

FILED
Court of Appeals
Division I
State of Washington
8/7/2020 10:54 AM

FILED
SUPREME COURT
STATE OF WASHINGTON
8/10/2020
BY SUSAN L. CARLSON
CLERK

SUPREME COURT NO. 98864-1
COURT OF APPEALS NO. 80461-8-I

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Petitioner,

v.

LASZLO MOLNAR,

Respondent.

PETITION FOR REVIEW

DANIEL T. SATTERBERG
King County Prosecuting Attorney

JENNIFER P. JOSEPH
Senior Deputy Prosecuting Attorney
Attorneys for Petitioner

King County Prosecuting Attorney
W554 King County Courthouse
516 3rd Avenue
Seattle, Washington 98104
(206) 477-9497

TABLE OF CONTENTS

| | Page |
|--|------|
| A. <u>IDENTITY OF PETITIONER</u> | 1 |
| B. <u>ISSUES PRESENTED FOR REVIEW</u> | 1 |
| C. <u>STATEMENT OF THE CASE</u> | 2 |
| D. <u>ARGUMENT</u> | 9 |
| 1. DIVISION ONE’S DECISION IS INCONSISTENT WITH PUBLISHED DECISIONS BY DIVISION TWO AND RAISES QUESTIONS OF SUBSTANTIAL PUBLIC INTEREST..... | 10 |
| 2. DIVISION ONE’S DENIAL OF THE STATE’S MOTION TO SUPPLEMENT THE RECORD IS INCONSISTENT WITH THIS COURT’S JURISPRUDENCE AND RAISES AN ISSUE OF IMPORTANT PUBLIC INTEREST | 17 |
| E. <u>CONCLUSION</u> | 20 |

TABLE OF AUTHORITIES

Page

Table of Cases

Federal:

Blakely v. Washington, 542 U.S. 296,
124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004)..... 15, 16

Washington State:

State v. Carreno-Maldonado, 135 Wn. App. 77,
143 P.3d 343 (2006) 9, 10, 13, 14, 15, 20

State v. Clarke, 156 Wn.2d 880,
134 P.3d 188 (2006) 9, 11

State v. Jerde, 93 Wn. App. 774,
970 P.2d 781 (1999) 15

State v. Monroe, 126 Wn. App. 435,
109 P.3d 449 (2005) 9, 11, 12, 14, 15, 20

State v. Music, 40 Wn. App. 423,
698 P.2d 1087 (1985) 17

State v. Neisler, 191 Wn. App. 259,
361 P.3d 278 (2015) 18

State v. Ramos, 187 Wn.2d 420,
387 P.3d 650 (2017) 8

State v. Sisouvanh, 175 Wn.2d 607,
290 P.3d 942 (2012) 17

State v. Slert, 181 Wn.2d 598,
334 P.3d 1088 (2014) 9, 17, 20

State v. Van Buren, 101 Wn. App. 206,
2 P.3d 991 (2000) 15

| | |
|--|-----------|
| <u>State v. Wade</u> , 138 Wn.2d 460, 979 P.2d 850 (1999) | 9, 18, 20 |
| <u>State v. Williams</u> , 103 Wn. App. 231, 11 P.3d 878 (2000) | 16 |

Rules and Regulations

Washington State:

| | |
|----------------|--------|
| RAP 1.2 | 19 |
| RAP 9.2 | 18, 20 |
| RAP 9.6 | 18, 19 |
| RAP 9.10 | 18 |
| RAP 13.4 | 9 |

A. IDENTITY OF PETITIONER

The State of Washington, Petitioner here and Respondent below, respectfully requests that this Court review the unpublished decision of the Court of Appeals in State v. Molnar, No. 80461-8-I (June 1, 2020), a copy of which is attached as **Appendix A**, as well as that court's denial of the State's motion for reconsideration and motion for leave to file late verbatim report of proceedings and supplemental clerk's papers (July 13, 2020), a copy of which is attached as **Appendix B**.

B. ISSUES PRESENTED FOR REVIEW

1. Laszlo Molnar confessed that he repeatedly raped an incapacitated 83-year-old woman who lived in his residential care facility and who died shortly after the last assault. He agreed to plead guilty to one count of second-degree rape, in exchange for which the State dismissed one aggravating circumstance and the domestic violence designation and agreed to recommend a minimum sentence in the middle of Molnar's standard range. At sentencing, the State made this recommendation, but Molnar argued for a low-end minimum term. To persuade the sentencing court to adopt the State's proposal instead, the prosecutor pointed out the egregious facts of the case and how the State would have proceeded had Molnar not taken responsibility by pleading

guilty. Molnar did not object for nearly four years. Did the State comply with the plea agreement?

2. As the party alleging breach of the plea agreement, Molnar had the burden to produce an adequate record for review, including a transcript of the sentencing hearing wherein he alleged the breach occurred. This Court has held that the Court of Appeals should order supplementation of the record or decline to address the merits of an issue when the appellant fails to present a record adequate for review. Here, despite an obviously insufficient record, the Court of Appeals reversed Molnar's conviction and refused to consider the transcript of the sentencing hearing produced by the State to support its motion for reconsideration. Did the Court of Appeals err by addressing the merits of Molnar's claim in the absence of an adequate record and by refusing to grant the State's motion for leave to file late verbatim report of proceedings and supplemental clerk's papers in support of its motion to reconsider?

C. STATEMENT OF THE CASE

Laszlo Molnar raped a severely disabled 83-year-old woman, B.A., who was unable to speak due to the severity of her dementia. CP 5. B.A. was one of a dozen elderly incapacitated women who lived in Molnar's residential care facility. Slip op. at *1-2. The abuse came to light when B.A.'s daughter placed a hidden camera in her mother's room and

captured a five-minute video of Molnar repeatedly forcing his penis into B.A.'s mouth as she struggled unsuccessfully to avoid the assault. CP 4-5. In his confession to police, Molnar admitted he sexually assaulted B.A. about 10 times. CP 5.

The State charged Molnar with one count of aggravated second-degree rape, alleging that B.A. was particularly vulnerable and the crime against this household member was one of domestic violence. CP 1-2.

Molnar pleaded guilty to second-degree rape in exchange for the State dropping the charged aggravator, the domestic violence designation and recommending an indeterminate sentence with a minimum term of 90 months, which was the midpoint of Molnar's standard range. CP 12, 27-28. Molnar would request a minimum term of 78 months, the low end of the standard range. CP 86. In Molnar's statement of plea of guilty, he stated, "On or about 11/13/14, in King County, WA, I engaged in sexual intercourse with B.A. B.A. was incapable of consenting because she was mentally incapacitated due to her dementia." CP 34. Molnar also agreed the court could consider the certification for determination of probable cause and the prosecutor's summary of the case as real and material facts for purposes of sentencing. CP 27.

