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Court of Appeals
Division II
State of Washington
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NO. S3188-7-II

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

STATE OF WASHINGTON,

Respondent,

v.

CALVIN QUICHOCHO,

Appellant.

ON APPEAL FROM THE
SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR CLARK COUNTY

The Honorable John Fairgrieve, Judge

OPENING BRIEF OF APPELLANT

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A. ASSIGNMENTS OF ERROR

1. The sentencing court abused its discretion in failing to recognize it had the ability to impose less than the statutory maximum for the four firearm enhancements.

3. The sentencing court erred by entering the “threshold” finding of fact 1.c. regarding application of *State v. Houston-Sconiers*¹ to youthful adult offenders. Clerk’s Papers (CP) 204.

4. The sentencing court erred by imposing a \$250 jury demand fee, cost of Department of Corrections (DOC) community supervision, and interest accrual following the Supreme Court's decision in *State v. Ramirez*² and after enactment of House Bill 1783.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Court's statutory sentencing authority includes the power to impose a sentence below the standard range if a mitigating factor offers substantial and compelling reasons for a lower sentence. The court imposed a sentence below the standard range, but believed its authority to decrease Mr. Quichocho's sentence did not allow it to either reduce or impose concurrent sentences for the four firearm enhancements. Did the sentencing court misunderstand its authority to impose an exceptional sentence? Assignments of Error 1 and 2.

2. Do statutory amendments affecting legal financial obligations

¹188 Wn.2d 1, 35, 391 P.3d 409 (2017).

require remand to strike the imposition of the jury demand fee, community supervision fee, and interest accrual on non-restitution LFOs? Assignment of Error 3.

C. STATEMENT OF THE CASE

1. Procedural facts:

James Quichocho and co-appellant Brandon English were convicted of two counts of first degree robbery (Counts 1 and 2), two counts of first degree kidnapping (Counts 3 and 4), and two counts of second degree assault, all while armed with a firearm. *State v. English*, No. 46921-9-II, 2017 WL 1066847 (March 21, 2017), slip op. at *1. Clerk's Papers (CP) 15-46.

At sentencing on November 20, 2014, Judge Barbara Johnson imposed 456 months in Count 3, and 240 months for firearm enhancements, for a total of 456 months. CP 4.

The sentencing court found that the two second degree assault convictions (Counts 5 and 6) encompassed the same criminal conduct and did not count toward determination of the offender score. CP 2. *English*, slip. op. at *3, n. 6.

On appeal, this Court found that the two first degree robbery convictions merge with the two counts of second degree assault (Counts 5 and 6) because the assault offenses elevated the robbery offenses to the first degree, and found that the assault convictions should have been vacated.

²191 Wn.2d 732, 747, 426 P.3d 714 (2018).

English, slip. op. at *5.

The case was remanded to the trial court to vacate the second degree assault convictions. The convictions were otherwise affirmed. *English*, slip op. at *1. CP 15.

Citing *State v. Kilgore*,³ defense counsel moved for consideration of Mr. Quichocho's youthfulness at time of the commission of the crimes as a potential mitigating factor in support of a sentence below the standard range at resentencing pursuant to *State v. O'Dell*.⁴ (Brief Re Mandate from Appellate Court, April 30, 2019), CP 51-52.

At a hearing on May 24, 2018, the court heard argument to expand the scope of the sentencing to include consideration of youthfulness. Report of Proceedings (RP)⁵ (5/24/18) at 24-52. The court granted the motion to consider youthfulness as a mitigating factor as delineated by *O'Dell*. RP (5/24/18) at 34.

On October 9, 2018 counsel for Mr. English requested a continuance of the resentencing in order to pursue a CrR 7.8 motion. RP (10/9/18) at 73-75. The court granted a continuance and denied a motion by Mr. Quichocho's counsel to sever the two cases. RP (10/9/18) at 87.

2. Resentencing hearing

³167 Wn.2d 28, 216 P.3d 393 (2009).

⁴183 Wn.2d 680358 P.3d 359 (2015).

⁵ The record of proceedings is designated as follows: April 6, 2018 (appointment of counsel); April 18, 2018; May 24, 2018; August 15, 2018; October 9, 2018; November 29, 2018; and February 21, 2019

The matter came on for resentencing on February 21, 2019, the Honorable John Fairgrieve presiding. RP (2/21/19) at 107-236.

Mr. Quichocho had an offender score of “12” for Counts 1, 2, and 3, and a standard range of 129 to 171 months for Counts 1 and 2, 149 to 198 months for Count 3, and 51 to 68 months for Count 4. CP 191.

In his sentencing memorandum, Mr. Quichocho requested a sentence of ten years, and requested that the four firearm enhancements be served concurrently. (Brief Re Resentencing, October 5, 2018, at 10); CP 95-96.

The State argued for imposition of the original sentence of 456 months, and that the court was required to impose, at the very least, 240 months for the firearm enhancements. RP (2/21/19) at 121. The State argued that if the court chose to find an exceptional downward sentence, it should impose an exception to RCW 9.94.589—which requires that Count 4 be served consecutive to Count 3—and sentence Mr. Quichocho to 149 months for Count 3, for a total of 389 months, including 240 months for the four firearm enhancements. RP (2/21/19) at 126-27.

