NO. 74494-1-I

COURT OF APPEALS, DIVISION I
STATE OF WASHINGTON

FILED
Sep 06, 2016
Court of Appeals
Division I
State of Washington

In re the Personal Restraint Petition of RONALD L. BROWN, Petitioner.	PETITIONER'S REPLY TO DEPARTMENT'S SUPPLEMENTAL RESPONSE

THE STATE'S CASUAL USE OF LABELS DOES NOT CHANGE THE SUBSTANCE OF MR. BROWN'S SUPERVISION AND CONDITIONS AND THEIR EFFECT ON HIS FREEDOM.

The State, citing to footnotes in cases decided under unknown versions of the SRA that may or may not have been applicable on the dates that Mr. Brown was sentenced, elevates labels over substance. Proclaiming confidently that community supervision, community placement and community custody are different types of sentences, and that Mr. Brown was sentenced to community placement not community supervision, the Department fails to say why the label makes a difference in this case, where Mr. Brown was being supervised for his compliance with the conditions imposed under the authority of the SRA. Whether the label affixed to the supervision here is "community supervision" or "post-release supervision", and

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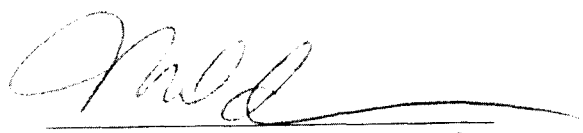
whether the conditions were imposed pursuant to "community supervision" or "community placement", the effect on Mr. Brown's life and freedom is the same. Moreover, since the conditions of his two sentences were "imposed by a court pursuant to [Chapter 9.94A RCW]", the appropriate label with statutory substance – see RCW 9.94A.030(7) – is indeed "community supervision". None of the cases cited by the State deals with this issue.

"Except for exceptional sentences as authorized under RCW 9.94A.120(2), if two or more sentences that run consecutively include periods of community supervision, the aggregate of the community supervision period shall not exceed twenty-four months." RCW 9.94A.400(5). This language prohibits what the legislature plainly deemed to be an excessive period of supervision and of being subject to conditions of confinement, in the absence of a judicial determination that a supervisory term beyond twenty-four months was warranted by recognized statutory factors. This is the substance that the Department feels, without explanation and with citation only to footnotes decided under versions of the SRA that may not be applicable, should be disregarded by casual use of a label.

DATED: September 4, 2016

Respectfully submitted,

By: 

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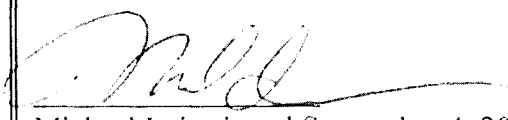
DECLARATION OF MAILING

I declare under penalty of perjury under the laws of the State of Washington that on September 4, 2016 I mailed a copy of this motion, by depositing it in the mail postage prepaid, to Alex Kostin at his address on file with the Washington State Bar Association: Washington Attorney General's Office, PO Box 40116 Olympia, WA 98504-0116. On this same date I also sent him a copy by email at his email address on file with the Bar Association.



Michael Iaria signed September 4, 2016 at
Bainbridge Island, WA

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