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NO. 52784-7

COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

TERRY WAYNE SHEPARD,

Appellant.

Appeal from the Superior Court of Pierce County
The Honorable Timothy L. Ashcraft

No. 16-1-04494-0

BRIEF OF RESPONDENT

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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	RESTATEMENT OF THE ISSUES	2
	A. Whether the trial court properly imposed an exceptional sentence based on the particular vulnerable victim and abuse of trust aggravating circumstances found by the jury, where neither aggravator constituted an element of defendant's convictions for attempted rape in the second degree and indecent liberties?	2
III.	STATEMENT OF THE CASE.....	2
	A. PROCEDURE.....	2
	B. FACTS	5
IV.	ARGUMENT	8
	A. THE TRIAL COURT PROPERLY IMPOSED AN EXCEPTIONAL SENTENCE BASED UPON THE AGGRAVATING CIRCUMSTANCES FOUND BY THE JURY.	8
	1. Particularly vulnerable victim.....	11
	2. Abuse of Trust.....	16
	3. Remand for resentencing is not required.	19
V.	CONCLUSION.....	20

TABLE OF AUTHORITIES

State Cases

<i>State v. Ferguson</i> 142 Wn.2d 631, 15 P.3d 1271 (2001).....	3, 10
<i>State v. Fisher</i> , 108 Wn.2d 419, 739 P.2d 683 (1987),.....	12, 13, 14, 20
<i>State v. France</i> , 176 Wn. App. 463, 308 P.3d 812 (2013), <i>review denied</i> , 179 Wn.2d 1015 (2014)	9
<i>State v. Grewe</i> , 117 Wn.2d 211, 813 P.2d 1238 (1991)	9, 14, 15, 16
<i>State v. Jennings</i> , 106 Wn. App. 532, 24 P.3d 430 (2001).....	9
<i>State v. Johnson</i> , 173 Wn.2d 895, 270 P.3d 591 (2012).....	10
<i>State v. Marcum</i> , 61 Wn. App. 611, 811 P.2d 963 (1991).....	16, 17, 18, 19
<i>State v. P.B.T.</i> , 67 Wn. App. 292, 834 P.2d 1051 (1992).....	16
<i>State v. Soderquist</i> , 63 Wn. App. 144, 816 P.2d 1264 (1991)..	3, 14, 15, 16
<i>State v. Suleiman</i> , 158 Wn.2d 280, 143 P.3d 795 (2006)	11

Statutes

Laws of 1987, ch. 131, § 2(2)(b)	16
Laws of 2005, ch. 68, §§ 1, 3.....	16
RCW 71.05.020	11, 13
RCW 71A.10.020.....	10, 13
RCW 9.94A.535.....	8, 9
RCW 9.94A.535(3)(b)	3, 8, 11

RCW 9.94A.535(3)(n)	3, 9, 16
RCW 9.94A.537(3), (6)	9
RCW 9.94A.589(1)(a)	9
RCW 9A.28.020.....	10
RCW 9A.44.010(10).....	10
RCW 9A.44.010(11).....	11, 18
RCW 9A.44.010(12).....	10
RCW 9A.44.050(1)(a)	15
RCW 9A.44.050(1)(c)	10
RCW 9A.44.050(1)(c) and (1)(e).....	2
RCW 9A.44.050(1)(c), (e) and (f)	15
RCW 9A.44.050(1)(e)	10
RCW 9A.44.100(1)(b)	12
RCW 9A.44.100(1)(c)	2
RCW 9A.44.100(1)(c)(i).....	11
RCW 9A.44.100(1)(c), (e) and (f)	15

I. INTRODUCTION

The defendant was convicted of attempting to rape a nonverbal, developmentally disabled woman who resided at the state facility where defendant worked as a caregiver. He was also convicted of having repeated sexual contact with another developmentally disabled woman who resided at the same facility. The jury found defendant's crimes were aggravated by the fact that his victims were particularly vulnerable, and defendant used his position of trust to facilitate the crimes. Based upon these aggravating circumstances, the trial court imposed an exceptional sentence.

