

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
10/29/2021 12:48 PM  
BY ERIN L. LENNON  
CLERK

No. 100267-0

IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON,

Respondent,

v.

ABEBE RICHARD HEHN,

Petitioner.

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ANSWER TO  
PETITION FOR REVIEW

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### **I. IDENTITY OF RESPONDENT**

The State of Washington, respondent, asks that review be denied.

### **II. STATEMENT OF THE CASE**

The facts are correctly set out in the Court of Appeals opinion.

### **III. ARGUMENT**

**SINCE THE SENTENCING COURT PROVIDED NO VALID REASON FOR REDUCING THE TERM OF COMMUNITY CUSTODY, THE COURT OF APPEALS PROPERLY DIRECTED IMPOSITION OF THE STANDARD TERM.**

The defendant argues that sentencing courts have authority to impose an exceptional term of community custody. Even if such authority exists, the court here did not articulate any proper basis for exercising it. This being so, the Court of Appeals properly directed imposition of the standard term.

The sentencing court's sole basis for reducing the term of community custody was this:

The court further finds that 36 months of community custody is not necessary to protect the public and does not make frugal use of government resources, given the defendant's DOC supervision for his prior convictions.

1 CP 3. This amounts to nothing more than disagreement with the legislative decision to require community supervision. Substantially identical findings have been held insufficient to justify an exceptional sentence. State v. Pascal, 108 Wn.2d 125, 137-38, 736 P.2d 1065 (1987).

When an exceptional sentence is based on both valid and invalid reasons, the case may be remanded for the sentencing court to determine whether the valid reasons are sufficient to support the sentence. State v. Pryor, 115 Wn.2d 445, 456, 799 P.2d 244 (1990). If, however *none* of the court's reasons are valid, the case should be remanded for sentencing within the standard range. State v. Ferguson, 142 Wn.2d 631, 649, 15 P.3d 1271 (2001). With regard to the term of community custody, such is the situation here. The sentencing court

provided no valid reason for reducing that term. As a result, the Court of Appeals properly remanded the case for imposition of the standard term. That decision does not warrant review.

#### **IV. CONCLUSION**

The petition for review should be denied.

This Answer contains 511 words (exclusive of title sheet, table of contents, table of authorities, certificate of service, and signature blocks).

Respectfully submitted on October 29, 2021.

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DECLARATION OF SERVICE

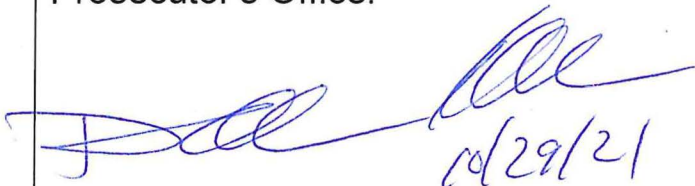
I certify that I sent via e-mail a copy of the foregoing document to: The Court of Appeals via Electronic Filing and to Nielsen, Koch;

[Sloanej@nwattorney.net](mailto:Sloanej@nwattorney.net);

[MarchK@nwattorney.net](mailto:MarchK@nwattorney.net);

I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at the Snohomish County Prosecutor's Office.



Handwritten signature of Diane K. Kremenich in blue ink, followed by the date 10/29/21.

Diane K. Kremenich      DATE:  
Legal Assistant/Appeals Unit

**SNOHOMISH COUNTY PROSECUTOR'S OFFICE**

**October 29, 2021 - 12:48 PM**

**Transmittal Information**

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**Appellate Court Case Number:** 100,267-0  
**Appellate Court Case Title:** State of Washington v. Abebe Richard Hehn  
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