

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

STATE OF WASHINGTON,

Respondent,

v.

DORINDA J. NEIGHBOUR,

Appellant.

No. 40150-9-II

UNPUBLISHED OPINION

Quinn-Brintnall, J. — A jury convicted Dorinda J. Neighbour of possession of methamphetamine, under RCW 69.50.4013(1). As a condition of her community custody, Neighbour is required to “maintain good behavior.” Clerk’s Papers (CP) at 19. Neighbour appeals this condition, alleging that it is void for vagueness. The State concedes that the condition is void for vagueness. We accept the State’s concession and remand for the trial court to strike the condition from the judgment and sentence.

**FACTS**

On June 24, 2009, the State charged Neighbour with a violation of the uniform controlled substances act – possession of methamphetamine. On November 17, 2009, a jury found Neighbour guilty. The trial court sentenced Neighbour to 49 days in jail with credit for 49 days served and 24 months of community custody. As a condition of her community custody,

No. 40150-9-II

Neighbour was required to “maintain good behavior.” CP at 19.

#### ANALYSIS

Neighbour argues that requiring her to “maintain good behavior” is void for vagueness because it does not give her fair warning of what she can and cannot do. The State offers no argument to the contrary, concedes error, and agrees the condition should be stricken from Neighbour’s judgment and sentence.

The Washington Supreme Court has found similar community custody provisions ripe for review. *State v. Sanchez Valencia*, 169 Wn.2d 782, 790, 239 P.3d 1059 (2010); *State v. Bahl*, 164 Wn.2d 739, 752, 193 P.3d 678 (2008). A sentencing condition is unconstitutionally vague if it does not provide fair notice of prohibited conduct and “does not provide ascertainable standards of guilt to protect against arbitrary enforcement.” *Sanchez Valencia*, 169 Wn.2d at 794 (quoting *Bahl*, 164 Wn.2d at 753). Under this standard, we hold that the community custody condition requiring Neighbour to “maintain good behavior” is void for vagueness.

Accordingly, we accept the State’s concession and remand for the trial court to strike the condition that Neighbour “maintain good behavior” from Neighbour’s judgment and sentence.

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.

---

QUINN-BRINTNALL, J.

We concur:

---

No. 40150-9-II

ARMSTRONG, P.J.

---

HUNT, J.