Dr. Kirk Johnson, a psychologist at the Vancouver Guidance Clinic, prepared an evaluation of Mr. Quichocho dated September 29, 2019. CP 97. Dr. Johnson diagnosed Mr. Quichocho with Cannabis Use Disorder, and stated in his report:

It is impossible to say exactly how much his substance use disorder impacted his particular brain and exactly how his behavior might have

(resentencing hearing).

been different if he did not have such a early onset substance use disorder. His impulsiveness and unthinking conduct is certainly consistent with the deficits in executive functioning that result from immature and adversely impacted brain development. At the time of the criminal conduct that he currently incarcerated for, he would have been in the active stages of his substance use disorder.

(Report of Dr. Johnson at 8-9); CP 105-06.

Based on *O'Dell*, defense counsel argued that Dr. Johnson's evaluation demonstrates that Mr. Quichocho, who was twenty years old at the time of the offenses, had diminished culpability due to the substance use disorder, and requested an exceptional sentence downward of 10 years. RP (2/21/19) at 144-157.

Mr. Quichocho's counsel also argued that courts have discretion to consider mitigating factors involving youthfulness, and the reasoning utilized by the Court in *State v. Houston-Sconiers*⁶ is applicable to young adults in consideration of firearm enhancements. RP (2/21/19) at 155.

The court found that the reasoning of *Houston-Sconiers*, which addresses juveniles being sentenced in adult court, does not apply to the present case, which involves adult defendants. RP (2/21/19) at 215. The court granted a downward exceptional sentence and accepted the State's recommendation regarding the sentence and imposed 149 months in Count 3, to be served concurrently with Count 4. RP (2/21/19) at 222-24. The court also sentenced Mr. Quichocho to 60 months on each firearm enhancement to

⁶188 Wn.2d 1, 391 P.3d 409 (2017).

be served consecutively, for a total sentence of 389 months. RP (2/21/19) at 224. The court also imposed 36 months of community custody. CP 192-93.

The court found Mr. Quichocho indigent and ordered a \$500 crime victim assessment and \$250 jury demand fee. RP (2/21/19) at 227-29; CP 194, 195. The court also imposed restitution of \$460.00, to be joint and several with Brandon English and John Lujan. CP 194.

The judgment and sentence provides: “[t]he financial obligations imposed in this Judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments.” CP 196. The judgment and sentence also states that the defendant “shall pay supervision fees as determined by DOC.” CP 193.

Findings of fact and conclusions of law in support of the exceptional sentence were filed in conjunction with the Judgment and Sentence. CP 204-05. The court made the following finding of fact and conclusion of law in support of an exceptional sentence downward:

2.p. At the time he committed the crimes he was convicted of in this case, the defendant’s youth impaired his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law. His youth essentially diminished his culpability for the crimes he committed.

3. Conclusions of Law

a. At the time he committed the crimes he has been convicted of the defendant’s youth amounted to a substantial and compelling factor justifying a sentence below the standard range sentencing range. See,

State v. O'Dell, 183 Wash.2d 680, 696 (2015).

CP 205.

In the findings and conclusions, the court also found in what it termed “Threshold issue: deadly weapon enhancements”:

1.c. The Supreme Court could have, as the state notes, referred to youthful offenders as opposed to juveniles. It did not. The court finds this was an intentional decision by the Supreme Court. Consequently, the court does not find that it was their intent to extend their decision in Houston-Sconiers as it relates to the mandatory application of weapon enhancements to youthful offenders.

CP 204.

Timely notice of appeal was filed on February 22, 2019. CP 208. This appeal follows.

D. ARGUMENT

1. REMAND FOR RESENTENCING IS REQUIRED BECAUSE THE TRIAL COURT ERRED IN FAILING TO PROPERLY CONSIDER ITS DISCRETION WHEN IMPOSING THE FIREARM ENHANCEMENTS

a. The sentencing court abused its discretion when it failed to recognize it had the authority to reduce the length of time Mr. Quichocho was required to serve on the firearm enhancements

When the legislature enacted the Sentencing Reform Act, it emphasized the importance of maintaining judicial discretion in sentencing. *State v. Houston-Sconiers*, 188 Wn.2d 1, 35, 391 P.3d 409 (2017) (Madsen,

concurring). Under the Sentencing Reform Act, the criminal justice system is accountable to the public “by developing a system for the sentencing of felony offenders which structures, but does not eliminate, discretionary decisions affecting sentences.” RCW 9.94A.010. The purpose statement lists six factors, three of which are relevant here. First, to ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history. *Id.* Second, to promote respect for the law by providing punishment which is just. *Id.* And third, to be commensurate with the punishment imposed on others committing similar offenses. *Id.* In order to achieve that purpose, the Sentencing Reform Act gives sentencing courts the discretion to impose sentences outside of the standard range. RCW 9.94A.535.

