



Case Law Updates | Feb. 19 – Mar. 4, 2025

Washington Court of Appeals

CrR 8.3: Although the trial court has discretion to dismiss a case under CrR 8.3, dismissal with prejudice prior to the expiration of speedy trial is an extraordinary remedy, and the court must first consider lesser alternatives.

[State v. W.H.](#), ___ Wn.App.2d ___, Div. II, No. 59094-8 (Mar. 4, 2025)

The State moved to dismiss charges without prejudice under CrR 8.3(a) after W.H. turned 18, citing difficulty communicating with the alleged victim. The court instead dismissed with prejudice, reasoning that W.H.'s age would prevent juvenile jurisdiction if the State refiled.

Held: The trial court exceeded its authority by dismissing with prejudice. At the pretrial stage, with speedy trial time remaining, the court could only grant or deny the State's motion under CrR 8.3(a). It could not sua sponte dismiss under CrR 8.3(b) without finding arbitrary State action or governmental misconduct, which was not present in the record on this case.

Family Defense/Dependency/Alleged Biological Parent's Standing: Alleged biological parents have standing to participate as a party in dependency proceedings.

[In re B.H-W.](#), ___ Wn.App.2d ___, No. 58595-2, Div. II (Mar. 3, 2025)

An alleged biological father sought discretionary review of a trial court ruling barring him from participating in the child's dependency proceeding, stating that alleged biological parents lack standing to participate as a party to the proceeding.

Subsequent genetic testing established he was in fact the biological parent, making him a "parent" as defined by RCW 13.34.030 and making the appeal moot. However, the Court of Appeals reached the issue because it is a matter of continuing and substantial public importance. Although the Court of Appeals declined to "delineate further any other rights an alleged biological parent might have in a dependency proceeding," it held that the constitution protects some interests even though alleged biological parents are not explicitly protected by chapter 13.34 RCW.

Chapter 13.34 RCW also supports standing for alleged biological parents. They have a right "to be given notice and an opportunity to appear, to assert their position, and to

participate until their biological parentage claim is determined because they are within the zone of interests sought to be protected by chapter 13.34 RCW—the Juvenile Court Act in cases relating to dependency of a child and the termination of a parent and child relationship—and alleged biological parents would suffer an injury in fact by being excluded from dependency proceedings while parentage is established.” However, “because alleged biological parents do not fall under chapter 13.34 RCW’s definition of a ‘parent’ their rights in a dependency proceeding are not the same as parents who meet this definition.”

ER 403

Race based prosecutorial misconduct

Prosecutorial misconduct

[State v. Bellerouche](#), ___ Wn.App.2d ___, No. 8488-9, Div. I (Mar 3, 2025 opinion was withdrawn, and new opinion was substituted on Mar 13, 2025 in order to reflect corrections in the transcriptions of some of the verbatim report of proceedings referenced in the dissent)

Juvenile/Disposition: The trial court has authority to impose a disposition up to the statutory maximum sentence, not the high end of the standard range under the SRA.

[State v. M.V.](#), ___ Wn.App.2d ___, No. 58853-6, Div. II (Feb. 25, 2025)

The State prosecuted M.V. as a juvenile for two prison riot offenses. The standard range for each juvenile adjudication was 52-65 weeks. In one case, the trial court imposed a 52-week sentence believing it could not impose a disposition above 52 weeks, the highest adult standard range sentence for prison riot as an unranked offense under the SRA. In the other case, the court imposed a 52-65 week sentence. *Held*, the trial court erred when it imposed a 52-week sentence. The trial court had authority to impose a sentence up to the statutory maximum, 10 years. Under the unambiguous language of RCW 13.40.160(11), the sentence to which an adult “could be subjected for the same offense” is the statutory maximum sentence for the offense, not the high end of the standard sentence range under the SRA.

Search/Seizure: Under the independent source doctrine, warrantless seizure of cell phone did not bar admission of evidence later searched and seized from the cellphone pursuant to a valid warrant.

[State v. Tyson](#), ___ Wn.App.2d ___, No. 58888-9, Div. II (Feb. 25, 2025)

Defendant Tyson appealed his conviction based on the warrantless seizure of his cellphone and the admission of evidence from his cellphone, laptop, and hard drive, arguing the initial warrant lacked probable cause and particularity under the Aguilar/Spinelli test; thereby making the evidence from the two successive warrants “fruit of the poisonous tree.”

The case began when a CASA advocate saw sexually explicit photos of the 10-year-old boy Defendant Tyson was adopting on Tyson's phone during the adoption party. Defendant Tyson deleted the images, but he admitted to their existence when CPS and police were notified. Police seized the cellphone to preserve the evidence, believing the photos and video could be restored.

Later, Defendant Tyson's friend and his brother separately reported Defendant Tyson taking actions to get rid of questionable images on his hard drive, leading to warrants being obtained for the phone, computer and hard drive. The defense argued that the initial warrantless seizure of the phone and an initial warrant were invalid, and the evidence resulting from later warrants should be excluded.

Held: The subsequent warrants met the requirements for both probable cause and particularity. Even if the initial seizure of the cellphone was invalid, the independent source doctrine allowed admission of the evidence found on the cellphone because it was obtained pursuant to a valid warrant.

Sentencing/Juvenile Points: Trial court erred when it excluded prior juvenile adjudications from the offender score.

[State v. Solomon-Gibson](#), ___ Wn.App.2d ___, No. 58962-1, Div. II (Feb. 19, 2025)

In October 2023, Christian Dominic Solomon-Gibson pleaded guilty to unlawful possession of a firearm in the second degree. The offense occurred in March 2023. In July 2023, an amendment to the sentencing statute provision relating to juvenile prior adjudications took effect, RCW 9.94A.525(1)(b). The trial court calculated the offender score and standard range relying on the law in effect at the time of sentencing, excluding seven prior juvenile adjudications when calculating Solomon-Gibson's score. *Held*, the trial court erred when it calculated the offender score and standard range. Per RCW 9.94A.345, the sentencing law in effect at the time of offense controls.

Note: the dissent held that the triggering event is the date of sentencing, not date of offense. This issue has not yet been addressed by the Washington Supreme Court and remains open to litigation.