The trial court properly imposed the exceptional sentence based on the particularly vulnerable victim and abuse of trust aggravating circumstances found by the jury. These aggravating circumstances did not inhere in defendant's crimes such that the Legislature considered them in establishing the standard range. A particular victim's special vulnerability is a factor which may distinguish the crime perpetrated against him or her from other crimes of indecent liberties or attempted second degree rape. The jury here was asked to consider whether defendant's victims were *more* vulnerable than the typical victims of attempted second degree rape and indecent liberties and answered in the affirmative. Additionally, abuse of trust can be distinguishable from one's supervisory authority, such that the

former is not subsumed into the charges of indecent liberties and attempted rape. Such is the case here.

However, even if the court did err in relying on one of the two aggravating circumstances to impose the exceptional sentence, remand for resentencing is not required. The trial court made clear that it would impose the same sentence based solely upon one of the aggravating circumstances. This Court should affirm.

II. RESTATEMENT OF THE ISSUES

- A. Whether the trial court properly imposed an exceptional sentence based on the particularly vulnerable victim and abuse of trust aggravating circumstances found by the jury, where neither aggravator constituted an element of defendant's convictions for attempted rape in the second degree and indecent liberties?

III. STATEMENT OF THE CASE

A. PROCEDURE

On November 14, 2016, the Pierce County Prosecuting Attorney charged Terry Wayne Shepard, hereinafter "defendant," with two counts of rape in the second degree (RCW 9A.44.050(1)(c) and (1)(e)) pertaining to victim M.S. CP 3-4. The State later filed an amended information adding two counts of indecent liberties (RCW 9A.44.100(1)(c)) pertaining to a second victim, M.C. CP 5-7. All four counts were charged with the following aggravating circumstances: the defendant knew or should have known that the victim was particularly vulnerable or incapable of resistance

(RCW 9.94A.535(3)(b)), and the defendant used his position of trust, confidence, or fiduciary responsibility to facilitate the commission of the crime (RCW 9.94A.535(3)(n)). *Id. See also*. CP 22-24 (second amended information).

The case proceeded to jury trial before the Honorable Timothy Ashcraft. RP 3. The jury found defendant guilty of one count of attempted rape in the second degree and two counts of indecent liberties.¹ CP 67, 72, 75; RP 1389-90. For each count, the jury also found that defendant knew, or should have known, that the victim was particularly vulnerable or incapable of resistance, and that defendant used his position of trust, confidence, or fiduciary responsibility to facilitate the commission of the crime. CP 70, 73, 76; RP 1391-93.

At sentencing, the State requested an exceptional consecutive sentence based on the aggravating circumstances found by the jury. RP 1419-24; CP 83-89. Defendant requested a standard range sentence and argued, based on *State v. Ferguson*² and *State v. Soderquist*,³ that “[t]he aggravating factors found by the jury are contained within the elements of the offenses for which he was found guilty and cannot form the basis for an

¹ The jury was instructed on attempted rape in the second degree as a lesser included offense of rape in the second degree. CP 40.

² 142 Wn.2d 631, 15 P.3d 1271 (2001).

³ 63 Wn. App. 144, 816 P.2d 1264 (1991).

exceptional sentence.” CP 77-79; RP 1430-40. The court rejected defendant’s argument and ruled as follows:

I want to address the issue of whether this Court has the authority to give an exceptional sentence. The "to convict" instruction for the Rape 2 charge references supervisory authority references a person with developmental disabilities. The "to convict" instruction for the Indecent Liberties has similar language regarding supervisory authority. What these "to convict" instructions don't have are references to being particularly vulnerable or in a position of trust. Those words are used in special instructions and special verdict forms after the jury has found guilt. As such, the issues of being particularly vulnerable or violating the position of trust were not part of the elements of the underlying crime. As such, the Court concludes that the prohibitions in the *State v. Ferguson* case cited by the defense do not apply.

The jury found that two aggravators did apply to each of these convictions, that of the victims being particularly vulnerable, that Mr. Shepard knew or should have known that, and that he used his position of trust, and that in each instance those issues were a substantial part of committing the crime.

