counts of possession of depictions of a minor engaged in sexually explicit conduct in the first degree, one count of dealing in depictions of a minor engaged in sexually explicit conduct in the first degree, one count of possession of depictions of a minor engaged in sexually explicit conduct in the second degree, three counts of felonious communication with a minor for immoral purposes, and one count of second degree rape—domestic violence. Clark eventually pleaded guilty to two counts of possession of depictions of a minor engaged in sexually explicit conduct in the first degree, one count of possession of depictions of a minor engaged in sexually explicit conduct in the second degree, one count of felonious communication with a minor for immoral purposes, and one count of incest in the first degree.

The plea agreement included numerous proposed community custody conditions. The parties checked a box next to a statement where Clark agreed that he would “[c]omply with all conditions of community custody/placement as imposed by the Department of Corrections (DOC) and his community corrections officer (CCO).” CP at 26. The prosecutor’s recommended sentence included an identical directive that Clark comply with all conditions of community custody imposed by the DOC. The DOC then conducted a presentence investigation and recommended additional community custody conditions beyond those negotiated in the plea agreement, which were ultimately listed in appendix H.

At sentencing, the trial court imposed a total of 77 months of confinement followed by 36 months of community custody.

The trial court imposed the community custody conditions from Clark’s plea agreement. Relevant to this appeal, condition 3 required Clark to “[h]ave no contact with juveniles under 18 years of age unless under supervision of an adult who is aware of this conviction and the conditions of supervision and approved by his/her therapist and CCO, and [with] notification to parents of the juvenile [for]10 year(s).” CP at 51. Condition 6 stated, “Submit to polygraph examinations to monitor compliance with conditions and/or treatment at the direction of CCO and/or therapist. Must not be found deceptive.” CP at 51. Condition 11 read, “Have no contact with juveniles under 18 years of age.” CP at 51. Condition 15 stated, “Do not possess dangerous or deadly weapons.” CP at 51. And condition 22 directed, “Defendant shall submit to polygraph examinations to monitor compliance with conditions and/or treatment at the direction of CCO and/or therapist. Must not be found deceptive.” CP at 52.

The trial court also imposed the DOC’s recommended community custody conditions in appendix H of Clark’s judgment and sentence. Several conditions were mandatory; one, appendix

H condition 4, required that Clark “not unlawfully possess controlled substances.” CP at 63. The trial court also imposed other conditions that were not mandatory. Appendix H condition 13 required Clark to “[s]ubmit to urinalysis testing as directed by CCO.” CP at 63. Appendix H condition 17 stated, “Submit to polygraph and plethysmograph examinations as directed by the CCO and must not show deception.” CP at 63. Appendix H condition 21 read, “Do not purchase, possess, or use any illegal controlled substance, or drug paraphernalia without the written prescription of a licensed physician.” CP at 63. And Appendix H condition 23 stated, “Do not purchase, possess, or consume alcohol or marijuana.” CP at 63.

II. CrR 7.8 MOTION

Several months after his judgment and sentence was entered, Clark filed a timely CrR 7.8 motion to modify his judgment and sentence. In total, Clark argued that the trial court should strike or modify 14 community custody conditions.

The State agreed that several conditions should be modified. Relevant here, the State agreed that conditions 11 and 30 prohibiting all contact with juveniles were duplicative of condition 3, which required supervision for any contact with juveniles. And the State did not oppose modifying condition 3 to allow Clark to have unsupervised contact with his sons, who were 14 and 17 at the time of Clark’s sentencing in late 2021. But the State defended other conditions Clark challenged, including those imposed in appendix H.

The trial court partially granted Clark’s CrR 7.8 motion, modifying or removing only conditions that the State conceded should be altered. The trial court struck condition 30, but not condition 11. The trial court also modified two conditions at issue in this appeal. Condition 3 was modified to order Clark to “[h]ave no contact with juveniles under 18 years of age, *except his sons*, unless under supervision of an adult who is aware of this conviction and the conditions of

supervision and approved by his[] therapist and CCO, and [with] notification to parents of the juvenile [for] 10 year(s).” CP at 126 (emphasis in original). And the trial court modified appendix H condition 17 to require that Clark “[s]ubmit to polygraph examinations as directed by the CCO and must not show deception.” CP at 126.

Clark appeals the order on his CrR 7.8 motion. This court originally dismissed Clark’s appeal on procedural grounds, but Clark petitioned for review and the Washington Supreme Court remanded with instructions for this court to address the merits of Clark’s claims. Order, *State v. Clark*, No. 103483-1 (Wash. Mar. 5, 2025).

Clark initially challenged a total of 12 community custody conditions on appeal. This list included three conditions regulating Internet access that the State conceded should be modified. Because Clark was released from prison to begin community custody in January 2025 and the Internet conditions impaired his ability to obtain employment, the parties with the permission of this court entered an agreed order modifying those conditions pursuant to RAP 7.2(e)(2). Accordingly, this opinion does not address condition 12, condition 23, or appendix H condition 19.

ANALYSIS

I. COMMUNITY CUSTODY CONDITIONS

Clark challenges nine community custody conditions, arguing that the conditions violate his constitutional right to parent, are not crime related, are unconstitutionally vague, or are not statutorily authorized.

In general, we review a trial court’s factual findings regarding a CrR 7.8 motion and the imposition of community custody conditions for abuse of discretion. *State v. Buckman*, 190 Wn.2d 51, 57, 409 P.3d 193 (2018); *State v. Wallmuller*, 194 Wn.2d 234, 238, 449 P.3d 619 (2019). “Trial

courts may impose crime-related prohibitions while a defendant is in community custody,” and we review the factual basis for those conditions under a substantial evidence standard to determine if the trial court abused its discretion. *State v. Irwin*, 191 Wn. App. 644, 656, 364 P.3d 830 (2015).

However, we review a trial court’s purely legal determinations as well as mixed questions of law and fact de novo. *Buckman*, 190 Wn.2d at 57-58. Accordingly, “[w]e review a trial court’s statutory authority to impose a particular community custody condition de novo.” *State v. Houck*, 9 Wn. App. 2d 636, 646, 446 P.3d 646 (2019). “A trial court lacks authority to impose a community custody condition unless authorized by the legislature.” *Id.* We also review constitutional questions de novo. *Wallmuller*, 194 Wn.2d at 238.

A. Conditions Regarding Contact with Juveniles

Condition 3 currently provides that Clark must “[h]ave no contact with juveniles under 18 years of age, *except his sons*, unless under supervision of an adult who is aware of this conviction and the conditions of supervision and approved by his[] therapist and CCO, and [with] notification to parents of the juvenile [for] 10 year(s).” CP at 126. And condition 11 requires that Clark “[h]ave no contact with juveniles under 18 years of age.” CP at 51. Clark argues that we should strike condition 11 as redundant and modify condition 3 further to allow contact with any future children Clark may have. We agree that condition 11 should be stricken but we disagree with Clark’s challenges to condition 3.

