



Case Law Updates | Apr 2-15, 2025

Washington Supreme Court

Community Custody Conditions: Condition prohibiting possession of sexually explicit conduct material is not vague.

[State v J.H.-M.](#), ___ Wn.2d ___, No. 102,635-8 (Apr. 10, 2025)

The State prosecuted J.H.-M., a minor, for rape by forcible compulsion in juvenile court. Following a guilty adjudication, the sentencing court-imposed community custody conditions, one of which prohibited J.H.-M. from engaging with, among other things, material depicting “sexually explicit conduct” defined by former RCW 9.68A.011(4) (2010). **HELD:** Because our prior case law defines “sexually explicit” and the condition at issue provides a list of qualifying conduct, the condition is not vague.

Washington Court of Appeals

Right to Counsel: The defendant was not constructively denied the right to counsel under *Cronic* by his attorney’s limited presentation at the sentencing hearing.

Exceptional Sentence: An exceptional sentence of 480 months for multiple child sex offense convictions was not clearly excessive.

Community Custody Urinalysis: The trial court had authority to impose the condition that the defendant submit to random drug and alcohol testing as a condition of community custody.

[State v. Greatbreaks](#), ___ Wn.App.2d ___, No. 59439-1, Div. II (Apr. 8, 2025)

The state prosecuted Greatbreaks following an arrest during a net nanny sting operation. While on pretrial release for that case, Greatbreaks was accused of a different series of sexual assault crimes involving the 9-year-old child of a woman Greatbreaks was involved with. The state and Greatbreaks reached a plea agreement that involved dismissal of numerous counts, and a joint sentence recommendation of 300 months as the minimum term of an indeterminate sentence. The trial court imposed an exceptional sentence resulting in a 480-month sentence. Greatbreaks appealed, arguing his attorney,

who said very little at the sentencing hearing, was so ineffective that it was a constructive denial of counsel under *Cronic*. **HELD:** This is not the rare case when a constructive denial of counsel under *Cronic* occurred. Defense counsel's limited presentation at sentencing did not amount to a constructive denial of counsel or a breakdown of the adversarial process. The 480-month sentence imposed is not clearly excessive and does not shock the conscience. Further, the trial court had authority to impose the condition that Greatbreaks submit to random testing for drugs and alcohol.

Alternative Means Crimes: Interfering with Reporting-DV is not an alternative means crime. (Conflicts with Division 1)

[State v. Buck](#), ___ Wn.App.2d ___, No. 39445-0, Div. III (Apr. 10, 2025)(published in part) 7 pages reported

During an argument that turned physical, Buck took his girlfriend's phone from her pocket after she threatened to call 911 and refused to return the phone. Buck did allow his girlfriend to leave when she said she would drive to the sheriff's office instead. Buck's jury was instructed that to convict on interference with reporting domestic violence they must find beyond a reasonable doubt that Buck prevented or attempted to prevent his girlfriend from calling 911, or obtaining medical assistance, or making a report to any law enforcement officer. Buck argued that the court violated his right to a unanimous jury verdict on the interfering charge by permitting the jury to consider three different means for committing the offense. The appellate court determined that the key inquiry to determine whether an offense is an alternative means crime is whether the statute describes distinct acts that amount to the same crime or whether nuances between the criminal conduct are minor and merely facets of the same criminal conduct. **HELD:** Interfering with reporting of domestic violence is not an alternative means crime. The criminal conduct described by the statute is that a defendant prevented or attempted to prevent a victim or a witness from reporting domestic violence. There are no nuances in the criminal conduct that differ based on how a person seeks to report the conduct.

Conflict with Division 1: *State v. Narong*, 145 Wn.App. 802(2008), held that interfering with reporting domestic violence must be regarded as an alternative means crime because the statute does not criminalize all acts that might appear to constitute interfering with the reporting of domestic violence. *Narong* noted that interference is culpable only when a victim or witness is trying to report the crime to a particular entity. The *Buck* court reasoned that *Narong's* alternative means analysis focused on what entity a victim or witness tried to report domestic violence to, and digressed from *Narong* under the theory that reporting domestic violence is not the conduct made criminal by the statute, and that an alternative means analysis must focus on the criminal conduct, citing to the more recent *State v. Sandholm*, 184 Wn.2d 726 (2015).