The State filed a presentence statement, which endorsed a 90-month minimum term. CP 39-52. The parties later filed sentencing

memoranda. Molnar's brief recommended the minimum standard-range sentence of 78 months, requesting leniency in light of his acceptance of responsibility. CP 86-88. The State's brief reiterated its recommendation for a mid-range minimum term of 90 months. CP 53. The State noted that the case had originally been charged with one aggravator and represented that, had the case gone to trial, the State would have added an additional second-degree rape charge and the additional sentencing aggravator of abuse of trust. CP 53-54. The State conveyed facts from the certification for determination of probable cause to support its recommendation, arguing that "[i]mposition of a minimum term of 90 months ... is appropriate given the egregious nature of this offense and the victim's obvious vulnerability." CP 56. Molnar did not object.

B.A.'s daughter and granddaughter and two advocates attended Molnar's October 2015 sentencing hearing. CP 97. Molnar was represented by counsel. At the hearing, the State recommended the court sentence Molnar to an indeterminate term with a 90-month minimum, consistent with the plea agreement. RP 4. The prosecutor noted that "the State has submitted a brief to the court in regard to the basis for our recommendation of a mid-range sentence in this case. We believe that is appropriate given the egregious nature of this case as well as the victim's vulnerability and the abuse of trust that occurred in this matter." RP 5. In

remarks amounting to only two paragraphs of the sentencing transcript, the State briefly recounted the facts of the case, then deferred to the victim's survivors to describe the impact of Molnar's offenses. RP 5-6.

B.A.'s granddaughter, Tammy Black, spoke of the trauma her grandmother suffered while she was "tortured daily" in Molnar's care facility, of the nightmares she has suffered since the crimes came to light, of how she blamed herself for failing to suspect the abuse, and of what a wonderful woman her grandmother was. RP 6-8. Black referred to the likelihood that Molnar similarly abused the other vulnerable women in his care and "ask[ed] the court to give him the longest sentence possible given the chance he will offend again." RP 8.

Next, an advocate read a statement from the victim's daughter, Sherri Moon. RP 8. Moon's heart-rending letter speaks of how wrenching it was to place her mother in a care facility, how Molnar assured Moon he would treat her mom as he would his own, and how he even started calling the victim "Momma Jean." RP 9. Moon described the terrified look in her elderly mother's eyes as she endured a sexual assault exam, and the agony that followed for them both. RP 10.

After bringing my mom home from the hospital, I told her I was sorry and to forgive me for putting her there. I could not sleep because I felt that I had to watch her at all times so nothing else could happen to her. It was devastating to me and my family to have to watch my mom die a horrible death.

It was always my hope that my mom would pass in peace, but ... [b]ecause of what Laszlo Molnar did, my mom died a terrified woman. He knew that she was molested as a child, and he took full advantage of her.

... Laszlo is nothing more than a predator taking advantage of a helpless woman. He had the perfect place for his victim. He thought no one would ever find out the horror he was doing.

I see the video over and over in my head every day showing what he did to her. If I see anyone who resembles Laszlo Molnar in any way, the images of my mom being raped start over in my head. ...

Because of what Laszlo Molnar did, I cannot make any decisions on my own anymore. I'm scared it will be wrong once again. I cannot stay in my own home anymore because I keep seeing everything that happened there, the way my mom passed away there, watching the video there. I cry myself to sleep knowing that I put her in that predator's care. Again, I will never forgive myself. I just hope that my mom will forgive me. Our lives will never be the same again because of what he did. I don't know how anyone can be such a monster.

I know in my heart that my mom was not the first to fall victim to him, and I'm sure she will not be the last unless he is stopped. ... My mom passed away on December 8.

RP 10-12.

After these impactful remarks, Molnar's attorney presented a short argument in favor of a low-end sentence. She described Molnar's difficult early life in Romania and refugee camps, his history of hard work in this country, and said that his wife needed him at home. RP 12-14. Molnar did not object to the State's presentation and declined to allocute. RP 14.

The trial court's remarks demonstrate that Judge Galván was persuaded to impose a high-end minimum term standard range sentence by the moving victim survivor statements and the lack of persuasive

mitigation for Molnar, not the State's reference to aggravating circumstances:

It is said that a society is judged by how it treats its most vulnerable in its population: the children, the ill, the elderly. Can we judge an individual by any less?

Mr. Molnar in this case took advantage of an elderly individual who was unable to speak, who was unable to walk, who was infirm. *Whether he was in a position of trust or not*, the fact that he did it to this individual says a lot about who he is.

In determining what is a just sentence in this case, the court must always look for any mitigation. And frankly, Mr. Molnar, in your case, the court can find none. A difficult childhood, a difficult life does not give us carte blanche to engage in torture.

This court will sentence the defendant as follows. It will be an indeterminate sentence with a minimum of 102 months. ...

RP 14-15 (emphasis added).

Ultimately, the trial court imposed a minimum term at the high end of the standard range. CP 101. The sentence was 12 months higher than the State's recommendation and 24 months higher than the defense recommendation.

Almost four years later, in August 2019, Molnar filed a pro se "motion for breach of plea hearing." CP 110. Molnar alleged that the State had undermined its obligation to recommend a mid-range sentence and breached the plea agreement by emphasizing the aggravating circumstances of his crimes. CP 112. The trial court denied the motion because Molnar had received the benefit of his bargain: the dismissal of the sentencing aggravator and domestic violence designation. CP 85.

Molnar appealed, maintaining that the State breached the plea agreement. Although such a claim requires review of “the sentencing record as a whole to determine whether the plea agreement was breached,” State v. Ramos, 187 Wn.2d 420, 433, 387 P.3d 650 (2017), Molnar chose to forego transcription of the sentencing hearing. The State filed a brief response, arguing that the record demonstrated that the State had adhered to its 90-month recommendation while properly explaining why the low-end sentence Molnar asked for “is plainly insufficient.” CP 56.

The Court of Appeals reversed Molnar’s conviction, curiously concluding that “the State advocated for the court to impose an exceptional sentence on Molnar by highlighting the aggravating factors of the case.” Slip op. at *5. The court opined that “comments highlighting the aggravating factors were unnecessary to support its recommendation, and violated the terms of the plea agreement.” Id. The court later denied the State’s motion for reconsideration and motion for leave to file a transcript of the sentencing hearing, which added crucial context for evaluating Molnar’s claim. Appendix B.

D. ARGUMENT

This Court will review a decision of the Court of Appeals that is in conflict with a published decision of the Court of Appeals or the Supreme Court or where the petition involves an issue of substantial public interest that should be determined by the Supreme Court. RAP 13.4(b)(1), (4).

These criteria are met in this case. Division One's decision is inconsistent with Division Two's published decisions in State v. Carreno-Maldonado, 135 Wn. App. 77, 143 P.3d 343 (2006), and State v. Monroe, 126 Wn. App. 435, 109 P.3d 449 (2005) (overruled on other grounds by State v. Clarke, 156 Wn.2d 880, 134 P.3d 188 (2006)), and its choice to decide the merits despite an inadequate record is contrary to this Court's decisions in State v. Slert, 181 Wn.2d 598, 608, 334 P.3d 1088 (2014) and State v. Wade, 138 Wn.2d 460, 979 P.2d 850 (1999). Division One's decision also suggests there is a limit to the State's ability to discuss the facts of the case during sentencing pursuant to a guilty plea, even when it is defending its recommendation against the defendant's request for something lower. But since the decision fails to explain what that limit is, the State cannot know what type of advocacy will be considered a breach years later. This issue of substantial public interest should be determined by this Court.

