FILED
COURT OF APPEALS
DIVISION II
2019 JUL 12 PM 12:51
STATE OF WASHINGTON
BY

Jamal D. Smith
NO. 52538-1-II

Statement of Additional grounds #1

ISSUE: MR Smith's offender score is miscalculated

A sentence that is based upon an incorrect offender score is a fundamental defect that inherently results in a miscarriage of justice and when a trial court has entered an erroneous sentence the Defendant is entitled to be resentenced In re pers restraint of Goodwin, 146 Wn.2d 861, 868 869 50 p.3d 618 (2002).

During the resentencing of MR Smith his offender score for count V was calculated which is against the ambiguity in the law as stated in State v. Breaux 167 Wn.App. 166. 273 p.3d 474 (2012)

MR Smith has two serious violent crimes with the same seriousness level During the initial sentencing in 2004 count V was zeroed out and the range was 180-240 upon resentencing count V was scored at 11 points and MR Smith received 280 months which is 40 months over the top end of the range as the law perscribed given the ambiguous nature of RCW 9.94A.589 (1)(b)

Correcting an erroneous sentence in excess of statutory authority does not affect the finality of that portion of the judgement & sentence that was correct and valid when imposed State v. Rowland 160 Wn.App 316. 249 p.3d 635 2011 Wash. App. Lexis 476 Jan 20. 2011

Jamal D Smith
NO. 52538-1-11

#2

Statement of Additional grounds

ISSUE: the trial court erred in imposing a indefinite term of community custody of 24 to 48 months on counts 1 & ✓

Page 6 of Mr Smith's judgement & sentence clearly shows the error.

State v. Bruch 182 Wn.2d 854,346 p.3d 724 Sep 16 2014

"In 2009, the legistature repeals former Wash, Rev. Code 9.94A.715 and amends Wash Rev. Code 9.94A701: this change eliminates a Rangebased scheme and requires trial court's to impose fixed terms of community custody Based on an offense committed."

Jamal D. Smith
NO. 52538-1-II

Statement of ADDITIONAL GROUNDS: #3

ISSUE: The trial court erred in failing to conduct a individualized inquiry into MR. Smith's ability to pay LFO's & Restitution pursuant to RCW 10.01.160 & 9.94A.753

The Records should reflect MR Smith has always been a indigent Defendant also a juvenile offender who has extremely been at a Disadvantage with the lack of any adult experience outside of incarceration and further the findings of facts highlight extremes which warranted a exceptional sentence DOWNWARD for MR Smith

MR Smith should be remanded to comply with the inquiry of Blazina about the Restitution and LFO's ordered without a clear Determination of his ability to pay.

State v. Blazina 182 Wn.2d 827, 833, 344 P.3d 680 (2015)
State v. Sar 2019 Wash. app Lexis 175 1-23-2019
State v. Ramirez 191 Wn.2d 732, 747 426 P.3d 714 (2018)

Page 4 of the judgement & sentence shows the lack of inquiry along with the Record

Court of Appeals

July 9 19

I Did my Best to present my statement of additional grounds clearly I Have three issues that all Relate to my judgement & sentence I was waiting for a copy of the Record But it never came so I was unable to cite that for you if possible please send me a copy of the Record or order the Responsible party to do so

Thank you

Jamal D. Smith #824926
S.C.C.C.
191 Constantine Way
Aberdeen WA
98520

RECEIVED
JUL 12 2019
CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON