

WASHINGTON COURT OF APPEALS, DIVISION ONE

State of Washington v. Harlan W. Blackburn

No. 86238-3-I · No. 86238-3-I · Decided April 20, 2026

SUMMARY

The Washington Court of Appeals, Division One, held that law enforcement violated the defendant’s privacy rights under article I, section 7 of the Washington Constitution by obtaining the last four digits of his bank card from a store without a warrant. The court deemed admission of that evidence harmless, affirmed most of the convictions, reversed one incest conviction for insufficient evidence, and remanded for resentencing on specified counts.

CASE DETAILS

COURT	Washington Court of Appeals, Division One
WRITING FOR THE COURT	Coburn, J.
JURISDICTION	Washington Court of Appeals, Division One
DECIDED	April 20, 2026
DOCKET	86238-3-I
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Criminal defendant appealed convictions and sentences following a jury trial, challenging the admission of warrantlessly obtained bank-card and purchase-history evidence, the sufficiency of the evidence for three convictions, community-custody conditions, and sentences exceeding statutory maximums.
STANDARD OF REVIEW	Suppression and preserved constitutional claims are reviewed under the applicable constitutional standard; unpreserved constitutional claims are reviewed under RAP 2.5(a)(3), requiring constitutional magnitude and manifest error, followed by harmless-error review. Sufficiency of the evidence is reviewed de novo, viewing the evidence in the light most favorable to the State and asking whether any rational trier of fact could find the elements beyond a reasonable doubt. The appellate court defers to the jury on credibility, persuasiveness, conflicting testimony, and reasonable inferences.
PRECEDENTIAL VALUE	published
PARTIES	Harlan W. Blackburn v. State of Washington

TOPICS

suppression of evidence

search and seizure

criminal procedure

appellate procedure

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PRACTICE AREAS

criminal law

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constitutional privacy

evidence

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QUESTIONS PRESENTED

1. Whether law enforcement's warrantless acquisition from a retailer of the last four digits of a bank card and associated purchase history violated article I, section 7 of the Washington Constitution and constituted a manifest constitutional error reviewable for the first time on appeal.
2. Whether admission of the unlawfully obtained bank-card evidence was harmless beyond a reasonable doubt.
3. Whether sufficient evidence supported Blackburn's convictions for third degree rape of a child in Count 2 and first degree incest in Counts 5 and 8, including the time periods added to the to-convict instructions under the law of the case doctrine.
4. Whether the aggregate terms of confinement and community custody exceeded the statutory maximums for Counts 2, 3, 5, 6, and 7.
5. Whether the geographic-boundary and random urinalysis or breath-analysis community-custody conditions violated constitutional privacy or vagueness protections.

HOLDINGS

1. The last four digits of a person's bank card, when used by law enforcement to identify the cardholder and obtain associated purchase history, constitute a protected private affair under article I, section 7 of the Washington Constitution.
2. The warrantless acquisition of Blackburn's partial bank-card number and associated Lovers purchase history was unreasonable because the State did not establish a warrant exception or other authority of law.
3. Blackburn established a manifest constitutional error because the record showed that law enforcement obtained the partial bank-card information in violation of article I, section 7 and that the trial court admitted it.
4. Admission of the partial bank-card evidence was harmless beyond a reasonable doubt because the untainted evidence overwhelmingly supported the convictions other than Count 8.
5. Sufficient evidence supported the third degree child-rape conviction in Count 2 because C.B.'s testimony permitted a rational factfinder to conclude that Blackburn anally raped her when she was 14 or 15 years old, within the time period required by the to-convict instruction.
6. Sufficient evidence supported the first degree incest conviction in Count 5 because C.B. testified that Blackburn first penetrated her vagina with his penis soon after they moved into the Kent house in 2018, placing a distinct act within the instruction's January 1, 2018, to January 1, 2019, period.

7. The evidence was insufficient to support the Count 8 first degree incest conviction because the State did not prove beyond a reasonable doubt that the described fall 2021 incident occurred between October 1 and October 13, 2021, as required by the to-convict instruction.
8. The combined terms of confinement and community custody exceeded the statutory maximums for Counts 2, 3, 5, 6, and 7, requiring remand for the trial court either to amend the community-custody terms or resentence Blackburn consistent with RCW 9.94A.701(10).
9. The geographic-boundary condition was not unconstitutionally vague, and the random urinalysis and breath-analysis condition did not violate article I, section 7 because it was a narrowly tailored means of monitoring compliance with valid prohibitions on drug and alcohol use.