1. DIVISION ONE’S DECISION IS INCONSISTENT WITH PUBLISHED CASES BY DIVISION TWO AND RAISES QUESTIONS OF SUBSTANTIAL PUBLIC INTEREST.

In State v. Carreno-Maldonado, the State charged the defendant with nine counts of first-degree rape, two counts of second-degree rape, two counts of first-degree robbery, one count of first-degree kidnapping, and one count of second-degree assault. 135 Wn. App. 77, 79, 143 P.3d 343 (2006). The defendant agreed to plead guilty to one count of first-degree rape, five counts of second-degree rape, and one count of second-degree assault. Id. In exchange, the State agreed to recommend concurrent standard-range sentences of (1) a low-end sentence of 240 months for the first-degree rape, (2) a midpoint sentence of 240 months for the five second-degree rapes, and (3) a high-end sentence of 4 months for the second-degree assault. Id. at 79-80.

At sentencing, the State noted the presence of several victims in the courtroom and made remarks on their behalf, including that “the crimes are so heinous and so violent it showed a complete disregard and disrespect for these women.” Carreno-Maldonado, 135 Wn. App. at 81. The defendant timely objected, to which the State reiterated its recommendation as set forth in the plea agreement and asked the court to follow it. Id. The trial court instead imposed concurrent high-end sentences on all counts, resulting in a total sentence of 318 months, more

than six years longer than the agreed sentencing recommendation. Id. at 82. Three days later, the defendant unsuccessfully moved to withdraw his guilty plea and appealed the ruling. Id.

Division Two of the Court of Appeals concluded that the State had violated the plea agreement by “recit[ing] potentially aggravating facts” with respect to the first-degree rape count because there was no reason to highlight these facts when the State had agreed to recommend a low-end sentence on that count. 135 Wn. App. at 84. However, with respect to the second-degree rape counts for which the State recommended a midrange sentence, “*we recognize that it may be necessary to recount certain potentially aggravating facts in order to safeguard against the court imposing a lower sentence.*” Id. (emphasis added). Explicitly noting that the 240-month minimum term for Carreno-Maldonado’s first-degree rape count ensured that he “would be incarcerated for at least that length of time under the State’s recommended sentence,” Division Two concluded that the State’s “remarks went beyond what was necessary to support the midpoint sentencing recommendations [on the lesser charges].” Id. at 85.

In State v. Monroe, 126 Wn. App. 435, 440, 109 P.3d 449 (2005) (overruled on other grounds by State v. Clarke, 156 Wn.2d 880, 134 P.3d 188 (2006)), the defendant argued the State violated the plea agreement’s requirement to recommend a sentence of 511 months because, even

though the State recommended that sentence, it also stated “(1) that facts would have supported additional rape counts had the case gone to trial; (2) that Monroe’s crimes were ‘one of the most significant crime sprees’ the prosecutor could remember; (3) the prosecutor’s opinion that there are ‘murder cases that have less victim impact than what happened in this case;’” 126 Wn. App. at 439.

Division Two held that these remarks *did not violate the plea agreement*. Id. at 440. The court recognized that the State’s argument in support of its high-end recommendation “necessarily included facts sufficient to justify the court in setting Monroe’s minimum sentence at the top rather than the bottom of his 384 to 511 months standard range.” Id. Noting that a prosecutor must be careful not to undercut the plea agreement, the court recognized that the State “was not muted simply because Monroe’s crimes arouse natural indignation.” Id. The prosecutor “recounted salient facts and then unequivocally urged the court to” follow its recommendation for a high-end minimum term. Id. Because the recommendation “was in accord with the plea agreement and the deputy prosecutor’s presentation of that recommendation was not unduly inflammatory,” the State did not breach its agreement. Id.

The rule that can be distilled from these Division Two decisions is that the State does not breach its plea agreement by recounting salient

facts of the crime, even aggravating facts, in order to persuade the sentencing court to adopt the State's recommended sentence instead of something lower. Only where the State is obligated to recommend a low-end sentence, or where the sentence makes no practical difference given other counts, is it "unnecessary" for the State to discuss such facts.

Here, the State agreed to recommend a midpoint minimum sentence of 90 months for the one count to which Molnar pleaded guilty while Molnar requested a low-end minimum term of only 78 months. As the Carreno-Maldonado court acknowledged, the State must be allowed to recount the facts of the crime—even "potentially aggravating facts"—"in order to safeguard against the court imposing a lower sentence." 125 Wn. App. at 85. In Carreno-Maldonado, doing so was "unnecessary" only because that defendant was *also* convicted of first-degree rape and the agreed low-end minimum term for that crime subsumed any concurrently-imposed sentence for the lesser offenses. In other words, the State's recommendations on the lesser offenses made no difference to the defendant's 240-month total sentence, so there was no reason to recite aggravating facts of the crimes. Id. at 85.

But in this respect, Molnar's case is very different--there was no other count that made Molnar's sentence for second-degree rape irrelevant. Whether Molnar served a minimum term of 90 months or

instead, the lower defense-recommended term of 78 months, depended on the State's ability to show that the higher recommendation was more appropriate. Thus, unlike in Carreno-Maldonado, it *was* "necessary" to recount "potentially aggravating facts in order to safeguard against the court imposing a lower sentence."

This case is more like Monroe. The State's recommendation for a minimum term in the middle of the range, rather than at the low end as Molnar requested, required the State to present reasons sufficient to justify an extra 12 months in prison. The State supplied these reasons in very much the same way as in Monroe, by briefly recounting the facts and noting that it would have charged additional counts and aggravating circumstances had the matter gone to trial. Indeed, the State's very short presentation in this case was markedly less inflammatory than in Monroe, where the prosecutor argued that the crime was "one of the most significant" and had a greater victim impact than some murders. The decision to reverse Molnar's conviction is plainly inconsistent with Monroe and Carreno-Maldonado.

The State should not be precluded from mentioning case facts to argue against a low-end sentence just because the facts too effectively show that a lower sentence is patently inappropriate. As in Monroe, the fact that Molnar's egregious crimes naturally arouse indignation does not

make it improper to describe them in support of the State's recommendation. It makes no difference that the prosecutor's recommendation in Monroe was for a high-end sentence and the recommendation in Molnar's case was for a sentence in the middle of the range. In each case, the State had to satisfy the trial court that its recommended term was more appropriate than anything less.