This Court believes it also has the separate authority under the *State v. Hopkins* case, 137 Wn. App. 441, to make the determination of whether the facts here support a determination that the victims were particularly vulnerable and that Mr. Shepard violated his position of trust and that those were substantial elements of the crime. And the Court agrees with the jury and makes those findings separately.

As such, the Court believes that it has the authority to give an exceptional sentence in this case, and I will State that regardless of whether we're talking about particularly vulnerable or position of trust, either one of

these would support an exceptional sentence and either one, in this Court's opinion, would support the sentence that it is giving.

RP 1446-47. The court imposed an indeterminate sentence of 145.5 months to life on the attempted second degree rape count and a determinate sentence of 75 months on each indecent liberties count, with all counts to run consecutive to each other for a total of 295.5 months confinement. RP 1447-48; CP 94-99, 107-109. This appeal follows.

B. FACTS

Defendant was employed as an attendant counselor at the Rainier State School, an institution for developmentally disabled adults that provides care and treatment for those with organic, mental or emotional impairments. RP 438, 585, 807-08, 1162. As an attendant counselor, defendant was responsible for helping clients with their daily living needs, including feeding, dressing, personal hygiene, and using the toilet. RP 425-26, 430, 1023-24.

Defendant worked the graveyard, or night shift, of the 2005 building, which housed approximately 16 special-needs adults. RP 426-29, 1027, 1162-63. The building was divided into a men's side and women's side. RP 428. M.S. and M.C. lived on the women's side of the 2005 building and were roommates. RP 431, 433, 840.

M.S. went to live at the Rainier School at the age of 17 in 1976. RP 772, 777. M.S. suffers from autism and bipolar disorder, is essentially nonverbal, and is incapable of living on her own. RP 431, 774-75, 780-81, 809-11. Intellectually, she functions as a four- to seven-year-old. RP 973-74.

M.C. came to live at the Rainier School in 1961. RP 1029. She suffers from cerebral palsy and scoliosis, needs the assistance of a wheelchair, and is physically incapable of taking care of her own personal hygiene needs. RP 502-05, 813-14, 1028-29. She too has the intellectual capacity of a four- to seven-year-old. RP 815, 974.

On November 12, 2016, attendant counselor Hunter Shear worked the graveyard shift with defendant in the 2005 building. RP 437-38. Defendant was an attendant counselor 2 and therefore senior to Shear. RP 425, 438. Defendant was in charge of the 2005 building that night and assigned Shear to work the men's side of the building. RP 438-39, 1163. Defendant assigned himself the women's side. RP 428-29, 439.

After midnight, on November 13, 2016, Shear went to look for defendant to discuss taking a break. RP 441. She initially looked for defendant in the living room area on the women's side of the house, but he was not there. RP 441-42. Shear proceeded to walk down the hallway and observed defendant in M.S.'s room. RP 442.

Shear observed defendant holding M.S.'s legs to her chest and moving back and forth in a "sexual motion." RP 444-45. Defendant's pants and underwear were down at his knees. RP 443. Defendant turned, looked at Shear, said "Oh, shit," and pulled up his pants. RP 443-44. Shear saw defendant's erect penis coming from M.S.'s vaginal area. RP 444. *See also*, RP 1152-53.

Shear ran from the house to get help. RP 446. Police responded to the scene and detained defendant. RP 447-48, 535, 539-41, 549, 641-43. A licensed practical nurse (LPN) examined M.S. in her room and observed that M.S.'s perineal area was reddened and appeared moist. RP 733. M.S. was taken to the hospital for further examination.⁴ RP 597-98, 1054. Defendant told police he had worked at the Rainier School for 34 years and worked in the 2005 building for 20 years. RP 1162-63. He admitted that he was the shift supervisor that night and in charge of the 2005 house, and he explained that he was in M.S.'s room to comfort her when Shear came in and startled him. RP 1163-65. Defendant denied having sexual intercourse with M.S. or having his pants down. RP 1164. He was placed under arrest. RP 1167.

⁴ M.S. underwent a sexual assault examination. RP 1054. No semen was detected. RP 1098-99, 1107.

