

FILED
COURT OF APPEALS
DIVISION II

2018 AUG -1 AM 11:29

STATE OF WASHINGTON

BY AD
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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION TWO

STATE OF WASHINGTON,
Respondent,

V.

MICKEY R. GUAYANTE,
Defendant.

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No. 50634-3-II

STATEMENT OF ADDITIONAL GROUNDS

P/M: 7/30/18

Mickey Guayante raises a single ground in addition to those covered in appellate counsel's brief: the trial court employed the wrong test when assessing manifest hardship.

The trial court in this case applied the self-sufficiency standard to determine whether Guayante had established a manifest hardship. This standard was developed by the University of Washington to determine whether a citizen has adequate income to purchase life's necessities. But because it was designed as a measure for a person living in the community, it is inapplicable to a person that is under confinement.

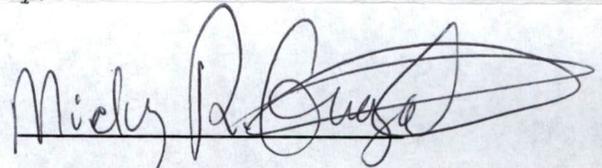
The trial court's use of this standard essentially prohibits all persons living under confinement from achieving remission of LFOs. That is clearly not the intention of the legislature as they explicitly allowed application for remission to come at "any time." RCW 10.01.160(4)(pre-alteration from HB 1783).

By using the self-sufficiency standard the trial court essentially feigned consideration, knowing all the while that it would not grant relief. This does not amount to a meaning consideration of Guayante's motions.

Rather, the court should have either followed the supreme court's directive to employ the General Rule 34 standard, or the many cases in the different divisions of the Court of Appeals that point to non-economic hardships.

The recent changes to the LFO statutes make the outcome of this issue inconsequential for future cases. Nevertheless, this Court should still hold that when a statute allows for remission at any time it is impermissible for a trial court to apply a test that categorically exclude an entire vulnerable population from attaining relief.

Respectfully submitted this 29th day of July, 2018.

A handwritten signature in black ink, appearing to read "Mickey R. Guayante", written over a horizontal line. The signature is stylized and somewhat cursive.

Mickey R. Guayante