KEY QUOTATIONS

“We hold that the last four digits of a bank card is a Washington citizen’s “private affair” falling within the scope of article I, section 7 protections.” (86238-3-I/23)

“To find Blackburn guilty of Count 8 would have to be based on speculation, not evidence.” (86238-3-I/44)

“We affirm in part, reverse Blackburn’s conviction for incest in the first degree in Count 8, and remand for resentencing on counts 2, 3, 5, 6, and 7 consistent with RCW 9.94A.701(10).” (86238-3-I/49)

FACTUAL BACKGROUND

Blackburn repeatedly sexually assaulted his biological daughter, C.B., beginning when she was approximately 12 years old and continuing through her early adulthood. During the investigation, law enforcement obtained without a warrant a Westin Hotel reservation receipt and later obtained from a Lovers store the purchase history and last four digits of the bank card used to buy sexual items and clothing associated with an alleged assault. The trial court admitted portions of this evidence, and a jury convicted Blackburn on eight counts. The trial court imposed concurrent sentences, including community custody terms that caused the aggregate sentence to exceed statutory maximums for several counts.

PROCEDURAL HISTORY

Blackburn was charged with and convicted by a jury of five counts of first degree incest, two counts of second degree rape of a child, and one count of third degree rape of a child. The trial court denied or limited suppression relief, imposed concurrent prison terms and community custody, and Blackburn appealed. The Court of Appeals held that admission of the partial bank-card information was a manifest constitutional error but harmless, reversed the Count 8 incest conviction for insufficient evidence, and remanded for resentencing on Counts 2, 3, 5, 6, and 7.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the conviction for first degree incest in Count 8 and remand with instructions to dismiss that charge with prejudice. Remand for resentencing on Counts 2, 3, 5, 6, and 7, or for amendment of the community-custody terms, so that the aggregate confinement and community-custody sentences comply with RCW 9.94A.701(10) and do not exceed the applicable statutory maximums. Affirm all other respects of the judgment.

CASES CITED

- State v. Kirkman, 159 Wn.2d 918, 155 P.3d 125 (2007)
- State v. Scott, 110 Wn.2d 682, 757 P.2d 492 (1988)
- State v. O'Hara, 167 Wn.2d 91, 217 P.3d 756 (2009)
- State v. Kalebaugh, 183 Wn.2d 578, 355 P.3d 253 (2015)
- State v. Gordon, 172 Wn.2d 671, 260 P.3d 884 (2011)
- State v. Hinton, 179 Wn.2d 862, 319 P.3d 9 (2014)
- State v. Myrick, 102 Wn.2d 506, 688 P.2d 151 (1984)
- State v. Chacon Arreola, 176 Wn.2d 284, 290 P.3d 983 (2012)
- State v. Bowman, 198 Wn.2d 609, 498 P.3d 478 (2021)
- State v. Miles, 160 Wn.2d 236, 156 P.3d 864 (2007)
- State v. McKinney, 148 Wn.2d 20, 60 P.3d 46 (2002)
- City of Seattle v. McCready, 123 Wn.2d 260, 868 P.2d 134 (1994)
- State v. Gaines, 154 Wn.2d 711, 116 P.3d 993 (2005)
- State v. Reeder, 184 Wn.2d 805, 365 P.3d 1243 (2015)
- State v. Meza, 191 Wn. App. 849, 364 P.3d 1081 (2015)
- State v. Boland, 115 Wn.2d 571, 800 P.2d 1112 (1990)
- State v. Jorden, 160 Wn.2d 121, 156 P.3d 893 (2007)
- State v. Gunwall, 106 Wn.2d 54, 720 P.2d 808 (1986)
- State v. Harlow, 85 Wn. App. 557, 933 P.2d 1076 (1997)
- State v. Goucher, 124 Wn.2d 778, 881 P.2d 210 (1994)
- State v. White, 141 Wn. App. 128, 168 P.3d 459 (2007)
- State v. Ross, 141 Wn.2d 304, 4 P.3d 130 (2000)
- State v. Garvin, 166 Wn.2d 242, 207 P.3d 1266 (2009)
- State v. Villela, 194 Wn.2d 451, 450 P.3d 170 (2019)
- State v. Ferrier, 136 Wn.2d 103, 960 P.2d 927 (1998)
- State v. Leach, 113 Wn.2d 735, 782 P.2d 1035 (1989)
- State v. Duncan, 146 Wn.2d 166, 43 P.3d 513 (2002)
- State v. Olson, 33 Wn. App. 2d 667, 565 P.3d 128 (2025)
- State v. Allen, 138 Wn. App. 463, 157 P.3d 893 (2007)
- State v. Kirwin, 165 Wn.2d 818, 203 P.3d 1044 (2009)
- State v. Walsh, 143 Wn.2d 1, 17 P.3d 591 (2001)
- State v. Fuller, 169 Wn. App. 797, 282 P.3d 126 (2012)