Division One's opinion in this case might be explained by its reliance on the "numerous cases" Molnar cited in his brief. Slip op. at *5. With the exception of Carreno-Maldonado, all the cases Molnar cited predate Blakely v. Washington, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004), which struck down Washington's practice of allowing a trial judge, rather than a jury, to make factual findings in support of an exceptional sentence. This ostensibly permitted a prosecutor to agree to recommend a standard-range sentence to secure a guilty plea, but then implicitly encourage the court to impose an exceptional sentence by emphasizing aggravating facts at sentencing. That is what occurred in almost every case Molnar cited in his brief. See State v. Jerde, 93 Wn. App. 774, 970 P.2d 781 (1999) (state breached plea agreement to recommend a mid-standard-range sentence by emphasizing aggravating circumstances that justified an exceptional sentence); State v. Van Buren, 101 Wn. App. 206, 2 P.3d 991 (2000) (prosecutor breached plea

agreement to recommend standard range sentence by downplaying its recommendation, specifically focusing on two aggravating factors, suggesting an aggravating factor not cited in the presentence report, and arguing the validity of one of the aggravating factors, which together “helped the court justify an exceptional sentence”); and State v. Williams, 103 Wn. App. 231, 11 P.3d 878 (2000) (state undercut plea agreement to recommend standard range by listing aggravating factors, emphasizing court’s authority to impose an exceptional sentence, and arguing that public safety required “at least” the sentence it agreed to recommend).

Indeed, it appears that this is what Division One believed occurred in this case. See slip op. at 5 (“[O]bjectively, the remarks in the memorandum demonstrate that the State advocated for the court to impose an exceptional sentence on Molnar by highlighting the aggravating factors of the case.”). But in light of Blakely and ensuing statutory changes, Molnar’s sentencing court was not legally permitted to impose an exceptional sentence because the State had dismissed the charged aggravating circumstance. Thus, there was no way that the State’s remarks about the case could have resulted in an exceptional sentence.

In its opinion, Division One concluded that it was not necessary for the State to highlight the aggravating factors in its sentencing brief in order to persuade the trial court to impose its recommended 90-month

sentence rather than Molnar’s recommended 78-month sentence. But the court did not explain what level of discussion of the facts of the case would have been “necessary” or appropriate, and it is unclear how prosecutors are to know when advocacy for a recommended sentence and against something lower will cross over into a breach of the plea agreement. Given that Molnar and his counsel did not object to the State’s presentation at the time, it is clear that they did not regard the State’s remarks as having crossed that line.¹

2. DIVISION ONE’S DENIAL OF THE STATE’S MOTION TO SUPPLEMENT THE RECORD IS INCONSISTENT WITH THIS COURT’S JURISPRUDENCE AND RAISES AN ISSUE OF IMPORTANT PUBLIC INTEREST.

This Court has repeatedly held that the party presenting an issue for review has the burden of providing an adequate record to establish that the alleged error occurred. See, e.g., State v. Slert, 181 Wn.2d 598, 608, 334 P.3d 1088 (2014) (appellant did not establish court closure without producing a record demonstrating error); State v. Sisouvanh, 175 Wn.2d 607, 619, 290 P.3d 942 (2012) (appellant failed to meet his burden to

¹ In fact, Molnar waited nearly *four years* to allege that the State breached the plea agreement. Division One has written in another case that defendant’s delay of only two years in alleging breach “belies his position on this issue” because if he “truly believed that he had bargained for a suspended sentence with no conditions, one would expect an objection at sentencing and/or an earlier motion to withdraw his plea.” State v. Music, 40 Wn. App. 423, 427 n.1, 698 P.2d 1087 (1985). Likewise, if Molnar really thought the State’s sentencing recommendation violated the plea agreement, he or the attorney representing him would have said so at sentencing.

supply important trial document, but record was sufficient); State v. Wade, 138 Wn.2d 460, 979 P.2d 850 (1999) (appellant could not show error where he failed to produce record of evidentiary hearing).

Claims that the State breached its plea agreement require that “appellate courts apply an objective standard, *looking at the record as a whole*.” State v. Neisler, 191 Wn. App. 259, 266, 361 P.3d 278 (2015) (emphasis added). Although the sentencing hearing is of obvious importance to such a claim, Molnar failed to “arrange for the transcription of all those portions of the verbatim report of proceedings necessary to present the issues raised on review” as required by RAP 9.2(b). This Court has held that the Court of Appeals has only “two choices” when faced with such a material omission in the record: “It could have required supplementation of the deficient record, pursuant to RAP 9.10, or it could have declined to consider the ... issue.” Wade, 138 Wn.2d at 465. Here, the Court of Appeals chose to do neither, simply reversing Molnar’s rape conviction despite an insufficient record.

RAP 9.2(c) permits a party seeking additional parts of the record of proceedings to provide them at the party’s own expense where the party seeking review refuses to do so. RAP 9.6(a) permits a party to supplement the designation of clerk’s papers prior to or with the filing of the party’s last brief. The State took neither of these actions before the Court of

Appeals rendered its opinion in this case because it believed Molnar's short brief to be plainly without merit, especially given the lack of a complete record and Molnar's failure to object to the State's sentencing memo, and it reasonably believed that Division One would direct the parties to supplement the verbatim reports if it thought Molnar's claims might have some merit. That strategy may have been shortsighted.

However, once it was apparent that the court saw some merit in Molnar's claims, it should also have been apparent that the record of the sentencing hearing, attached hereto as **Appendix C**, was necessary to fairly consider whether the State breached the plea agreement at sentencing. Nevertheless, Division One proceeded to consider the merits of this case without that crucial context. Following the surprise reversal, the State moved for reconsideration and to waive compliance with procedural time constraints to allow the State to provide the omitted portions of the record so the court would have the benefit of a complete record before granting Molnar the opportunity to withdraw his plea, four years after the fact, on this very significant case. RAP 1.2(a)(c); RAP 9.6(a). The Court of Appeals refused.

Division One's choice to determine whether the State breached its agreement to make a specific sentencing recommendation without a record of the sentencing hearing is inconsistent with this Court's decisions in

Slert and Wade. Moreover, if appellate courts can grant relief to an appellant who presents only the parts of the record favorable to his claim, it flips the burden of producing an adequate record from the appellant to the respondent, contrary to RAP 9.2(b). As a result, the State must unnecessarily expend increasingly scarce resources to refute baseless appellate claims—a matter of substantial public interest that should be reviewed by this Court.

E. CONCLUSION


This Court should grant review of the underlying Division One decision in this case because it is inconsistent with Monroe and Carreno-Maldonado from Division Two and presents an issue of substantial public importance: whether and how the State may defend its sentencing recommendation without undermining a plea agreement. This Court should also grant review of Division One’s denial of the State’s motions to reconsider and to accept the late filing of the portions of the record because these decisions are contrary to this Court’s decisions in Slert and Wade, and because they implicitly overrule RAP 9.2(b), presenting an issue of substantial public importance.

DATED this 7th day of August, 2020.

Respectfully submitted,

DANIEL T. SATTERBERG

King County Prosecuting Attorney

By: 
JENNIFER P. JOSEPH, WSBA #35042
Senior Deputy Prosecuting Attorney
Attorneys for Petitioner
Office WSBA #91002

Appendix A

RECEIVED

By King County Prosecutor's Office at 1:47 pm, Jun 01, 2020

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

| | | |
|--------------------------|---|---------------------|
| THE STATE OF WASHINGTON, |) | No. 80461-8-I |
| |) | |
| Respondent, |) | |
| |) | DIVISION ONE |
| v. |) | |
| |) | |
| |) | |
| LASZLO MOLNAR, |) | |
| |) | UNPUBLISHED OPINION |
| Appellant. |) | |
| _____ |) | |

MANN, C.J. — Laszlo Molnar appeals his sentence of 102 months to life for his conviction of rape in the second degree. He argues that the State breached the plea agreement by emphasizing the victim’s vulnerability and Molnar’s abuse of trust in its sentencing memorandum. We agree, and reverse and remand for Molnar to elect either to withdraw his guilty plea or to enforce the plea bargaining agreement before a different judge.

I.

Molnar was charged with aggravated rape in the second degree of an 83-year-old woman, B.A., who lived in Molnar’s residential care facility. B.A. suffered from

severe dementia, making her unable to speak or perform daily functions of living without assistance. B.A. had resided in the adult care facility, operated by Molnar and his wife, for the past two and a half years. Although Molnar initially denied the assault, he eventually admitted that he had assaulted B.A. about 10 times over the past several months.

Molnar entered into a plea agreement. In exchange for Molnar pleading guilty to second degree rape, the State agreed to dismiss the vulnerable victim aggravator and domestic violence designation. Rape in the second degree carries a standard range sentence of 78 to 102 months. As part of the plea agreement, the State agreed to recommend a sentence in the middle of the standard range—a minimum term of 90 months to life.

In its sentencing memorandum, the State recommended a term of 90 months to life. Molnar recommended a minimum term of 78 months. The State argued that a 78-month sentence was inappropriate given the “egregious nature” of the crime and the “obvious vulnerability” of B.A. Specifically, the State argued:

There can be few more vulnerable victims, incapable of resistance, than an 83 year-old woman who is wheelchair bound, unable to speak, and completely dependent on others for her care. As well, the defendant’s relationship with the victim was directly fiduciary and his actions breached the trust relationship he had with her and with her family. B.A. needed help in order to perform every one of her activities of daily living and he established a relationship with her over years to assist her with all those activities. This defendant would not have been in a position to abuse B.A. had he not deceived B.A. and her family into trusting him and relying on his assurances that he would act as the kind and compassionate caregiver he purported to be.

The trial court went above both sentence recommendations, imposing a sentence of 102 months to life, a sentence at the top end of the standard range. Molnar

moved for resentencing, arguing that the State undermined the plea agreement by emphasizing B.A.'s vulnerability and Molnar's abuse of trust. The trial court denied the motion. Molnar appeals.

II.

Molnar argues that the State breached the terms of the plea agreement by undermining its obligation to recommend a mid-range sentence, and by emphasizing the vulnerable victim aggravator and the abuse of trust sentencing factor. We agree.

We review constitutional issues de novo. State v. MacDonald, 183 Wn.2d 1, 8, 346 P.3d 748 (2015). On review, we apply an objective standard to determine whether the State breached a plea agreement. MacDonald, 183 Wn.2d at 8.

A plea agreement is a contract between the defendant and the prosecutor. In re Pers. Restraint of Lord, 152 Wn.2d 182, 188-89, 94 P.3d 952 (2004). "The State thus has a contractual duty of good faith, requiring that it not undercut the terms of the agreement, either explicitly or implicitly, by conduct evidencing intent to circumvent the terms of the plea agreement." MacDonald, 183 Wn.2d at 8. Under the due process clause, the State must adhere to the terms of the agreement and recommend the agreed upon sentence. MacDonald, 183 Wn.2d at 8.

Although the prosecutor is not required to make an enthusiastic recommendation, "the prosecutor is obliged to act in good faith, participate in the sentencing proceedings, answer the court's questions candidly in accordance with RPC 3.3 and, consistent with RCW 9.94A.460, not hold back relevant information regarding the plea agreement." State v. Talley, 134 Wn.2d 176, 183, 949 P.2d 358 (1998). The test to determine if the State breached the terms of the plea agreement is whether the

State's words or conduct, without looking to the intent behind them, contradict the State's recommendation. State v. Neisler, 191 Wn. App. 259, 266, 361 P.3d 278 (2015).

A breach occurs when the prosecutor offers unsolicited information that supports an exceptional sentence, undercutting the plea agreement. State v. Xaviar, 117 Wn. App. 196, 200-02, 69 P.3d 901 (2003) (breach where the prosecutor highlighted aggravating sentencing factors and unfiled charges and called the defendant "one of the most prolific child molesters that this office has ever seen," and the court adopted the prosecutor's reference to violation of the victims' trust as an aggravating circumstance to support its exceptional sentence); State v. Jerde, 93 Wn. App. 774, 782, 970 P.2d 781 (1999) (breach where the prosecutor repeatedly emphasized aggravating factors that supported an exceptional sentence, despite the State's obligation to make a mid-range sentencing recommendation); State v. Van Buren, 101 Wn. App. 206, 217, 2 P.3d 991 (2000) (breach where the prosecutor made brief reference to sentencing recommendation and highlighted three aggravating factors, including one factor not specifically cited in the presentence report); State v. Williams, 103 Wn. App. 231, 236, 11 P.3d 878 (2000) (breach when the State violated the plea agreement to recommend a standard range sentence by highlighting aggravating factors that supported an exceptional sentence).

The language in the State's sentencing memorandum highlights aggravating factors which support imposing an exceptional sentence on Molnar. In the memorandum, the State emphasized the vulnerable victim aggravator, which the State had explicitly agreed to drop as part of the plea agreement. The State also emphasized

an uncharged aggravating factor of abuse of trust. While the State contends that these remarks were necessary to persuade the trial court to impose the State's mid-range recommendation of a term of a 90-month minimum, rather than Molnar's recommendation of a 78-month minimum, this argument is unpersuasive. Although the State maintains that it was adhering to the mid-sentence recommendation, objectively, the remarks in the memorandum demonstrate that the State advocated for the court to impose an exceptional sentence on Molnar by highlighting the aggravating factors of the case.

The State's comments highlighting the aggravating factors were unnecessary to support its recommendation, and violated the terms of the plea agreement. While Molnar provides numerous cases to support his argument, the State's contention is wholly unsupported by existing case law. Because Molnar was not charged with abuse of trust, and the State agreed to drop the vulnerable victim aggravator as part of the plea agreement, the State breached the agreement by highlighting these aggravating factors in its memorandum.

If the State breaches a plea agreement, the appropriate remedy is to remand for the defendant to choose whether to withdraw the guilty plea or seek enforcement of the State's agreement. Neisler, 191 Wn. App. at 266. If the defendant elects to seek enforcement of the agreement, the defendant is entitled to a new sentencing hearing in front of a different judge. Van Buren, 101 Wn. App. at 218. "At this hearing, the State must present the agreed upon sentencing recommendation without equivocation." Van Buren, 101 Wn. App. at 218.

Reversed and remanded for Molnar to elect either to withdraw his guilty plea or to enforce the plea bargaining agreement before a different judge.

Mann, C.J.

WE CONCUR:

Chun, J.

Lippelwick, J.