The day after defendant's arrest, Rainier School psychologist Mohammad Jazaieri contacted M.S.'s roommate, M.C., to make sure she was okay. RP 805, 818-19, 827. M.C. disclosed that defendant had repeatedly sexually abused her. RP 827, 920-22, 977, 1032-33. *See also*, RP 1011-15, 18-19, 1021 (M.C.'s disclosures to Keri Arnold). At trial, M.C. testified that defendant would wake her up and "play[] dirty down there." RP 842-43. She said defendant "did nasty...He did dirty to me...Put weiner in my pussy." RP 844. She also testified that defendant touched her "tits" underneath her clothing. RP 886. M.C. said it happened more than one time, and she did not like defendant any more. RP 842, 844-45.

Defendant elected not to testify at trial.

IV. ARGUMENT

A. THE TRIAL COURT PROPERLY IMPOSED AN EXCEPTIONAL SENTENCE BASED UPON THE AGGRAVATING CIRCUMSTANCES FOUND BY THE JURY.

RCW 9.94A.535 permits a court to impose a sentence above the standard range if it finds "that there are substantial and compelling reasons justifying an exceptional sentence." Under RCW 9.94A.535(3)(b), a court may impose an aggravated exceptional sentence when a jury finds beyond a reasonable doubt that the defendant "knew or should have known that the victim of the current offense was particularly vulnerable or incapable of

resistance.” See RCW 9.94A.537(3), (6). Under RCW 9.94A.535(3)(n), the court may also impose an aggravated exceptional sentence if the defendant “used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.” Imposing consecutive sentences is an exceptional sentence. RCW 9.94A.535; RCW 9.94A.589(1)(a). This Court reviews the sentencing court’s authority to impose an exceptional sentence de novo. *State v. France*, 176 Wn. App. 463, 469, 308 P.3d 812 (2013), *review denied*, 179 Wn.2d 1015 (2014).

Defendant argues the trial court erred when it imposed his exceptional consecutive sentence, because the Legislature already considered the “vulnerable victim” and “abuse of trust” factors when it set the standard range for his convictions. Brief of Appellant at 1, 13-14. Defendant’s argument is without merit.

To determine whether an aggravating factor supports departure from the standard sentencing range, this Court applies a two-part test: “(1) The trial court may not base an exceptional sentence on factors the Legislature necessarily considered in establishing the standard sentencing range; and (2) the aggravating factor must be sufficiently substantial and compelling to distinguish the crime in question from others in the same category.” *State v. Jennings*, 106 Wn. App. 532, 555, 24 P.3d 430 (2001). See also, *State v. Grewe*, 117 Wn.2d 211, 215-16, 813 P.2d 1238 (1991). Factors inherent in

the crime, because they were necessarily considered by the Legislature, may not be relied on to justify an exceptional sentence. *Ferguson*, 142 Wn.2d at 648.

Defendant was convicted of attempted rape in the second degree, which required proof that defendant intended to commit the crime of rape in the second degree and he took a substantial step towards the commission of that crime. *See* RCW 9A.28.020; *State v. Johnson*, 173 Wn.2d 895, 899, 270 P.3d 591 (2012) (“The intent required is the intent to accomplish the criminal result of the base crime.”). *See also*, CP 41, 43. Defendant was charged with rape in the second degree under RCW 9A.44.050(1)(c) and (e), which provides,

A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person... (c) When the victim is a person with a developmental disability and the perpetrator is a person who is not married to the victim and who...[h]as supervisory authority over the victim...[or] (e) When the victim is a resident of a facility for persons with a mental disorder...and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim.”

See also, CP 34 (jury instruction defining second degree rape). “Developmental disability” is defined in RCW 9A.44.010(10) (citing RCW 71A.10.020). “Mental disorder is defined in RCW 9A.44.010(12) (citing

RCW 71.05.020). “Supervisory authority” is defined in RCW 9A.44.010(11).

Defendant was also convicted of indecent liberties under RCW 9A.44.100(1)(c)(i), which provides, “A person is guilty of indecent liberties when he...knowingly causes another person to have sexual contact with him...When the victim is a person with a developmental disability and the perpetrator is a person who is not married to the victim and who...[h]as supervisory authority over the victim. *See also*, CP 23-24, 47-48.