1. Condition 3

Sentencing conditions that impact fundamental rights such as the right to parent “must be ‘sensitively imposed’ so that they are ‘reasonably necessary to accomplish the essential needs of the State and public order.’” *In re Pers. Restraint of Rainey*, 168 Wn.2d 367, 377, 229 P.3d 686 (2010) (quoting *State v. Warren*, 165 Wn.2d 17, 32, 195 P.3d 940 (2008)). Clark’s challenge to

this condition relies on *In re Personal Restraint of Sickels*, 14 Wn. App. 2d 51, 469 P.3d 322 (2020), *abrogated on other grounds by State v. J.H.-M.*, ___ Wn.3d ___, 566 P.3d 847 (2025). In that case, Division Three accepted a State concession that a condition prohibiting contact with all minors should contain an exception for any children the defendant might father in the future. *Id.* at 58. There is no such State concession in this case. Instead, the State responds that the existence of any additional future children is speculative, so Clark’s challenge to condition 3 is not ripe for review.

Clark insists that his challenge to condition 3 is ripe for review because this is his only opportunity to modify the condition. He points to *State v. Hubbard*, where the Washington Supreme Court held that a direct appeal or timely collateral attack was the only mechanism for modifying “court-imposed community custody conditions after sentencing without express statutory authority to do so.” 1 Wn.3d 439, 441, 527 P.3d 1152 (2023). Importantly, after *Hubbard* was published and after briefing was completed in this case, the legislature amended RCW 9.94A.709 to allow sex offenders to petition for modification of their community custody conditions upon a showing of substantial change of circumstances. LAWS OF 2024, ch. 118, § 3.

The State is correct that an issue is not ripe for review when it requires further factual development. *State v. Bahl*, 164 Wn.2d 739, 749, 193 P.3d 678 (2008). As written, condition 3 allows contact with Clark’s two currently existing biological sons (who are now both over 18), and any infringement on Clark’s right to a relationship with future minor children is speculative. And unlike the defendant in *Hubbard*, Clark’s community custody term is only 36 months long, not for life.¹ Moreover, *Hubbard* does not foreclose future modification to Clark’s community

¹ The parties do not discuss the fact that condition 3 specifies that it will apply for 10 years, even though Clark will be on community custody for only 36 months.

custody conditions: if Clark fathers an additional child while he is under community custody, he may seek modification of this condition through the mechanism provided by RCW 9.94A.709(2)(a). In sum, we hold that Clark's preenforcement challenge to condition 3 is not ripe under these circumstances.

2. Condition 11

Next, the State does not respond to Clark's contention that condition 11 is redundant. The State did not object to striking condition 11 below, and the trial court appeared to accept the State's recommendation, and did strike another nearly identical condition. The failure to strike condition 11 thus appears to be a scrivener's error. We remand for the trial court to correct this error by striking condition 11.

B. Possessing Deadly or Dangerous Weapons

Clark next contends, and the State concedes, that condition 15, which prohibits Clark from possessing dangerous or deadly weapons, is not crime-related and must be stricken. The State also conceded this below, but the trial court did not strike this condition. To be crime related, a community custody condition must "directly relate[] to the circumstances of the crime for which the offender has been convicted." RCW 9.94A.030(10). And there is no other statutory basis for imposing this condition. Clark's crimes did not involve deadly or dangerous weapons, so this condition is therefore not crime related. *See State v. Geyer*, 19 Wn. App. 2d 321, 331, 496 P.3d 322 (2021). We accept the State's concession and remand for the trial court to strike this condition. Because we remand on this basis, we do not address Clark's argument that the condition is unconstitutionally vague.

C. Deception in Polygraph Examinations

Condition 6, condition 22, and appendix H condition 17 each require that Clark submit to polygraph examinations, and included provisions that he must not show deception in the examinations. Clark asserts, and the State concedes, that condition 6 and appendix H condition 17 should be modified to remove the requirement that Clark must not show deception during polygraph examinations.² Clark does not challenge the requirement that he submit to polygraph examinations in the first place, only the provision that makes being found deceptive a community custody violation. The State points to DOC policy that “[s]ex offender treatment providers shall not base decisions solely on the results of the polygraph examination” as a basis for striking the provision. WAC 246-930-310(7)(b).

We accept the State’s concession. On remand, the trial court should strike the provisions requiring that Clark must not show deception during polygraph exams from condition 6 and appendix H condition 17. Because condition 22 contains the same provision, but was not challenged on appeal, the parties may argue whether that condition should likewise be modified before the trial court on remand.

D. Conditions Regarding Controlled Substances

Clark challenges three appendix H conditions regarding alcohol and controlled substances. Appendix H condition 4 prohibits him from “unlawfully possess[ing] controlled substances.” CP at 63. Appendix H condition 21 requires that he not “purchase, possess, or use any illegal controlled substance, or drug paraphernalia without the written prescription of a licensed

² Clark did not challenge condition 6 in his original CrR 7.8 motion, but that condition’s language is basically identical to appendix H condition 17, which Clark did challenge below. Condition 22 is also substantively identical to the other two polygraph exam conditions. No party mentions Condition 22 in any of the briefing, nor was it challenged below.

physician.” CP at 63. And Appendix H condition 23 requires that he “not purchase, possess, or consume alcohol or marijuana.” CP at 63. Clark primarily argues that these conditions are not crime related. He also contends that there should be an exception for legal cannabis use pursuant to a medical authorization.

The State concedes that the appendix H condition 21 provision about possessing drug paraphernalia should be stricken because “[t]he possession of drug paraphernalia, in and of itself, is not a crime, and is not a valid monitoring tool even if a defendant is prohibited from consuming or possessing controlled substances.” Br. of Resp’t at 9. We accept the State’s concession. There is no statutory authority for prohibiting the possession of drug paraphernalia, and Clark’s offenses did not involve drug paraphernalia. On remand, the trial court should strike the term “or drug paraphernalia” from appendix H condition 21.

Next, the State argues that appendix H condition 4 and the remainder of appendix H condition 21, which each prohibit Clark from possessing or consuming controlled or illegal substances, are statutorily mandated unless waived by the court. The State similarly defends appendix H condition 23’s prohibition on cannabis use because cannabis is a controlled substance, and a medical authorization to use cannabis is not a prescription. The State also argues that the portion of appendix H condition 23 regarding alcohol is statutorily authorized for any conviction and need not be crime-related.

