

FILED
SUPREME COURT
STATE OF WASHINGTON
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BY ERIN L. LENNON
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IN THE SUPREME COURT OF THE STATE OF
WASHINGTON

STATE OF
WASHINGTON,
Respondent,

v.

CHRISTOPHER CRUMP,
Appellant.

No. 102842-3

REPLY IN SUPPORT
OF MOTION FOR
RELEASE PENDING
REVIEW

I. INTRODUCTION

If not for the pendency of the Court of Appeals's¹ mandate, Christopher Crump would be entitled to release. The prosecution's answer does not dispute this. Nor does it argue release poses a flight risk or a danger of traumatizing any alleged victim.

The prosecution cannot articulate a reason why

¹ The Court of Appeals's reason for transferring Mr. Crump's motion to this Court is not clear, as the Court of Appeals "retains authority to act" in this case unless and until this Court grants review. RAP 7.3. At any rate, to facilitate timely resolution, Mr. Crump does not object to this Court's deciding the motion.

the ends of justice require keeping Mr. Crump in prison beyond the day the Court of Appeals's decision entitles him to release. The deterrent effect of Mr. Crump's sentence is irrelevant because, accounting for the vacation of his most serious conviction in this case, his sentence is over. Nor is his non-violent offense history a weighty enough reason to justify his continued confinement.

This Court should order Mr. Crump's release on personal recognizance, or on any conditions this Court deems necessary, pending the proceedings on the prosecution's petition for review.

III. ARGUMENT

The prosecution agrees Mr. Crump must be released pending review unless the court finds by a preponderance of the evidence one of the factors listed in RCW 9.95.062(1). Resp. at 4–5. It advances only two

of the factors here: deterrent effect and danger to the community. *Id.* at 5.

This Court should reject the prosecution's argument that releasing Mr. Crump "would diminish the deterrent effect of the punishment" because Mr. Crump has *already completed* the punishment. Resp. at 5–6. Based on the Court of Appeals's vacation of one of his convictions in this case, his true release date has already passed. Mot. for Release at 3–4, App'x 2 ¶ 5. The prosecution does not argue otherwise. Resp. at 3–8. Continuing to confine Mr. Crump beyond his true release date serves no legitimate penological interest.

Nor has the prosecution shown Mr. Crump is such a danger to his community that it is just to confine him beyond any statutorily authorized sentence. *See* Resp. at 6. As the prosecution admits, Mr. Crump has no violent criminal history. *Id.*; Resp.

App'x. Six non-violent felonies over the past 16 years may have been a reason to deny release if Mr. Crump were still serving his sentence, but they are not a weighty enough concern to continue to confine him now that his true release date is in the past. *See Resp.* at 3.

Importantly, the prosecution nowhere argues Mr. Crump is a flight risk, and thus appears to concede Mr. Crump would voluntarily turn himself in if this Court grants review, reverses the Court of Appeals, and reinstates his conviction. *Resp.* at 3–8; *see Mot. for Release* at 8–9.

Mr. Crump nowhere argues the prosecution's "petition for review was not taken in good faith." *Resp.* at 6. He merely observes the indisputable fact that Mr. Crump remains in prison beyond his correct release date only because the prosecution's petition delayed issuance of the mandate. *Mot. for Release* at 4, 8–9.

That the prosecution believes it has an arguable basis for reversing the Court of Appeals is not sufficient reason to keep Mr. Crump in prison.

Finally, Mr. Crump objects to the prosecution's request that this Court remand the motion to give the trial court a second bite at the apple. Resp. at 8. Mr. Crump's trial counsel worked diligently for weeks to note a motion for release in the trial court, and the court erroneously refused to rule on the merits of the motion despite the plain text of CrR 3.2(h), RAP 7.2(f), and RCW 9.95.062(1). Mot. for Release App'x 3–5 ¶¶ 7–11, App'x 10–11. At best, remand would cause additional weeks of delay. This Court calendared the prosecution's petition on June 4, and Mr. Crump's release date is in August. Time is of the essence.

This Court “has the authority . . . to perform all acts necessary or appropriate to secure the fair and

orderly review of a case.” RAP 7.3. That authority necessarily includes the power to grant release pending review when the trial court erroneously denies it. RAP 8.2(b); *see* RAP 1.2(a) (appellate “rules will be liberally interpreted to promote justice”). The proceedings on review will hardly be fair if Mr. Crump must remain in prison beyond his true sentence.

III. CONCLUSION

This Court should grant Mr. Crump’s motion and order his release pending review. Release should be on Mr. Crump’s personal recognizance or any conditions this Court deems necessary.

Per RAP 18.17(c)(17), I certify this motion for release pending review contains 723 words.

DATED this 3rd day of April, 2024.



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DECLARATION OF FILING AND MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original of the document to which this declaration is affixed/attached, was filed in the **Washington State Supreme Court** under **Case No. 102842-3**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office / residence / electronic mail address as listed on ACORDS:

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WASHINGTON APPELLATE PROJECT

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