Appendix B

JENNIFER JOSEPH

RECEIVED

By King County Prosecutor's Office at 10:14 am, Jul 13, 2020

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

| | | |
|--------------------------|---|-------------------------|
| THE STATE OF WASHINGTON, |) | No. 80461-8-I |
| |) | |
| Respondent, |) | |
| |) | DIVISION ONE |
| v. |) | |
| |) | ORDER DENYING MOTION |
| |) | FOR RECONSIDERATION AND |
| |) | DENYING LEAVE |
| LASZLO MOLNAR, |) | |
| |) | |
| Appellant. |) | |
| _____ |) | |

The State of Washington has moved to reconsider the court's opinion filed on June 1, 2020. The State also moved for leave to file late verbatim report of proceedings and supplemental clerk's papers. The panel has determined that both motions should be denied.

Therefore, it is

ORDERED that the motion for reconsideration and motion for leave is denied.

FOR THE COURT:



Appendix C

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

| | | |
|----------------------|---|----------------------|
| STATE OF WASHINGTON, |) | No. 14-1-06526-1 KNT |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| LASZLO MOLNAR, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

VERBATIM REPORT OF PROCEEDINGS

THE HONORABLE VERONICA ALICEA GALVAN, JUDGE, PRESIDING

OCTOBER 19, 2015

APPEARANCES:

For Plaintiff: KATHLEEN VAN OLST
King County Prosecutor's Office
516 Third Avenue, Suite W554
Seattle, Washington 98104
(206) 477-1892

For Defendant: AMY MUTH
Law Office of Amy Muth, PLLC
1000 Second Avenue, Suite 3140
Seattle, Washington 98104
(206) 267-0349

Transcribed by: Rose Landberg
Lickety Split Transcripts
P.O. Box 21461
Seattle, Washington 98111
206-932-5025

TABLE OF CONTENTS

State of Washington v. Laszlo Molnar
King County Cause No. 14-06526-1 KNT

OCTOBER 19, 2015

| <u>Event</u> | <u>Page</u> |
|--------------|-------------|
| Sentencing | 3 |

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

October 19, 2015, 08:37:40

COURT: Thank you. You may all be seated. Good morning. This is the matter of Mr. Laszlo Molnar. Good morning, Mr. Molnar. Here for sentencing, 14-1-06526-1. Will counsel please identify themselves for the record.

MS. VAN OLST: Yes, Your Honor. Kathy Van Olst for the State. And also present is the defendant, represented by Amy Muth.

MS. MUTH: Good morning, Your Honor. Amy Muth on behalf of Laszlo Molnar, seated to my right.

COURT: Good morning to you as well.
Are the parties ready to proceed?

MS. MUTH: I believe we are, Your Honor.

MS. VAN OLST: We are.

COURT: I'll hear from the State.

MS. VAN OLST: Thank you, Your Honor.

Your Honor, we're here for entry of judgment and sentence in this matter. The defendant entered a plea of guilty to one count of rape in the second degree back on August 26th of 2015. The offender score for this defendant is a 0. The serious level of that offense is an 11, making his total standard range on this indeterminate sentence 78 to 102 months, with a maximum statutory term of life and a \$50,000 fine. And I believe counsel's in agreement with regard to the

1 seriousness level and the standard range.

2 MS. MUTH: That is correct.

3 MS. VAN OLST: Your Honor, then with regard to the
4 State's recommendation in this case. I would first like
5 to just take a moment and make sure that the court has
6 copies of everything that the parties have submitted.

7 COURT: Everything that the parties have submitted,
8 the court has read and gone over, including the PSI, as
9 well as the memorandums from each of the parties, as
10 well as letters received from both defense on behalf of
11 the defendant, letters from the victim's family,
12 including the one received yesterday.

13 MS. VAN OLST: Thank you, Your Honor. As well, I
14 do have Ms. Sherri Moon and Tammie Black, who are
15 present and would like to address the court.

16 Your Honor, the State's recommendation in this case
17 is that the court sentence the defendant to the
18 Department of Corrections for an indeterminate term, the
19 minimum term of which is 90 days. That's the middle of
20 the standard range.

21 COURT: Ninety months?

22 MS. VAN OLST: Ninety months, yes. And that any
23 additional time be, he be ordered to serve on community
24 custody if he is released after that 90 months.

25 We'd also ask the court to impose the conditions of

1 appendix H, which are incorporated by reference. Also
2 ask the court to impose no contact with Sherri Moon in
3 this case. As well, that the court impose restitution.
4 And that will need to be set on a future date because
5 we're just beginning to get some information from the
6 victims in the case. Also, court costs, the mandatory
7 victim penalty assessment, a \$100 DNA collection fee,
8 blood testing for HIV as well as DNA, and sex offender
9 registration, as well as revoking the defendant's
10 firearm possession rights and loss of right to vote.

11 Your Honor, in this case, the State has submitted a
12 brief to the court in regard to the basis for our
13 recommendation of a mid-range sentence in this case. We
14 believe that is appropriate given the egregious nature
15 of this case as well as the victim's vulnerability and
16 the abuse of trust that occurred in this matter.

17 The victim in this case, Barbara Averill, was 83
18 years old. She had been in the defendant's facility for
19 a number of years and was there because of dementia.
20 She was unable to really speak and to really handle any
21 of her activities of daily life, as we put in the
22 briefing identified for the court. She relied all on
23 the defendant for those things. As well, the family
24 chose this home carefully because of the defendant's
25 representation as a good caregiver, he and his wife.

1 And I think it's important to acknowledge that this
2 is a defendant who breached that trust in raping this
3 victim multiple times over the course of, toward the end
4 of her life. Within a short time period after this
5 incident was discovered, she passed away, the victim
6 did. And that's why Sherri Moon and Tammy Black are
7 here to talk to the court on her behalf.

8 Your Honor, I think the information to the court
9 with regard to the type of, that the extreme breach of
10 trust that occurred in this case with regard to the
11 defendant's actions against this victim are best
12 summarized by the family in their letters. So at this
13 time, I would ask both Sherri and Tammy if they are able
14 to come forward so that they can speak to the court.

15 Your Honor, this is Tammy Black.

16 COURT: Good morning.

17 MS. BLACK: Good morning, Your Honor.

18 COURT: And this is Ms. Tammy Moon. Is that
19 correct?

20 MS. BLACK: Tammy Black.

21 COURT: Tammy Black. Thank you.

22 MS. BLACK: I am Barbara Jean Averill's
23 granddaughter. Last November, my life was forever
24 changed. I trust no one around my children. I always
25 feel evil is lurking. I constantly worry and panic over

1 their safety.

2 I have perfect knowledge of knowing that my
3 grandmother Barbara was probably tortured daily by
4 Laszlo Molnar. I have had nightmares so horrible and
5 sickening because of this. I myself am tortured by the
6 realization that this has been going on for years. My
7 beautiful helpless grandmother spent her last few years
8 being tortured and raped. It is tortuous to look back
9 on visits with her. I beat myself up for not knowing,
10 not finding out sooner, for not being there more. On
11 her birthday, I went there to see her. The door was
12 locked. I knocked and rang the doorbell. Finally,
13 after at least 15 minutes and a phone call to my mom, he
14 answered. Now I dread knowing what was being done to
15 her.