RCW 9.94A.703(2)(c) provides that, “Unless waived by the court, as part of any term of community custody, the court shall order an offender to . . . [r]efrain from possessing or consuming controlled substances except pursuant to lawfully issued prescriptions.” Cannabis is a controlled substance, and an authorization to use medical cannabis is *not* a prescription. RCW 69.50.204(c)(17); RCW 69.51A.010(1)(b). And, “[a]s part of any term of community custody, the

court may order an offender to . . . [r]efrain from possessing or consuming alcohol.” RCW 9.94A.703(3)(e). Thus, a trial court *must* prohibit any offender from possessing or consuming cannabis and other controlled substances without a prescription and *may* prohibit the offender from possessing or consuming alcohol. The fact that these conditions are not crime related is irrelevant because they are authorized by statute. *State v. Greatbreaks*, 34 Wn. App. 2d 173, 186, 566 P.3d 886 (2025), *petition for review filed*, No. 104105-5.

In sum, appendix H condition 23 is valid as written. But we remand for the trial court to modify appendix H condition 4 to clarify that Clark may possess controlled substances pursuant to lawfully issued prescriptions, and to strike the drug paraphernalia provision from appendix H condition 21.

E. Urinalysis

Clark argues that appendix H condition 13, which requires him to “[s]ubmit to urinalysis testing as directed by [his] CCO,” violates his constitutional right to privacy. Br. of Appellant at 55 (quoting CP at 63). He argues that the condition is not narrowly tailored and that drugs and alcohol did not play a role in his crimes.

The Supreme Court has explained that both breath analysis and urinalysis conditions are constitutional as long as they are narrowly tailored to monitor compliance with other valid conditions prohibiting the use of alcohol and/or drugs. *State v. Nelson*, ___ Wn.3d ___ 565 P.3d 906, 917 (2025). The conditions in that case specifically required the defendant to “[s]ubmit to breathalyzer testing or any other testing to ensure no alcohol consumption” and “[s]ubmit to urinalysis testing or other testing to ensure drug-free status.” *Id.* at 910.

Testing to monitor compliance with valid conditions prohibiting the use of alcohol and controlled substances is appropriate. *Id.* at 919. As discussed above, the conditions prohibiting

Clark from consuming alcohol, cannabis, and other controlled substances without a prescription are valid. To ensure compliance with these lawfully imposed conditions, the trial court also ordered Clark to “[s]ubmit to urinalysis testing as directed by [his] CCO.” CP at 63. In context, this condition is narrowly tailored to monitor Clark’s compliance with the valid conditions prohibiting him from consuming alcohol or controlled substances. The trial court did not abuse its discretion by imposing appendix H condition 13.

II. STATE RESPONSE TO CLARK’S CrR 7.8 MOTION

Clark argues that the State breached the plea agreement when it responded to his CrR 7.8 motion by defending the appendix H conditions which were not included in the original plea agreement. He also contends that the State was judicially estopped from defending the appendix H conditions. We disagree.

Clark first insists that the State “undercut the terms of the plea agreement” by defending the appendix H conditions in response to Clark’s CrR 7.8 motion. Clark asserts that the State’s breach entitles him to a de novo hearing on his CrR 7.8 motion.

“A prosecutor is obliged to fulfill the State’s duty under the plea agreement by making the promised sentencing recommendation.” *State v. Sledge*, 133 Wn.2d 828, 840, 947 P.2d 1199 (1997). “The State’s duty of good faith requires that it not undercut the terms of the agreement explicitly or implicitly by conduct evidencing an intent to circumvent the terms of the plea agreement.” *State v. Carreno-Maldonado*, 135 Wn. App. 77, 83, 143 P.3d 343 (2006). “We review a prosecutor’s actions and comments objectively from the sentencing record as a whole to determine whether the plea agreement was breached.” *Id.*

Clark’s argument ignores that, in the plea agreement, he agreed to “[c]omply with all conditions of community custody/placement as imposed by the . . . DOC.” CP at 26. Here, the

DOC recommended additional community custody conditions beyond those negotiated in the plea agreement, the trial court imposed those conditions in appendix H, and the State then defended the imposition of many of those appendix H conditions in response to Clark's CrR 7.8 motion. Because Clark agreed to comply with community custody conditions imposed by the DOC in his plea agreement, the State did not breach the plea agreement by defending those conditions. Clark's breach argument fails.


Finally, Clark argues that the State was judicially estopped from defending the appendix H conditions in response to Clark's CrR 7.8 motion. He reasons that the State's position was "clearly inconsistent with the position it took in entering the plea agreement," that the trial court was misled by the State's original position, and that the State received an unfair advantage by convincing Clark to plead guilty and then advocating for the appendix H conditions. Br. of Appellant at 73-74.

Judicial estoppel precludes a party from asserting one position in a court proceeding and then taking a clearly inconsistent position in a later proceeding. *Arkison v. Ethan Allen, Inc.*, 160 Wn.2d 535, 538, 160 P.3d 13 (2007). The key factors for a court to consider are whether the two positions are clearly inconsistent, whether judicial acceptance of the inconsistent position would create a perception that one of the courts was misled, and whether the party asserting the inconsistent position derives an unfair advantage from the change in position. *Miller v. Campbell*, 164 Wn.2d 529, 539, 192 P.3d 352 (2008). But as discussed above, the plea agreement endorsed the DOC-recommended community custody conditions. Therefore, the State did not take a clearly inconsistent position by advocating for the plea agreement and then defending the DOC conditions, which, pursuant to the plea agreement, Clark was required to comply with. Thus, judicial estoppel does not apply.

CONCLUSION

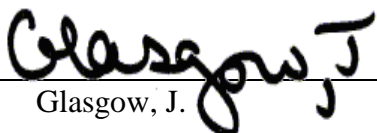
We remand for the trial court to strike conditions 11 and 15. The trial court should also strike the “must not show deception” provisions of condition 6 and appendix H condition 17. On remand before the trial court, the parties may argue the deception provision in condition 22. And the trial court should strike the term “or drug paraphernalia” from appendix H condition 21. Finally, the trial court should modify appendix H condition 4 to clarify that Clark may possess controlled substances pursuant to lawfully issued prescriptions. We otherwise affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

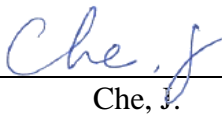


Veljacic A.C.J.

We concur:



Glasgow, J.



Che, J.

APPENDIX B



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

**APPLICABILITY
FIELD**

REVISION DATE
2/24/23

PAGE NUMBER
1 of 4

NUMBER
DOC 380.430

POLICY

TITLE

MEDICAL CANNABIS USE

REVIEW/REVISION HISTORY:

Effective: 9/24/12 DOC 620.380
Revised: 9/1/14
Revised: 12/24/15
Revised: 11/24/21 DOC 380.430
Revised: 2/24/23

SUMMARY OF REVISION/REVIEW:

Major changes to include reorganization of content and updated processes. Read carefully!


