67229-1 67229-1

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON	)	COA No. 67229-1-I
	)	
Respondent,	)	APPELLANT'S PRO SE STATEMENT
	)	OF ADDITIONAL GROUNDS RAP
v.	)	10.10
	)	
MALCOLM HOLLINSWORTH	)	
	)	
Appellant.	)	

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2012 MAR -7 AM 10: 56

A. IDENTITY OF MOVING PARTY

1. COMES NOW the Appellant, Malcolm F. Hollinsworth, and submit's the following pro se statement of additional grounds for review pursuant to RAP 10.10.

B. ADDITIONAL GROUND FOR REVIEW

2. The Trial Court Err'ed In Calculating Two Prior Residential Burglary Convictions In King County Cause No. 02-C-06113-0 KNT Committed When Hollinsworth Was A Juvenile As If They Were Adult Convictions For Sentencing Purposes. The SRA (Sentencing Reform Act), creates a grid of standard sentencing ranges calculated according to the seriousness level of the crime in question and the

defendant's offender score. RCW 9.94A.525, .510, .520, .525, .530; State v. Ford, 137 Wn.2d 472, 479, 973 P.2d 452 (1999). The offender score is the sum of points accrued as a result of prior convictions. RCW 9.94A.525. The Court reviews de novo the sentencing court's calculation of the offender score. State v. Rivers, 130 Wn.App. 689, 699, 128 P.3d 608 (2005).

3. Each of Hollinsworth's underlying felony convictions are classified in RCW 9.94A.030 as "non-violent" felony offenses. RCW 9.94A.525(7) states: " If the present conviction is for a nonviolent offense . . ." count "1/2 point for each prior juvenile nonviolent felony conviction. Id. This means, offense committed by Hollinsworth before he turned 18-years old, unless the offense was before the Court pursuant to RCW 13.04.030, or was transfered by the appropriate juvenile court to the adult division of the superior court, count as a 1/2 point each in the calculation of Hollinsworth's current offense if those prior offenses were also defined as nonviolent offenses..

4. The underlying judgment and sentence lists Hollinsworth's date of birth as April 10, 1984. Thus, it is clear from the face of the judgment and sentence that Hollinsworth did not turn 18-years old until April 10, 2002. Therefore, crimes committed by Hollinsworth prior to April 10, 2002 that were not before the court pursuant to RCW 10.03.030 automatically or that were not transfered to the adult division of the superior court by the juvenile court, count in the offender score calculation of Hollinsworth's underlying crimes as a 1/2 point each, if they too are noviolent offenses.

5. The underlying judgment and sentence is invalid on it's face because it list's two prior residential burglary convictions, committed by Hollinsworth when he was 17-years old as criminal history, adding two-points, or one point each, into the calculation of Hollinsworth's offender score. According to RCW 9.94A.525, the two crimes committed by Hollinsworth on 12/03/2001, in King County cause number 02-C-06113-0 KNT, erroneously added two points to the offender score calculation of the underlying judgment and sentence.

6. Hollinsworth was 17-years old when he committed the crimes convicted of in King County Cause No. 02-C-06113-0 KNT. Although Appendix B to the underlying judgment and sentence lists the sentencing date for those two burglaries as 11/08/2002, it is clear that on the date those crimes were committed, both on November 23, 2001, Hollinsworth was 17-years old. See Appendix A: Information, and; Appendix B: Judgment and Sentence, King County Cause No. 02-C-06113-0 KNT.

7. Accordingly, the trial court err'ed in finding that Hollinsworth had an offender score of 9, and that the standard sentence range of Hollinsworth's Promoting Prostitution in the First Degree offense was 108-120 months. The Court, in turn, err'ed in imposing the high-end of that range, 120-month's, upon Hollinsworth as a term of confinement.

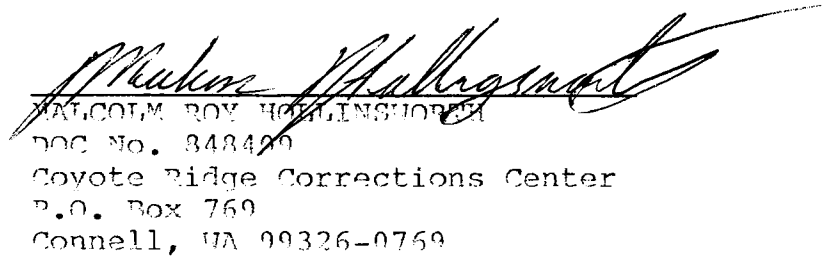
8. Hollinsworth's actual offender score, properly calculated, is 8, and his actual standard sentence range is 77-102 months, well below the 120-month's erroneously imposed.

9. Because the underlying judgment and sentence evinces infirmaties that do not require further elaboration, this Court should hold the underlying judgment and sentence imposed upon Hollinsworth is invalid on it's face, and should REMAND the matter to the trial court with directions to resentence Hollinsworth with an offender score of 8 1/2, rounded down to 8 pursuant to RCW 9.94A.525.

It Should Be So Ordered.

DATED this 5th day of March, 2012.

Respectfully submitted,
BY THE APPELLANT:



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COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,	)	No. 67229-1-I
	)	
Respondent,	)	DECLARATION OF MAILING
	)	
v.	)	
	)	
MALCOLM HOLLINSWORTH,	)	
	)	
Appellant.	)	

This is to certify that I, the undersigned, provided by U.S. Mail at the Coyote Ridge Corrections Center, true and correct copies of APPELLANT'S PRO SE STATEMENT OF ADDITIONAL GROUNDS, to the following sources, postage pre-paid, and properly addressed:

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King County Prosecutor
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Seattle, WA 98104

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STATE OF WASHINGTON
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DONE this 5th day of March 2012.

BY THE APPELLANT:

MALCOLM ROY HOLLINSWORTH