16 How do you get through this not being able to
17 communicate with anyone? I cannot imagine the fear my
18 grandmother felt. She was trapped and unable to even
19 call out for help. Laszlo Molnar set himself up to be
20 able to rape women. He only accepted women the last few
21 years in his home while his home was open to set himself
22 up for a block of time when he was able to do this.

23 My family is devastated and emotionally damaged by
24 this. My grandmother Barbara was an amazing woman. She
25 drove school bus for disabled children. She adored and

1 loved them. She was kind, loving. She worked hard her
2 entire life. She was actually forced to retire due to
3 her health. Her last years should have been peaceful.
4 She was robbed of that. She was raped and violated God
5 only knows how long and how many times or how many other
6 victims.

7 I beg the court to never allow this man to
8 victimize another woman or person. I ask the court to
9 give him the longest sentence possible given the chance
10 he will offend again. He has shown no mercy during the
11 attacks against my grandmother. He overpowered her. He
12 violated and raped her. He has not been honest with the
13 court. He has not confessed to all that he has done.
14 He is a danger to society and will forever be. Please
15 allow our family to have the peace of mind that this
16 monstrous man will be behind bars for the maximum amount
17 of time.

18 Thank you.

19 COURT: Thank you, Ms. Black.

20 MS. JOHNSON: Good morning, Your Honor. I'm an
21 advocate from the King County Sexual Assault Resource
22 Center. Sherri Moon, the victim's mother, has asked me
23 to read a letter on her behalf.

24 COURT: And just for the record, your name, please.

25 MS. JOHNSON: Danni Johnson.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COURT: Thank you, Ms. Johnson.

MS. JOHNSON: "My name is Sherri Moon. My mother was Barbara Jean Averill. She went by Jean. She was a very special person and my best friend. She was a wonderful grandmother and great grandmother. She was my mom, then my child, and then my baby due to her dementia.

"I never wanted to put my mom in a nursing home, but I could not take care of her due to my health. I then sought out an alternative, and I found AA Adult Family Home. Their brochure said 'Providing quality adult care in a safe family environment while maintaining comfort, dignity, and independence, AA Adult Family Home and Auburn's Adult Care are licensed by the Department of Social & Health Services of Washington State to provide services for people with dementia, Alzheimer's, mental health, and with developmental disabilities.' I met with Laszlo and Teresita Molnar, and they assured me that they would treat my mom as they would their own. After reading the brochure and meeting with Laszlo and Teresita, I trusted that my mom would be safe there.

"I visited my mom two to three times a day when I could, as my health would allow. When I wasn't able to visit, my husband would. I had a special bond with my

1 mother, and we never went more than a week without
2 seeing each other. My mom was my comfort.

3 "Laszlo started calling my mom Momma Jean, which
4 sickens me now. I was told by a woman that worked there
5 that she thought my mom was being neglected by Teresita
6 Molnar. Once I heard that, I put a camera in my mom's
7 room to make sure she was being properly taken care of.
8 I brought the SD card from the nanny cam home to watch
9 the video. The video started, and I watched my mom,
10 best friend, child, and baby being raped by Laszlo
11 Molnar. My mom could not defend herself, get away, or
12 scream out for help. My mom tried to move, but he would
13 hold her there. She was his helpless victim.

14 "No one should ever have to go through something
15 like this in their lifetime, but my mom did. No one
16 should ever have to watch their mother, sister,
17 daughter, wife, or any other human being raped. I was
18 horrified, sickened, and in shock by what I saw. My
19 mother was helpless and didn't have a chance.

20 "I called 911, and the Auburn police came, watched
21 the video, and immediately removed my mom from the home.
22 My mom was then taken to the hospital, and a rape kit
23 was done on her. I could see by the look in her eyes
24 that she was terrified.

25 "After bringing my mom home from the hospital, I

1 told her I was sorry and to forgive me for putting her
2 there. I could not sleep because I felt that I had to
3 watch her at all times so nothing else could happen to
4 her. It was devastating to me and my family to have to
5 watch my mom die a horrible death.

6 "It was always my hope that my mom would pass in
7 peace, but that did not happen. Because of what Laszlo
8 Molnar did, my mom died a terrified woman. He knew that
9 she was molested as a child, and he took full advantage
10 of her.

11 I keep asking myself why did he do this? Laszlo is
12 nothing more than a predator taking advantage of a
13 helpless woman. He had the perfect place for his
14 victim. He thought no one would ever find out the
15 horror he was doing.

16 "I see the video over and over in my head every day
17 showing what he did to her. If I see anyone who
18 resembles Laszlo Molnar in any way, the images of my mom
19 being raped start over in my head. My children are
20 suffering knowing what happened to their grandmother,
21 and they have to live with what he did every day.

22 "Because of what Laszlo Molnar did, I cannot make
23 any decisions on my own anymore. I'm scared it will be
24 wrong once again. I cannot stay in my own home anymore
25 because I keep seeing everything that happened there,

1 the way my mom passed away there, watching the video
2 there. I cry myself to sleep every night knowing that I
3 put her in that predator's care. Again, I will never
4 forgive myself. I just hope that my mom will forgive
5 me. Our lives will never be the same again because of
6 what he did. I don't know how anyone can be such a
7 monster.

8 "I know in my heart that my mom was not the first
9 to fall victim to him, and I'm sure she will not be the
10 last unless he is stopped. My mom through her family
11 and this court will have the last word. My mom passed
12 away on December 8.

13 "Thank you. Sherri Moon."

14 COURT: Thank you, Ms. Johnson.
15 Counsel.

16 MS. MUTH: Thank you, Your Honor.

17 Laszlo Molnar has taken full responsibility for his
18 actions. He deeply regrets them, and he sincerely
19 apologizes for what he has done.

20 Mr. Molnar is a person who grew up with a rather
21 difficult life. He was born in Romania, an ethnic
22 Hungarian under Nicolai Ceausescu. Eventually, he was
23 able to flee the country to Austria, where he spent six
24 years in a refugee camp and eventually made it to the
25 United States. During that time, his family was not

1 able to join him right away and, in fact, he staged a
2 hunger protest to protest the fact that his family
3 wasn't being brought over as quickly as he would like.

4 When he came to this country, he had little
5 education. He found work in a lot of very hard labor
6 jobs. He worked in the fishing industry, in meat
7 cutting. He worked initially as a coal worker when he
8 first came here to Chicago. And through all of that
9 hard work, he eventually ended up in Seattle and founded
10 this adult family home.

11 In considering an appropriate sentence, Mr. Molnar
12 wishes this court to know that it is very important to
13 him that the court take in consideration his wife
14 Teresita Molnar. Ms. Molnar is a Filipino national, has
15 no family here. Mr. Molnar has a son, Laszlo Jr. Ms.
16 Molnar and Mr. Molnar are present in the court to
17 support Laszlo Molnar. Teresita was able to have a
18 friend from her church accompany her to this sentencing
19 but otherwise has very, very little social support.
20 When I've spoken with her, she's clear that she's very
21 depressed. She does not drive. She does not work. Mr.
22 Molnar's absence from her will be very, very difficult
23 on her.