APPROVED:

Signature on file

CHERYL STRANGE, Secretary
Department of Corrections

1/30/23

Date Signed

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	APPLICABILITY FIELD		
	REVISION DATE 2/24/23	PAGE NUMBER 2 of 4	NUMBER DOC 380.430
	TITLE MEDICAL CANNABIS USE		

REFERENCES:


DOC 100.100 is hereby incorporated into this policy; RCW 69.51A

POLICY:

- I. The Department has established processes for the authorization of medical cannabis use for an individual on community supervision with an imposed condition not to use cannabis.
 - A. The individual must be at least 18 years of age.
- II. This policy does not apply to individuals under the Indeterminate Sentence Review Board (ISRB) or a commutation order.
- III. The Department neither supports nor disapproves of medical cannabis use and nothing in this policy creates a right to accommodation for medical cannabis use.


DIRECTIVE:

- I. General Requirements
 - A. The Assistant Secretary of Community Corrections will ensure the criteria for medical cannabis use meets health care professional recommendations for medical cannabis use.
 - B. An individual on community supervision will not be in violation if the individual tests positive for tetrahydrocannabinol (THC):
 1. When the individual's health care professional, as defined in RCW 69.51A.010, has recommended use of medical cannabis and/or has prescribed Marinol®/dronabinol.
 2. If the medical cannabis use suitability and authorization process has been initiated.
 3. For 45 days after an authorized use has been rescinded.
- II. Suitability and Authorization
 - A. To initiate the suitability and authorization process, the individual must provide verbal notice of intent to apply for medical cannabis use and/or submit a current copy of the individual's authorization to the case manager, who will document the request/receipt of the authorization in a chronological (chrono) entry in the electronic file.

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	APPLICABILITY FIELD		
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1. The individual will complete and submit the following as soon as intent is provided:
 - a. DOC 13-035 Authorization for Disclosure of Health Information to the case manager with a completed and signed copy to the healthcare provider.
 - b. The top portion of DOC 14-053 Use of Medical Cannabis Verification to the healthcare provider to complete.
 - c. The top portion of DOC 14-055 Suitability for Medical Cannabis Use to the case manager.
 2. If under ISRB jurisdiction, the case manager will refer the individual to the ISRB.
- B. Upon receiving all completed forms, the case manager will complete the Case Manager section of DOC 14-055 Suitability for Medical Cannabis Use and forward it and all forms with any supporting documents within 3 business days to the Appointing Authority/Field Administrator to make a final determination.
 - C. The Appointing Authority/Field Administrator will
 1. Review and make a determination within 15 business days from the date of receipt of the required forms, and
 2. Complete the suitability form and forward a copy of the decision to the case manager.
 - D. The case manager will notify the individual of the decision in writing, place a copy in the Field file, and ensure the decision is documented as a chrono in the individual's electronic file.
 - E. The suitability and authorization process must be completed within 30 days of verbal notice of intent to apply for medical cannabis use and/or submission of a current copy of the individual's authorization to the case manager. The supervised individual must have a current authorization to continue medical cannabis use.
 - F. Authorization for medical cannabis use will be rescinded upon learning the supervised individual no longer meets the Department's suitability requirements or the individual's cannabis use authorization has expired.

III. Appeal

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	<p>APPLICABILITY FIELD</p>		
	<p>REVISION DATE 2/24/23</p>	<p>PAGE NUMBER 4 of 4</p>	<p>NUMBER DOC 380.430</p>
	<p>TITLE MEDICAL CANNABIS USE</p>		

- A. If the individual is denied use of medical cannabis, the individual will have 15 business days from the date of the written decision to submit an appeal on DOC 14-056 Appeal for Medical Cannabis Use to the case manager, who will:
 1. Forward the appeal and all supporting documents to the Assistant Secretary for Community Corrections/designee, and
 2. Document the appeal as a chrono in the individual's electronic file.
- B. The Assistant Secretary for Community Corrections/designee will review the appeal and uphold/rescind the medical cannabis use decision.
 1. If the decision is upheld, the individual will not be allowed to use medical cannabis.
 2. If the decision is rescinded, the case may be referred for reprocessing to collect additional, relevant information.
- C. A copy of the completed DOC 14-056 Appeal for Medical Cannabis Use will be forwarded to the supervised individual, case manager, Community Corrections Supervisor, and Field Administrator/Appointing Authority.
 1. The case manager will place the copy in the Field file and ensure the decision is documented in a chrono entry in the electronic file.
- D. The Assistant Secretary of Community Corrections/designee decision is final and no subsequent appeals for the same request will be considered.

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

None

DOC FORMS:

DOC 13-035 Authorization for Disclosure of Health Information
 DOC 14-053 Use of Medical Cannabis Verification
 DOC 14-055 Suitability for Medical Cannabis Use
 DOC 14-056 Appeal for Medical Cannabis Use

APPENDIX C

Name _____

Date of birth _____

DOC Number _____

Dear Health Care Professional:

The above named individual is on community supervision with the Washington State Department of Corrections. By state statute, the Department has the authority to impose conditions related to this individual's risk and needs. This individual indicates that the individual has a condition for which the use of medical cannabis has been recommended. The accompanying Authorization for Disclosure of Health Information allows you to provide the Department with current and future information related to this issue.

Please complete the following questions to assist the case manager in determining the approval of medical cannabis use. Thank you in advance for your assistance. If you have questions, you may contact the Assistant Secretary for Community Corrections at (360) 725-8787.

1. Is this individual under your care?.....☐ Yes ☐ No
2. Are you recommending medical cannabis for this patient due to a diagnosis of Acquired Immune Deficiency Syndrome (AIDS)?.....☐ Yes ☐ No
 - a. If the answer to question 2 is **Yes**, does he/she have anorexia?☐ Yes ☐ No
 - b. If the answer to question 2a is **Yes**, does he/she have weight loss?☐ Yes ☐ No
3. Are you recommending medical cannabis for this patient due to nausea and vomiting associated with cancer chemotherapy?☐ Yes ☐ No
 - a. If the answer to question 3 is **Yes**, has the patient failed to respond to conventional antiemetic treatments?☐ Yes ☐ No
 - b. If the answer to question 3a is **Yes**, please describe what those treatments were (medication, dose, duration): _____
 - c. What is the planned schedule of chemotherapy? _____
4. If you answered **No** to items 2 & 3, what is the reason you are recommending medical use of cannabis? _____
5. Do you agree to notify the Department's Assistant Secretary for Community Corrections of any changes in your answers?.....☐ Yes ☐ No

Health care professional name _____

Signature _____

Date _____

License number _____

License type _____

Phone number _____

Address _____

Please return this and the Authorization for Disclosure of Health Information within 15 business days or as soon as possible to the supervised individual.

State law and/or federal regulations prohibit disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law.

Distribution: **ORIGINAL** - Case manager
COPY - Field Administrator/Appointing Authority

APPENDIX D

Superior Court of Washington, County of _____

State of Washington,
Plaintiff,

vs.