- State v. Spotted Elk, 109 Wn. App. 253, 34 P.3d 906 (2001)
- State v. Berg, 181 Wn.2d 857, 337 P.3d 310 (2014)
- In re Pers. Restraint of Arntsen, 2 Wn.3d 716, 543 P.3d 821 (2024)
- State v. Davis, 182 Wn.2d 222, 340 P.3d 820 (2014)
- State v. Smith, 155 Wn.2d 496, 120 P.3d 559 (2005)
- State v. Salinas, 119 Wn.2d 192, 829 P.2d 1068 (1992)
- State v. O'Neal, 159 Wn.2d 500, 150 P.3d 1121 (2007)
- State v. Cardenas-Flores, 189 Wn.2d 243, 401 P.3d 19 (2017)
- State v. Johnson, 188 Wn.2d 742, 399 P.3d 507 (2017)
- State v. Hickman, 135 Wn.2d 97, 954 P.2d 900 (1998)
- State v. Green, 94 Wn.2d 216, 616 P.2d 628 (1980)
- State v. France, 180 Wn.2d 809, 329 P.3d 864 (2014)
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- State v. Hayes, 81 Wn. App. 425, 914 P.2d 788 (1996)
- State v. Petrich, 101 Wn.2d 566, 683 P.2d 173 (1984)
- State v. Kitchen, 110 Wn.2d 403, 756 P.2d 105 (1988)
- State v. Beasley, 126 Wn. App. 670, 109 P.3d 849 (2005)
- State v. Noltie, 116 Wn.2d 831, 809 P.2d 190 (1991)
- State v. Yallup, 3 Wn. App. 2d 546, 416 P.3d 1250 (2018)
- State v. Mills, 154 Wn.2d 1, 109 P.3d 415 (2005)
- State v. Rich, 184 Wn.2d 897, 365 P.3d 746 (2016)
- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- State v. Colquitt, 133 Wn. App. 789, 137 P.3d 892 (2006)
- State v. Jensen, 125 Wn. App. 319, 104 P.3d 717 (2005)
- State v. Edwards, 171 Wn. App. 379, 294 P.3d 708 (2012)
- State v. Raleigh, 157 Wn. App. 728, 238 P.3d 1211 (2010)
- State v. Allen, 159 Wn.2d 1, 147 P.3d 581 (2006)
- State v. Gatlin, 158 Wn. App. 126, 241 P.3d 443 (2010)
- State v. Toney, 149 Wn. App. 787, 205 P.3d 944 (2009)
- State v. Gililung, 31 Wn. App. 2d 718, 552 P.3d 813 (2024), review denied, 574 P.3d 573 (2025)
- State v. Boyd, 174 Wn.2d 470, 275 P.3d 321 (2012)
- State v. Lundstrom, 34 Wn. App. 2d 977, 572 P.3d 1243 (2025)
- State v. Nelson, 4 Wn.3d 482, 565 P.3d 906 (2025)
- State v. Olsen, 189 Wn.2d 118, 399 P.3d 1141 (2017)
- In re Pers. Restraint of Nichols, 171 Wn.2d 370, 256 P.3d 1131 (2011)
- DeHeer v. Seattle Post-Intelligencer, 60 Wn.2d 122, 372 P.2d 193 (1962)
- Cantu v. Yakima School District No. 7, 23 Wn. App. 2d 57, 514 P.3d 661 (2022)

- Washington Public Employees Association v. Washington State Center for Childhood Deafness & Hearing Loss, 194 Wn.2d 484, 450 P.3d 601 (2019)
- Collins v. Clark County Fire District No. 5, 155 Wn. App. 48, 231 P.3d 1211 (2010)
- Swank v. Valley Christian School, 188 Wn.2d 663, 398 P.3d 1108 (2017)
- State v. Gallaher, 24 Wn. App. 819, 604 P.2d 185 (1979)
- Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966)
- State v. Lewis, 130 Wn.2d 700, 927 P.2d 235 (1996)

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