24 Mr. Molnar is interested in participating in the
25 Twin Rivers sex offender treatment program should he be

1 designated to the Monroe Correctional Complex, and we've
2 discussed what we can do to ensure that that happens.

3 He stands before this court with no other criminal
4 history. He's taken responsibility for his actions.
5 With that, we request the court impose a low-end
6 sentence of 78 months.

7 COURT: Thank you.

8 Mr. Molnar, you're not obligated to say anything to
9 the court but is there anything you'd like to say, sir,
10 before I impose sentence?

11 MR. MOLNAR: (No audible response)

12 COURT: Is there anybody else who would like to
13 speak on Mr. Molnar's behalf?

14 MS. MUTH: No, Your Honor.

15 COURT: It is said that a society is judged by how
16 it treats its most vulnerable in its population: the
17 children, the ill, the elderly. Can we judge an
18 individual by any less?

19 Mr. Molnar in this case took advantage of an
20 elderly individual who was unable to speak, who was
21 unable to walk, who was infirm. Whether he was in a
22 position of trust or not, the fact that he did it to
23 this individual says a lot about who he is.

24 In determining what is a just sentence in this
25 case, the court must always look for any mitigation.

1 And frankly, Mr. Molnar, in your case, the court can
2 find none. A difficult childhood, a difficult life does
3 not give us carte blanche to engage in torture.

4 This court will sentence the defendant as follows.
5 It will be an indeterminate sentence with a minimum of
6 102 months. He will be on community supervision for
7 life. He will pay victim's penalty of \$500. He will
8 pay court costs as determined.

9 Madam clerk, do you have that amount?

10 CLERK: Yes.

11 COURT: \$215.50. Restitution is to be determined.
12 He's to have no contact with Ms. Sherri Moon. He's to
13 submit to an HIV and DNA testing, and there will be an
14 \$100 assessment for that. Furthermore, he is to comply
15 with all conditions in appendix H. He should register
16 as a sex offender. And again, that will be for life.
17 His right to own or possess any firearms is hereby
18 revoked. He is to never again engage in the care of any
19 elderly person.

20 To the family of Ms. Averill, it appears that you
21 feel guilty for what happened, but your actions and your
22 love for your grandmother and your mother potentially
23 saved many others. You're not at fault for the actions
24 of one individual. These are actions he has taken, and
25 you should not carry those with you. This family is

1 bent but not broken. I wish you the best of luck.

2 MS. VAN OLST: And Your Honor, with regard to the
3 restitution hearing, whether the defendant waives his
4 presence at that.

5 MS. MUTH: Mr. Molnar will waive his presence for
6 the hearing.

7 COURT: Thank you.

8 MS. VAN OLST: Your Honor, if I might approach.

9 COURT: You may.

10 MS. VAN OLST: I'm handing the court a copy of the
11 sexual assault protection order that appears to have
12 been signed by Mr. Molnar, as well as the notice of
13 ineligibility to possess a firearm, Your Honor, and the
14 notice of rights on appeal.

15 COURT: Notice of rights of appeal, the protection
16 order, and notice of ineligibility to possess a firearm
17 have been signed.

18 MS. VAN OLST: Mr. Molnar, I'm going to hand you a
19 copy of your notice of ineligibility to possess a
20 firearm and loss of voting rights. So under this order,
21 you understand that those rights won't be restored until
22 an order of law has done that. Do you understand that?

23 MR. MOLNAR: (No audible response)

24 MS. VAN OLST: Okay. As well, I'm handing you a
25 copy of the sexual assault protection order in this

1 matter that prohibits your contact with Sherri Moon from
2 now until October 19, 2115. That's 100 years. Do you
3 understand that?

4 MR. MOLNAR: Yeah.

5 MS. VAN OLST: And there is a copy for your
6 records.

7 MS. MUTH: Your Honor, I've reviewed the judgment
8 and sentence. It appears to comport with the court's
9 oral rulings.

10 COURT: Thank you.

11 MS. VAN OLST: I'll hand it forward at this time.

12 COURT: The court has signed the fingerprint form,
13 noting defendant is, that it is correct.

14 MS. VAN OLST: And Your Honor, I'm handing you
15 appendix J, which is the registration (inaudible).

16 COURT: Thank you.

17 The court has signed appendix J as well, outlining
18 registration requirements, appendix G ordering
19 biological testing.

20 The judgment and sentence reflects the court's oral
21 ruling. The court has signed that as well.

22 Mr. Laszlo Molnar's family, I wish you the best of
23 luck. You as well, Mr. Molnar.

24 Good day, everyone.

25 October 19, 2015, 09:01:37

1 I hereby certify that this is a true and correct
2 record of the proceedings conducted on October 19, 2015
3 before Judge Veronica Alicea Galvan in the matter of State
4 of Washington v. Laszlo Molnar, King County Cause No. 14-1-
5 06526-1 KNT. I further certify I am in no way related to or
6 employed by any party or counsel and I have no interest in
7 this matter.
8

9 Dated this 8th day of June, 2020.

10 *Rose Landberg*

11 Rose Landberg

12 Court-Approved Transcriptionist

13 AAERT Certified, No. CET-D 664

14 Lickety Split Transcripts

15 P. O. Box 21461

16 Seattle, Washington 98111

17 (206) 932-5025

18 r.landberg@comcast.net
19
20
21
22
23
24
25

Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to Laszlo Molnar, #385109, Monroe Correctional Complex – TRU, P.O. Box 888, Monroe WA 98272, containing a copy of the Petitioner for Review, in State v. Laszlo Molnar, Cause No. 80461-8, in the Court of Appeals, Division I, for the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

Dated this 7th day of August, 2020.

U Brame

Done in Seattle, Washington

KING COUNTY PROSECUTOR'S OFFICE - APPELLATE UNIT

August 07, 2020 - 10:54 AM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 80461-8
Appellate Court Case Title: State of Washington, Respondent v. Laszlo Molnar, Appellant

The following documents have been uploaded:

- 804618_Petition_for_Review_20200807105325D1234080_7103.pdf
This File Contains:
Petition for Review
The Original File Name was 80461-8 - Petition for Review.pdf

A copy of the uploaded files will be sent to:

- paoappellateunitmail@kingcounty.gov

Comments:

Please note due to Covid-19 and King County's policy allowing its employee to remote to work from home, the State's Response to this PRP will not be mailed out to the petitioner until Tuesday, August 11, 2020, on scheduled day when staff goes to the office to serve pro se defendant the filed document in the mail. Thank you for your understanding.

Sender Name: Wynne Brame - Email: wynne.brame@kingcounty.gov

Filing on Behalf of: Jennifer Paige Joseph - Email: jennifer.joseph@kingcounty.gov (Alternate Email:)

Address:
King County Prosecutor's Office - Appellate Unit
W554 King County Courthouse, 516 Third Avenue
Seattle, WA, 98104
Phone: (206) 477-9497

Note: The Filing Id is 20200807105325D1234080