_____,
Defendant. DOB _____
PCN/TCN: _____
SID: _____

No. _____

Felony Judgment and Sentence – Prison

☐ RCW 9.94A.507 Prison Confinement

(Sex Offense and Kidnapping of a Minor)

(FJS/RJS)

☐ **Clerk's Action Required:** 2,1, 4.1, 4.3a, 4.3b,
4.8, 5.2, 5.3, 5.5, 5.7, and 5.8

☐ Defendant Used Motor Vehicle

☐ Juvenile Decline ☐ Mandatory

☐ Discretionary

I. Hearing

- 1.1** The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer, and the (deputy) prosecuting attorney were present.

II. Findings

- 2.1 Current Offenses:** The defendant is guilty of the following offenses, based upon
☐ guilty plea ☐ jury-verdict ☐ bench trial on (date) _____:

<i>Count</i>	<i>Crime</i>	<i>RCW (w/subsection)</i>	<i>Class</i>	<i>Date of Crime</i>

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

(If the crime is a drug offense, include the type of drug in the second column.)

☐ Additional current offenses are attached in Appendix 2.1a.

The jury returned a special verdict or the court made a special finding with regard to the following:

GV ☐ For the crime(s) charged in count _____, **domestic violence – intimate partner** was pled and proved.

GV ☐ For the crime(s) charged in count _____, **domestic violence – family or household member** was pled and proved.

☐ The defendant used a **firearm** in the commission of the offense in count _____. RCW 9.94A.825, RCW 9.94A.533.

☐ The defendant used a **deadly weapon other than a firearm** in committing the offense in count _____. RCW 9.94A.825, RCW 9.94A.533.

☐ Count _____ is aggravated murder in the first degree, committed while the defendant was ☐ under 16 years of age ☐ 16 through 20 years of age.

☐ Count _____ was committed while the defendant was under 18 years of age and the time of confinement is over 20 years.

☐ The defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage a victim of child rape or child molestation in sexual conduct in return for a fee in the commission of the offense in count _____. RCW 9.94A.839.

☐ In count _____, an internet advertisement in which the victim of the crime was described or depicted was instrumental in facilitating the commission of the crime. RCW 9.68A.100, RCW 9.68A.101, or RCW 9.68A.102, Laws of 2013, ch. 9, §1.

☐ The offense was predatory as to count _____. RCW 9.94A.836.

☐ The victim was under 15 years of age at the time of the offense in count _____. RCW 9.94A.837.

☐ The victim was developmentally disabled, mentally disordered, a frail elder, or a vulnerable adult at the time of the offense in count _____. RCW 9.94A.838, RCW 9A.44.010.

☐ The defendant acted with **sexual motivation** in committing the offense in count _____. RCW 9.94A.835.

☐ This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.

☐ This offense is a trafficking crime or was reduced from a trafficking crime as defined in RCW 9A.40.100.

☐ In count _____, the defendant committed a robbery of a pharmacy as defined in RCW 18.64.011(21), RCW 9.94A.832.

☐ Count _____, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1,000 feet of the perimeter of a school grounds or within 1,000 feet of a school bus route or stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1,000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

☐ The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the**

premises of manufacture in count _____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.

- [] Count _____ is a **criminal street gang**-related felony offense in which the defendant compensated, threatened, or solicited a minor in order to involve that **minor** in the commission of the offense. RCW 9.94A.833.
- [] Count _____ is the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang** member or associate when the defendant committed the crime. RCW 9.94A.701, RCW 9.94A.829.
- [] The defendant committed [] **vehicular homicide** [] **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug, or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- GY** [] In count _____, the defendant had (*number of*) _____ **passenger(s) under the age of 16** in the vehicle. RCW 9.94A.533.
- [] Count _____ involves **attempting to elude** a police vehicle and during the commission of the crime the defendant endangered 1 or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- [] In count _____, the defendant has been convicted of assaulting a law enforcement officer or other employee of a law enforcement agency who was performing their official duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant intentionally committed the assault with what appeared to be a firearm. RCW 9.94A.831, RCW 9.94A.533.
- [] Count _____ is a felony in the commission of which the defendant used a **motor vehicle** in a manner that endangered person or property. RCW 9A.36.025.
- [] The defendant has a **substance use disorder** that has contributed to the offense(s). RCW 9.94A.607.
- [] Reasonable grounds exist to believe the defendant is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. RCW 9.94B.080.
- [] In count _____, assault in the first degree (RCW 9A.36.011) or assault of a child in the first degree (RCW 9A.36.120), the offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum term of 5 years. RCW 9.94A.540.
- [] Counts _____ encompass the same criminal conduct and count as 1 crime in determining the offender score. RCW 9.94A.589.
- [] **Other current convictions listed under different cause numbers used in calculating the offender score are** (*list offense and cause number*):

Crime		Cause Number	Court (County & State)	DV* Yes
1.				
2.				

* DV: Domestic Violence was pled and proved.

[] Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History (RCW 9.94A.525):

	Crime	Date of Crime	Date of Sentence	Sentencing Court (County & State)	A or J Adult, Juv.	Type of Crime	DV* Yes
1.							
2.							
3.							
4.							
5.							

* DV: Domestic Violence was pled and proved.

[] Additional criminal history is attached in Appendix 2.2.

[] The defendant committed a current offense while on community placement/community custody (adds 1 point to score). RCW 9.94A.525.

[] The prior convictions listed as number(s) _____, above, or in Appendix 2.2, are 1 offense for purposes of determining the offender score. RCW 9.94A.525.

[] The prior convictions listed as number(s) _____, above, or in Appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count No.	Offender Score	Serious -ness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Community Custody	Max Term

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (RPh) Robbery of a pharmacy, (VH) Veh. Hom, see RCW 9.94A.533(7), (JP) Juvenile present, (CSG) Criminal street gang involving minor, (AE)

Endangerment while attempting to elude, (ALF) Assault law enforcement with firearm, RCW 9.94A.533(12), (P16) Passenger(s) under age 16.

☐ Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended **sentencing agreements or plea agreements** are ☐ attached ☐ as follows:_____

2.4 ☐ **Exceptional Sentence.** The court finds substantial and compelling reasons that justify an exceptional sentence:

- ☐ below the standard range for ☐ confinement term(s) ☐ community custody term(s) on count(s) _____.
- ☐ above the standard range for ☐ confinement term(s) ☐ community custody term(s) on count(s) _____.
- ☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the *Sentencing Reform Act*.
- ☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury, by special interrogatory.
- ☐ Within the standard range for count(s) _____, but served consecutively to count(s) _____.

Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 **Legal Financial Obligations/Restitution.** The court has considered the total amount owing, the defendant's financial resources and the nature of the burden that payment will impose. (RCW 10.01.160). The court makes the following specific findings:

- ☐ The defendant is indigent, as defined in RCW 10.101.010(3), because the defendant:
 - ☐ receives public assistance.
 - ☐ is involuntarily committed to a public mental health facility.
 - ☐ receives an annual income, after taxes, of 125 percent or less of the current federal poverty level.
- ☐ Under RCW 10.101.010(3)(d), the court finds the defendant is indigent.
- ☐ The defendant is not indigent as defined in RCW 10.101.010(3)(a)-(c).
 - ☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):_____
 - ☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.
 - ☐ (Name of agency) _____ 's costs for its emergency response.