1. Particularly vulnerable victim.

A defendant’s sentence may be aggravated beyond the standard range when “[t]he defendant knew or should have known that the victim of the current offense was *particularly* vulnerable or incapable of resistance.” RCW 9.94A.535(3)(b) (emphasis added). For the victim’s vulnerability to justify an exceptional sentence, “the State must show (1) that the defendant knew or should have known (2) of the victim’s particular vulnerability and (3) that vulnerability must have been a substantial factor in the commission of the crime.” *State v. Suleiman*, 158 Wn.2d 280, 291–92, 143 P.3d 795 (2006). Here, the jury was specifically instructed that a victim is “particularly vulnerable” if he or she is more vulnerable to the commission of the crime than the typical victim of attempted rape in the second degree or indecent liberties. CP 64.

In *State v. Fisher*, 108 Wn.2d 419, 420-21, 739 P.2d 683 (1987), the defendant was convicted of two counts of indecent liberties for his conduct involving a five-year-old boy. The court imposed an exceptional sentence based on four aggravating circumstances, including defendant's knowledge that the victim was "particularly vulnerable or incapable of resistance due to extreme youth." *Id.* at 422. On appeal, Fisher argued that the sentencing court could not rely on the victim's "extreme youth" as an aggravating factor, because the Legislature had already considered the victim's age in determining the presumptive sentence for the offense, where an element of the offense was that the victim was less than 14 years old. *Id.* 423-24. *See* former RCW 9A.44.100(1)(b).

The *Fisher* court rejected defendant's argument, noting,

The victim's particular vulnerability due to extreme youth is not a factor which necessarily would have been considered in setting the presumptive sentencing range for indecent liberties under RCW 9A.44.100(1)(b). While the Legislature might have reasoned that victims less than 14 years old were more vulnerable in general than those 14 or older, it could not have considered the particular vulnerabilities of specific individuals...It cannot be denied that the specific age of an individual victim is a factor which may distinguish a particular case of indecent liberties under RCW 9A.44.100(1)(b) from other cases involving the same offense...*Victims of this crime range widely in age from 0 to 14 years. To prohibit consideration of the age of the victim in a particular case in sentencing would be to assume that all victims of this offense were equally vulnerable regardless of their age, an unrealistic proposition. A particular victim's special vulnerability due to*

age clearly is a factor which may distinguish the crime perpetrated against him from other crimes of indecent liberties.

Id. at 424 (emphasis added).

The court's reasoning in *Fisher* applies to this case as well. Both M.S. and M.C. were developmentally disabled. M.S. was diagnosed with autism, M.C. was diagnosed with cerebral palsy, and both functioned intellectually as a four- to seven-year-old. *See* RCW 71A.10.020 (definition "developmental disability"). Both were also residents of a facility for persons with a mental disorder, as they lived in a state institution for intellectually disabled adults. *See* RCW 71.05.020 (definition "mental disorder"). However, both M.S. and M.C. were particularly vulnerable due to the specific circumstances of their disabilities.

M.S. was particularly vulnerable because she was nonverbal and therefore could not easily report defendant's conduct. Although she was taught some sign language, her ability to communicate was limited to singular words, and she could not always sign in a manner that made sense. *See* RP 645-46, 781-82, 789-90. Additionally, M.S. was incapable of living on her own, needed constant supervision, and was susceptible to self-harm. RP 777-81, 787.

M.C. was particularly vulnerable, because she required the assistance of a wheelchair, had difficulty getting around by herself, and

needed help with personal hygiene and using the toilet. RP 502-05, 813-14. She was entirely dependent on her caregivers for daily living. Although verbal, she had trouble putting sentences together in order to communicate. RP 815. This too limited her ability to report defendant's conduct.

