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COURT OF APPEALS

No. 34215-4-II

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STATE OF WASHINGTON

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IN THE
COURT OF APPEALS, DIVISION II,
OF THE STATE OF WASHINGTON

**STATE OF WASHINGTON,
Respondent,**

v.

**JOHN PAUL REDMAN,
Appellant.**

APPELLANT'S REPLY BRIEF

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PM 8/7/06

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ARGUMENT

Mr. Redman's Analysis of What Constitutes Separate and Distinct Criminal Conduct Is the Only Analysis Consistent with Both Case Law and the Sentencing Reform Act of 1981

The State argues that Mr. Redman's sentencing analysis is overly broad and encourages extended, "incessant[]" rapes. Brief of Respondent at 21-23. To the contrary, it is the only analysis consistent with both case law and the Sentencing Reform Act of 1981 (Act). Among other goals, the Act is designed to ensure sentences are proportionate to the offense and offender, to promote respect for the law by providing just punishment, and to minimize sentencing disparities:

The purpose of this chapter is to make the criminal justice system accountable to the public by developing a system for the sentencing of felony offenders which structures, but does not eliminate, discretionary decisions affecting sentences, and to:

- (1) Ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history;
- (2) Promote respect for the law by providing punishment which is just;
- (3) Be commensurate with the punishment imposed on others committing similar offenses;
- (4) Protect the public;

- (5) Offer the offender an opportunity to improve him or herself;
- (6) Make frugal use of the state's and local governments' resources; and
- (7) Reduce the risk of reoffending by offenders in the community.

RCW 9.94A.010.

Treating the twenty-minute rape of a woman in her apartment as three separate and distinct crimes for sentencing purposes results in a disproportionate, unjust sentence similar to that imposed upon a serial rapist, not a first-time offender committing a single rape by various means. The State's analysis treats Mr. Redman the same as the rapist who attacks three different women on three different occasions at three different locations for whatever length of time imaginable, so long as there is not a single interruption or change of position. Indeed, it is the State's analysis that encourages a rapist to rape "incessantly," see Brief of Respondent at 22, as under its analysis any pause demands a consecutive sentence. Because Mr. Redman's consecutive sentences contravene the purposes of the Sentencing Reform Act, this Court should remand for resentencing.

CONCLUSION

For all of these reasons and the reasons set forth in Appellant's Brief, John Paul Redman respectfully requests this Court to remand with the direction that he be resentenced to concurrent sentences.

Dated this 7th day of August, 2006.

Respectfully submitted,

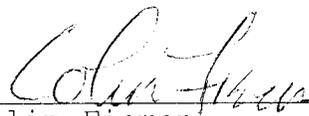


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DEPT. OF CORRECTIONS

CERTIFICATE OF SERVICE

I certify that on this 7th day of August, 2006, I mailed one copy of the attached brief, postage prepaid, to the attorney for the Respondent, Kathleen Proctor, Deputy Prosecuting Attorney, 930 Tacoma Avenue S, Tacoma, Washington, 98402-2102, and one copy of the brief, postage prepaid, to Mr. John Paul Redman, DOC # 887317, MCC-SOU C-408, P.O. Box 514, Monroe, WA 98272-0514.



Colin Fieman