2.6 [] Felony Firearm Offender Registration. The defendant committed a felony firearm offense as defined in RCW 9.41.010, and:

[] The defendant should register as a felony firearm offender. The court considered the following factors in making this determination:

[] the defendant's criminal history.

[] whether the defendant has previously been found not guilty by reason of insanity of any offense, in this state or elsewhere.

[] evidence of the defendant's propensity for violence that would likely endanger persons.

[] other: _____

[] The defendant must register as a felony firearm offender because the offense was committed in conjunction with an offense committed against a person under the age of 18, or a serious violent offense or offense involving sexual motivation, as defined in RCW 9.94A.030.

III. Judgment

3.1 The defendant is **guilty** of the counts and charges listed in Section 2.1 and Appendix 2.1.

3.2 [] The court **dismisses** counts _____ in the charging document.

IV. Sentence and Order

It is Ordered:

4.1 Confinement and Community Custody. The court sentences the defendant to total confinement and community custody as follows:

(A) Confinement and Community Custody. A term of total confinement in the custody of the Department of Corrections (DOC) under RCW 9.94A.589 and, if required by RCW 9.94A.701, a term of community custody supervised by DOC.

[] The defendant was under 18 at the time of the offense and shall be initially placed in the custody of the Department of Children, Youth, and Families (DCYF).

Count No.	Base Sentence (not including enhancements)	Plus Enhancements	Total Sentence	Community Custody

The "total sentence" in the above table **contains** enhancements for [] firearm [] deadly weapon [] VUCSA in a protected zone [] manufacture of methamphetamine with a juvenile present [] impaired driving.

☐ The confinement time on count(s) _____ contain(s) a mandatory minimum term of _____.

Actual number of months of total confinement ordered is: _____

The **community custody** term includes ☐ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate) ☐ 18 months for Violent Offenses ☐ 36 months for Serious Violent Offenses.

Note: If the combined term of confinement and community custody for any particular count exceeds the count's statutory maximum set forth in Section 2.3, the court must reduce the community custody term. RCW 9.94A.701.

(B) Confinement and Community Custody. The court orders the following:

Count _____ minimum term: _____ maximum term: _____

Count _____ minimum term: _____ maximum term: _____

Before the expiration of the minimum term, the defendant will be reviewed for releasability by the Indeterminate Sentence Review Board (ISRB). Once released by the ISRB, the defendant is subject to the supervision of DOC for a period of time to be determined by the ISRB.

(C) Concurrent/Consecutive Confinement and Community Custody

All confinement terms shall be served concurrently, except for the portion of those confinement terms for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively:

The following confinement term(s) shall run consecutively with the sentence in the following cause number(s) (see RCW 9.94A.589(3)): _____

Confinement shall commence immediately unless otherwise set forth here: _____

Community custody on all counts shall be served concurrently, except for the following counts, which shall be served consecutively: _____

The community custody terms of this sentence shall run consecutively with the community custody term in the following cause number(s) (see RCW 9.94A.589(2)(a)): _____

(D) Credit for Time Served. The defendant shall receive credit for eligible time served prior to sentencing, if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served.

(E) ☐ Work Ethic Program. RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for a work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of a work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return

to total confinement for the balance of the defendant's remaining time of confinement.

4.2 Community Custody Conditions

Mandatory Conditions:

While on community custody, the defendant shall:

- (1) Inform DOC of court-ordered treatment;
If any court orders mental health or substance use disorder treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.
- (2) Comply with any conditions imposed by DOC under RCW 9.94A.704;
- (3) Not reside in a community protection zone (if the defendant was sentenced under RCW 9.94A.507 for an offense listed in RCW 9.94A.507(1)(a), and the victim of the offense was under 18 years of age at the time of the offense);
- (4) Not serve in any paid or volunteer capacity where they have control or supervision of minors under the age of 13 (if the offender was sentenced under RCW 9A.36.120);

Waivable Conditions (*check conditions that are **not** waived*):

While on community custody, the defendant shall:

- ☐ Report to and be available for contact with the assigned community corrections officer as directed;
- ☐ Work at department-approved education, employment, or community restitution, or any combination thereof;
- ☐ Refrain from possessing or consuming controlled substances, including cannabis, except pursuant to lawfully issued prescriptions/authorizations;
- ☐ Obtain prior approval of the department for the offender's residence location and living arrangements.

Discretionary Conditions (*check conditions that are imposed*):

The court orders that, during the period of supervision, the defendant shall:

- ☐ Remain within, or outside of, a specified geographical boundary, to wit: _____;
- ☐ Refrain from direct or indirect contact with the victim of the crime or a specified class of individuals, to wit: _____;
- ☐ Participate in crime-related treatment or counseling services, to wit: _____;
- ☐ Participate 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, to wit: _____;

- [] Refrain from possessing or consuming alcohol;
[] Comply with the following crime-related prohibitions:

Special Conditions:

As authorized by RCW 9.94A.703(4), the defendant shall:

(A) Long-Term Juvenile Sentences. RCW 9.94A.730. If the defendant committed the above crime(s) while under age 18 and is sentenced to more than 20 years of confinement:

- (i) As long as the defendant's conviction is not for aggravated first degree murder or certain sex crimes, and the defendant has not been convicted of any crime committed after they turned 18 or committed a disqualifying serious infraction as defined by DOC in the 12 months before the petition is filed, the defendant may petition the Indeterminate Sentence Review Board (ISRBB) for early release after the defendant has served 20 years.
- (ii) If the defendant is released early because the petition was granted or by other action of the ISRB, the defendant will be subject to community custody under the supervision of DOC for a period of time determined by the ISRB, up to the length of the court-imposed term of incarceration. The defendant will be required to comply with any conditions imposed by the ISRB.
- (iii) If the defendant violates the conditions of community custody, the ISRB may return the defendant to confinement for up to the remainder of the court-imposed term of incarceration.