To prohibit consideration of the *particular* vulnerability of a victim in a given case would be to assume that all persons with a developmental disability or mental disorder were equally vulnerable. *See Fisher*, 108 Wn.2d at 424. This is not the case. "A particular victim's special vulnerability...clearly is a factor which may distinguish the crime perpetrated against [her] from other crimes of indecent liberties [and attempted rape]." *Id.* The jury here was asked to consider whether M.S. and M.C. were more vulnerable than the typical victim of the crimes and answered in the affirmative. RP 64, 70, 73, 76. Thus, the "particularly vulnerable victim" aggravating circumstance found by the jury did not inhere in defendant's crimes such that the Legislature considered it in establishing the standard range. *See Grewe*, 117 Wn.2d at 215. The trial court properly relied on the aggravating circumstance to impose the exceptional sentence in this case, and this Court should affirm.

State v. Soderquist, 63 Wn. App. 144, 816, P.2d 1264 (1991), cited by defendant, does not compel a different result. *See* Brf. App. at 10-11. There, the defendant was convicted of attempted second degree rape by way

of forcible compulsion (RCW 9A.44.050(1)(a)). *Soderquist*, 63 Wn. App. at 145-46. The court affirmed the trial court's imposition of an exceptional sentence based on the abuse of trust and victim vulnerability aggravating factors, because neither factor was an element of second degree rape pursuant to forcible compulsion. *Id.* at 151. The court stated in dicta, without any real analysis, that sexual intercourse with a developmentally disabled person where the perpetrator has supervisory authority over the victim involves both a "vulnerable victim" and an "abuse of trust," *Id.* at 148-49.

However, this statement was unnecessary to the court's holding affirming the aggravating circumstances as they applied to rape by forcible compulsion. Second, the court notably did not state that second degree rape involving a developmentally disabled person involves a *particularly* vulnerable victim. Third, citing *Grewe*, the court recognized that "[w]here a single criminal act includes all of the elements of one form of the crime as well as additional discrete elements from an alternative form, the crime exceeds that contemplated by the Legislature."⁵ *Soderquist*, 63 Wn. App. at 150. Finally, the language of the particular vulnerable victim aggravating circumstance in effect during the *Soderquist* opinion placed specific

⁵ See RCW 9A.44.050(1)(c), (e) and (f) and RCW 9A.44.100(1)(c), (e) and (f).

qualifications on the victim's vulnerability (i.e., requiring extreme youth, advanced age, disability, or ill health). *See* Laws of 1987, ch. 131, § 2(2)(b). The new version of the statute places no qualifications upon the source of the victim's vulnerability and broadens the scope of the aggravating circumstance. Laws of 2005, ch. 68, §§ 1, 3. *Soderquist* is therefore limited to the facts of that case and does not require remand for resentencing.

2. Abuse of Trust.

A defendant's sentence may also be aggravated beyond the standard range when "[t]he defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense." RCW 9.94A.535(3)(n). "A defendant uses a position of trust to facilitate a crime when the defendant gains access to the victim of the offense because of the trust relationship." CP 65. An abuse of a position of trust is a valid aggravating factor to support an exceptional sentence in crimes relating to sexual assault. RCW 9.94A.535(3)(n); *Grewe*, 117 Wn.2d at 216-17. It is commonly used where the defendant has taken advantage of a position where another person has relied or depended on them. *See State v. Marcum*, 61 Wn. App. 611, 612-13, 811 P.2d 963 (1991). An abuse of trust is not found merely because the offender was in a position of authority. *See State v. P.B.T.*, 67 Wn. App. 292, 303, 834 P.2d 1051 (1992) (citing *Marcum*, 61 Wn. App. at 614).

In *State v. Marcum*, 61 Wn. App. 611-12, 811 P.2d 963 (1991), the defendant was convicted of indecent liberties and child molestation in the first degree, and the trial court imposed an exceptional sentence based upon the “abuse of trust” aggravating circumstance. On appeal, Marcum claimed that “abuse of trust” was “subsumed in the indecent liberties charge and therefore [could not] be used as an aggravating circumstance.” *Id.* at 612. This Court rejected the defendant’s argument, reasoning that while a position of authority “frequently coincides with or overlaps a position of trust,” the two are not the same. *Id.* at 614-15. The terms “authority” and “trust” have different dictionary definitions (the former defined as “power to require and receive submission” and the latter defined as “assured reliance on some person or thing”),⁶ “abuse of authority” has not been recognized in Washington as a separate aggravating circumstance, and “many authority figures are not trusted at all.” *Id.* The *Marcum* court therefore held, “[A]s an aggravating circumstance, an abuse of trust occurs where, as here, it is the *trust* element of a relationship, unrelated to any element of authority, that is used to facilitate the crime.” *Id.* at 615.

