

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,
Respondent,

v.

EARL DAJON LEONARD,
Appellant.

No. 39035-3-II

UNPUBLISHED OPINION

Van Deren, J. — Earl Dajon Leonard pleaded guilty to unlawful delivery of cocaine. The trial court sentenced him to 20 months' confinement and 9 to 12 months' community custody.

One condition of his community custody is:

Defendant shall not possess or use any paraphernalia that can be used for the ingestion or processing of controlled substances or that can be used to facilitate the sale or transfer of controlled substances including scales[,] pagers[,] police scanners[,] and hand held electronic scheduling and data storage devices.

Clerk's Papers at 25.

Leonard appeals from that condition, arguing that it is unconstitutionally vague.¹ In *State v. Valencia*, No. 82731-1, 2010 WL 3504830, at *6 (Wash. Sept. 9, 2010), our Supreme Court held that the condition imposed on Leonard is unconstitutionally vague and is ripe for review.

¹ A commissioner of this court initially considered Leonard's appeal as a motion on the merits under RAP 18.14, and then transferred it to a panel of judges.

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Accordingly, we remand to the trial court for resentencing.

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 pursuant to RCW 2.06.040, it is so ordered.

Van Deren, J.

We concur:

Armstrong, J.

Hunt, J.