4.3a Legal Financial Obligations: The defendant shall pay to the clerk of this court:

JASS/Odyssey CODE

PCV 3105	\$_____	Victim assessment RCW 7.68.035 (\$500)
PDV 3102	\$_____	Domestic Violence (DV) assessment RCW 10.99.080
VPO 3366	\$_____	Violation of a DV protection order (\$15 mandatory fine) RCW 26.50.110 or RCW 7.105.450
CRC 3403	\$_____	Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190
	Criminal filing fee	\$_____ FRC (\$200)
	Witness costs	\$_____ WFR
	Sheriff service fees	\$_____ SFR/SFS/SFW/WRF
	Jury demand fee	\$_____ JFR

Extradition costs \$_____ EXT

Other \$_____

PUB 3225 \$_____ Fees for court appointed attorney. RCW 9.94A.760

WFR 3231 \$_____ Court appointed defense expert and other defense costs.
RCW 9.94A.760

FCM 3303 \$_____ Fine RCW 9A.20.021; [] VUCSA chapter 69.50 RCW,
[] VUCSA additional MTH 3337
[] fine deferred due to indigency. RCW 69.50.430

CDF 3302 \$_____ Drug enforcement fund of _____RCW 9.94A.760

LDI 3308/FCD 3363

NTF 3338/SAD 3365/SDI 3307

\$_____ DUI fines, fees and assessments

CLF 3212 \$_____ Crime lab fee [] suspended due to indigency. RCW 43.43.690

FPV 3335 \$_____ Specialized forest products. RCW 76.48.171

PPI 3405 \$_____ Trafficking/Promoting prostitution/Commercial sexual abuse of
minor fee (may be reduced by no more than two thirds upon a
finding of inability to pay.) RCW 9A.40.100, 9A.88.120, 9.68A.105

EXM 3233 \$_____ Fee for Possession of Depictions of a Minor Engaged in Sexually
Explicit Conduct (\$1,000 fee for each separate conviction). RCW
9.68A.070

DEF 3506 \$_____ Emergency response costs (\$2,500 max.) RCW 38.52.430

\$_____ Other fines or costs for: _____

RTN/RJN 3801

\$_____ Restitution to: _____

\$_____ Restitution to: _____

*(Name and Address--address may be withheld and provided
confidentially to Clerk of the Court's office.)*

\$_____ **Total** RCW 9.94A.760

[] The above total does not include all restitution or other legal financial obligations, which may
be set by later order of the court. An agreed restitution order may be entered. RCW
9.94A.753. A restitution hearing:

[] shall be set by the prosecutor.

[] is scheduled for (*date*) _____.

[] The defendant waives any right to be present at any restitution hearing
(*sign initials*): _____.

[] The court finds that the restitution is owed to an insurer or a state agency other than the
Department of Labor and Industries and the defendant does not have the current or likely
future ability to pay that restitution. The court, in its discretion, waives restitution.

[] **Restitution Schedule** attached.

[] Restitution ordered above shall be paid jointly and severally with:

Name of other defendant **Cause Number** (Victim's name) (Amount-\$)

RJN

[] The Department of Corrections (DOC) or clerk of the court shall immediately issue a *Notice of Payroll Deduction*. RCW 9.94A.7602, RCW 9.94A.760(8).

[] All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$_____ per month commencing _____. RCW 9.94A.760. (Restitution payments must begin immediately. RCW 9.4A.750(1).)

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

[] The court orders the defendant to pay costs of incarceration at the rate of \$_____ per day, (actual costs not to exceed \$100 per day). (*JLR*) RCW 9.94A.760. (This provision does not apply to costs of incarceration collected by the DOC under RCW 72.09.111 and 72.09.480.)

No interest shall accrue on non-restitution obligations imposed in this judgment. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

Restitution Interest:

[] The court finds that the restitution is owed to an insurer or a state agency other than the Department of Labor and Industries and the defendant does not have the current or likely future ability to pay interest on that restitution. The court, in its discretion, waives interest on restitution.

[] After considering the defendant's available funds and liabilities, whether the defendant is indigent, homeless, or mentally ill, and the victim's input relating to financial hardship caused to the victim, the court waives interest on restitution.

[] The restitution obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments.

4.3b [] **Electronic Monitoring Reimbursement.** The defendant is ordered to reimburse (*name of electronic monitoring agency*) _____ at (*address*) _____, for the cost of pretrial electronic monitoring in the amount of \$_____.

4.4 **DNA Testing.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. This paragraph does not apply if it is established that the Washington State Patrol crime laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754.

The facility where the defendant serves the term of confinement shall be responsible for obtaining the sample as part of the defendant's intake process or as soon as practicable.

4.5 No Contact:

☐ The defendant shall not have contact with (*name(s) of protect person(s)*) _____

including, but not limited to, personal, verbal, telephonic, written, or contact through a third party until _____
(which does not exceed the maximum statutory sentence).

☐ The defendant is excluded or prohibited from coming within (*distance*) _____ of:
(*name(s) of protected person(s)*) _____'s
☐ home/residence ☐ workplace ☐ school or ☐ other location(s) _____
_____, until _____
(which does not exceed the maximum statutory sentence).

☐ A separate *Domestic Violence No-Contact Order*, *Antiharassment No-Contact Order*, or *Stalking No-Contact Order* is filed concurrent with this Judgment and Sentence.

4.6 Other: _____

4.7 Off-Limits Order. (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or the Department of Corrections: _____

4.8 Exoneration: The court hereby exonerates any bail, bond, and/or personal recognizance conditions.

V. Notices and Signatures

5.1 Collateral Attack on Judgment. If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial, or motion to arrest judgment, you must do so within 1 year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

5.2 Length of Supervision. If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of DOC for a period of up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations, unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

5.3 Notice of Income-Withholding Action. If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that DOC or the clerk of the

court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for 1 month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

5.4 Community Custody Violation.

- (a) If you are subject to a violation hearing and DOC finds that you committed the violation, you may receive a sanction of up to 30 days of confinement. RCW 9.94A.633(1).
- (b) If you have not completed your maximum term of total confinement and you are subject to a violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.633(2)(a).
- (c) Only for sex offenses under RCW 9.94A.507, aggravated murder under RCW 10.95.030(3), or early release under RCW 9.94A.730: The Indeterminate Sentence Review Board may return you to total confinement for up to the remainder of your court-imposed prison term, if you are found guilty of violating a condition of community custody at a violation hearing. RCW 9.95.435.

5.5a Firearms. You may not own, use, or possess any firearm and, under federal law, any firearm or ammunition, unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, and by a federal court, if required. **You must immediately surrender any concealed pistol license(s).** (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing (DOL) and the Washington State Patrol Firearms Background Check Program along with the date of conviction or commitment.) RCW 9.41.040 and RCW 9.41.047.

5.5b [] Felony Firearm Offender Registration. The defendant is required to register as a felony firearm offender. The specific registration requirements are in the "*Felony Firearm Offender Registration*" attachment.

5.6 Sex and Kidnapping Offender Registration. RCW 9A.44.128, 9A.44.130, 10.01.200.

1. General Applicability and Requirements: Because this crime involves a sex offense or kidnapping offense involving a minor, as defined in RCW 9A.44.128, you are required to register.

If you are a resident of Washington, you must register with the sheriff of the county in the state of Washington where you reside. You must register within 3 business days of being sentenced unless you are in custody, in which case you must register at the time of your release with the person designated by the agency that has jurisdiction over you. You must also register within 3 business days of your release with the sheriff of the county in the state of Washington where you will be residing.

While in custody, if you are approved for partial confinement, you must register when you transfer to partial confinement with the person designated by the agency that has jurisdiction over you. You must also register within 3 business days from the end of partial confinement or release from confinement with the sheriff of the county where you reside.