⁶ Compare CP 39 (definition of “person with supervisory authority”) with CP 65 (definition of abuse of trust).

Here, as in *Marcum*, defendant held positions of both trust and authority.⁷ Defendant was the shift supervisor the night of November 12-13, 2016, and was effectively in charge of the 2005 house. RP 438-39, 1163. He placed himself to work on the women’s side of the house that night (and other nights). RP 428-29, 439. Defendant was in charge of both M.S. and M.C., who were residents of the 2005 house, as he kept watch over them during the night and thus had supervisory authority over them. *See* RCW 9A.44.010(11).

However, defendant also used his position of trust to facilitate the crimes. Defendant had worked in the 2005 house for 20 years. RP 1162-63. As an attendant counselor, he helped the residents with feeding, getting dressed, hygiene, and using the toilet, among other things. RP 425-26, 430, 435-36. During the night shift, defendant was often the only caregiver assigned to the women’s side of the 2005 building. RP 427-29.

M.S. was a longtime resident of the Rainier School. She required personal care and relied on the help of others. RP 503, 780-81. She was also prone to emotional outbursts, RP 809-10, and defendant himself acknowledged to police that M.S. had “behavioral problems” that necessitated his verbal comfort. RP 1164. M.S. therefore relied on

⁷ Defendant himself recognizes that under *Marcum*, there may be circumstances where “abuse of trust” can be distinguished from a defendant’s position of authority. *See* Brf. App. at 12.

defendant to help care for her during the night, as he was often the only person assigned to do so. The same can be said for M.S.'s roommate, M.C. She relied on defendant to help her during the night getting to and from her wheelchair, using the bathroom, and cleaning herself. RP 433-34, 502-05, 879, 882. Defendant used his position as her caregiver to touch her inappropriately.

Both M.S. and M.C. were dependent upon defendant as caretaker. Here, as in *Marcum*, an abuse of trust occurred because it was the *trust* element of defendant's relationship with M.S. and M.C., unrelated to any element of authority, that was used to facilitate the crimes. *See Marcum*, 61 Wn. App. at 615. The trial court properly relied on the abuse of trust aggravating circumstance found by the jury to impose the exceptional sentence in this case. This Court should affirm.

3. Remand for resentencing is not required.

As argued above, the trial court properly relied upon the particularly vulnerable victim and abuse of trust aggravating circumstances found by the jury to impose the exceptional sentence in this case. However, even if this Court approves of only one of the two factors used by the trial court in imposing the exceptional sentence, remand for resentencing is not required. This Court may uphold the exceptional sentence if it is satisfied that the trial court would have imposed the same sentence based solely upon one of the

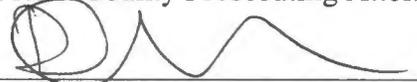
aggravating circumstances. *See Fisher*, 108 Wn.2d at 429-30. Here, the trial court specifically stated, “[R]egardless of whether we’re talking about particularly vulnerable or position of trust, either one of these would support an exceptional sentence and either one, in this Court’s opinion, would support the sentence that it is giving.” RP 1447. Accordingly, it is unnecessary to remand this matter to the trial court for resentencing, as the trial court would impose the same sentence. This Court should therefore affirm.

V. CONCLUSION

For the above stated reasons, the State respectfully requests this Court affirm defendant’s exceptional sentence.

RESPECTFULLY SUBMITTED this 12th day of September, 2019.

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Certificate of Service:

The undersigned certifies that on this day she delivered by ~~E-file~~ U.S. mail to the attorney of record for the appellant / petitioner and appellant / petitioner c/o his/her attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington on the date below.

9-12-19 
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PIERCE COUNTY PROSECUTING ATTORNEY

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