If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must

register within 3 business days of being sentenced unless you are in custody, in which case you must register at the time of your release with the person designated by the agency that has jurisdiction over you. You must also register within 3 business days of your release with the sheriff of the county of your school, where you are employed, or where you carry on a vocation.

2. Offenders Who are New Residents, Temporary Residents, or Returning

Washington Residents: If you move to Washington or if you leave this state following your sentencing or release from custody but later move back to Washington, you must register within 3 business days after moving to this state. If you leave this state following your sentencing or release from custody but later, while not a resident of Washington, you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within 3 business days after starting school in this state or becoming employed or carrying out a vocation in this state. If you are visiting and intend to reside or be present 10 or more days in Washington, then you must register the location where you plan to stay or your temporary address with the sheriff of each county where you will be staying within 3 business days of your arrival.

3. Change of Residence Within State: If you change your residence within a county, you must provide, by certified mail with return receipt requested or in person, signed written notice of your change of residence to the sheriff within 3 business days of moving. If you change your residence to a new county within this state, you must register with the sheriff of the new county within 3 business days of moving. Also, within 3 business days, you must provide, by certified mail with return receipt requested or in person, signed written notice of your change of address to the sheriff of the county where you last registered.

4. Leaving the State or Moving to Another State: If you move to another state, or if you work, carry on a vocation, or attend school in another state, you must register a new address, fingerprints, and photograph with the new state within 3 business days after establishing residence, or after you begin to work, carry on a vocation, or attend school in the new state. If you move out of the state, you must also send written notice within 3 business days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

5. Travel Outside the United States: If you intend to travel outside the United States, you must provide signed written notice of the details of your plan to travel out of the country to the sheriff of the county where you are registered. Notice must be provided at least 21 days before you travel. Notice may be provided to the sheriff by certified mail, with return receipt requested, or in person.

If you cancel or postpone this travel, you must notify the sheriff within 3 days of canceling or postponing your travel or on the departure date you provide in your notice, whichever is earlier.

If you travel routinely across international borders for work, or if you must travel unexpectedly due to a family or work emergency, you must personally notify the sheriff at least 24 hours before you travel. You must explain to the sheriff in writing why it is impractical for you to comply with the notice required by RCW 9A.44.130(3).

6. Notification Requirement When Enrolling in or Employed by a Public or Private Institution of Higher Education or Common School (K-12): You must give notice to the sheriff of the county where you are registered within 3 business days:

i) before arriving at a school or institution of higher education to attend classes;

- ii) before starting work at an institution of higher education; or
- iii) after any termination of enrollment or employment at a school or institution of higher education.

7. Registration by a Person Who Does Not Have a Fixed Residence: Even if you do not have a fixed residence, you are required to register. Registration must occur within 3 business days of release in the county where you are being supervised, if you do not have a residence at the time of your release from custody. Within 3 business days after losing your fixed residence, you must send signed written notice to the sheriff of the county where you last registered. If you enter a different county and stay there for more than 24 hours, you will be required to register with the sheriff of the new county not more than 3 business days after entering the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. You must keep an accurate accounting of where you stay during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large, pursuant to RCW 4.24.550.

8. Application for a Name Change: If you apply for a name change, you must submit a copy of the application to the sheriff of the county of your residence and to the state patrol not fewer than 5 days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within 3 business days of the entry of the order. RCW 9A.44.130(7).

5.7 [] Department of Licensing Notice: The court finds that count _____ is a felony in the commission of which a motor vehicle was used. **Clerk's Action** –The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the defendant's driver's license. RCW 46.20.285.

Findings for DUI, Physical Control, Felony DUI or Physical Control, Vehicular Assault, or Vehicular Homicide (ACR information) (check all that apply):

- [] Within 2 hours after driving or being in physical control of a vehicle, the defendant had an alcohol concentration of breath or blood (BAC) of _____.
- [] No BAC test result.
- [] BAC refused. The defendant refused to take a test offered pursuant to RCW 46.20.308.
- [] Drug-related. The defendant was under the influence of or affected by any drug.
- [] THC level was _____ within 2 hours after driving.
- [] Passenger under age 16. The defendant committed the offense while a passenger under the age of 16 was in the vehicle.

Vehicle Info.: [] Commercial Vehicle [] 16-Passenger Vehicle [] Hazmat vehicle

5.8 [] Department of Licensing Notice – Defendant under age 21 only.

Count _____ is (a) a violation of RCW chapter 69.41 [Legend drug], 69.50 [VUCSA], or 69.52 [Imitation drugs], and the defendant was under 21 years of age at the time of the offense **OR** (b) a violation under RCW 9A.10.040 [unlawful possession of firearm], and the defendant was under the age of 18 at the time of the offense **OR** (c) a violation under

RCW chapter 66.44 [Alcohol], and the defendant was under the age of 18 at the time of the offense, **AND** the court finds that the defendant previously committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

Clerk's Action –The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the defendant's driver's license. RCW 46.20.265.

5.9 Other: _____

Done in Open Court and in the presence of the defendant on this date: _____

Judge/Print Name:

Deputy Prosecuting Attorney Attorney for Defendant Defendant

WSBA No. _____ WSBA No. _____

Print Name: _____ Print Name: _____ Print Name: _____

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction and sentence to total confinement. If I am registered to vote, my voter registration will be cancelled.

My right to vote will be restored when I am not serving a sentence of total confinement in the custody of DOC. My right to vote is automatically restored but I must reregister to vote prior to voting. Voting or registering to vote before the right is restored is a class C felony. RCW 29A.84.140.

Defendant's signature: _____

I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the _____ language. I interpreted this Judgment and Sentence for the defendant into that language.

I certify, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

Signed at (city) _____, (state) _____, on (date) _____

Interpreter

Print Name

VI. Identification of the Defendant

SID No. _____ Date of Birth _____

FBI No. _____ Local ID No. _____

PCN/TCN No. _____ Other _____

Alias name, DOB: _____

Race:

Ethnicity:

Sex:

☐ Asian ☐ Black ☐ Indian-American Indian or
Alaska Native

☐ Hispanic ☐ Male

☐ Multiracial ☐ Native Hawaiian or
Other Pacific Islander

☐ Non-Hispanic ☐ Female

☐ Refused ☐ White ☐ Unavailable

☐ Refused

☐ Unknown ☐ Other:

☐ Unknown

Fingerprints: I attest that I saw the defendant, who appeared in court, affix their fingerprints and signature on this document.

Clerk of the Court, Deputy Clerk: _____ Dated: _____

The defendant's signature:

Left 4 fingers taken simultaneously	Left Thumb	Right Thumb	Right 4 fingers taken simultaneously

NIELSEN KOCH & GRANNIS P.L.L.C.

September 10, 2025 - 8:09 AM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 57744-5
Appellate Court Case Title: State of Washington, Respondent v. Paul Thomas Clark, Appellant
Superior Court Case Number: 20-1-00430-1

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