Under the SRA, courts must act within the principles of due process. *State v. Grayson*, 154 Wn.2d 333, 342, 111 P.3d 1183 (2005). A court abuses its discretion when it court fails to consider a mitigating factor on the mistaken belief it is barred from such consideration. *State v. O'Dell*, 183 Wn.2d 680, 696, 358 P.3d 359 (2015). Where an appellate court cannot say that the sentencing court would have imposed the same sentence had it known an exceptional sentence was an option, remand is the proper remedy. *In Re Mulholland*, 161 Wn.2d 322, 334, 166 P.3d 677 (2007) (quoting *State v. McGill*, 112 Wn. App. 95, 100-01, 47 P.3d 173 (2002)).

In this case, the trial court abused its discretion by failing to consider reducing the firearm enhancements or ordering that some or all of the firearm enhancements be served concurrently, based on youthfulness and the underlying facts used by the court to find an exceptional downward sentence.

Under the firearm enhancements statute, the court added 240 months to Mr. Quichocho's 149 month base sentence. RCW 9.94A.533(3)(b). The sentencing court, in imposing the enhancements, noted that the defendant's argument that *Houston-Sconiers* "should apply more broadly" had merit, but believed it was bound by the legislature and case law to impose the entire length of the enhancements. RP (2/21/19) at 215. As such, the sentencing court felt it had no discretion to reduce the length of the enhancement. RP (2/21/19) at 215.

In 2015, the Washington Supreme Court held that trial courts must be allowed to consider a defendant's youth and immaturity as a mitigating factor justifying an exceptional sentence below the standard range. *State v. O'Dell*, 183 Wn.2d 680, 358 P.3d 359 (2015). The Supreme Court held that a defendant's youthfulness is a mitigating factor that may justify an exceptional sentence below statutory sentencing guidelines, even when the defendant is a legal adult. 183 Wn.2d at 688-89. A sentencing court abuses its discretion when the defense requests an exceptional sentence below the standard range

and the court fails to consider mitigating factors raised by the defense. *O'Dell*, 183 Wn.2d at 697.

Two years later, in *Houston-Sconiers*, the Court addressed juveniles and how the trial courts were to comply with the Eighth Amendment. There, two youths were sentenced to decades of imprisonment due to “mandatory” firearm sentence enhancements. *Houston-Sconiers*, 188 Wn.2d at 12-13. The Supreme Court reversed and in doing so, partly overruled *State v. Brown*. *Id.* at 21 & n.5. In *Houston-Sconiers*, the Supreme Court held that the trial court was required to consider a juvenile defendant's youth in sentencing, even for statutorily mandated sentences. 188 Wn.2d at 8–9. The Court stated, “Trial courts must consider mitigating qualities of youth at sentencing and must have discretion to impose any sentence below the otherwise applicable SRA range and/or sentence enhancements.” *Id.* at 21. The Court reasoned that in light of Eighth Amendment jurisprudence, the statutes had to be read to allow trial courts discretion to impose mitigated downward sentences for juveniles. *Id.* at 21, 24-26. The Court found “[a]n offender's age is relevant to the Eighth Amendment, and [so] criminal procedure laws that fail to take defendants' youthfulness into account at all would be flawed.” *Id.* at 20.

Relying on *Miller v. Alabama*, 567 U.S. 460, 132 S. Ct. 2455, 183 L.Ed. 2d. 407 (2012), the Court also provided guidance to trial courts on how

to exercise their discretion in juvenile sentencing. *Houston–Sconiers*, 188 Wn.2d at 23.

In *State v. Brown*, 139 Wn.2d 20, 983 P.2d 608 (1999), the Supreme Court held that sentencing courts do not have the discretion to depart from mandatory firearm sentencing. As noted *supra*, however, *Brown's* holding has been somewhat eroded. Justice Madsen's concurring opinion in *Houston–Sconiers* reasoned that “the discretion vested in sentencing courts under the Sentencing Reform Act of 1981 (SRA) includes the discretion to depart from the otherwise mandatory sentencing enhancements when the court is imposing an exceptional sentence.” *Houston–Sconiers*, 188 Wn.2d at 34 (Madsen, concurring). As explained by Justice Madsen, because the legislature did not specifically forbid exceptional sentences for firearm enhancements, but forbade them in other circumstances, courts were free to depart from the maximum sentence allowed for firearm enhancements. *Id.* at 36 (Madsen, concurring). As noted in the concurrence, certain other crimes with mandatory minimum sentences from which sentencing courts have no discretion to depart have been enacted. *Id.* See e.g. RCW 9.94A.540. Because the limitations in the Sentencing Reform Act do not apply to firearm enhancements, the court must infer the legislature intended to not make them mandatory. *Id.* RCW 9.94A.540 is not intended to deprive a sentencing court of its ability to consider

an exceptional sentence when firearm enhancements are imposed. *Id.* at 36. In addition, the language of RCW 9.94A.533 does not mandate another result because it “does not exclude the enhanced sentences from modification under the exceptional sentence provision.” *Id.* at 37.

The legislature was silent as to whether the length of firearm enhancements could be modified as part of an exceptional sentence. RCW 9.94A.533(3)(e). RCW 9.94A.533(3)(e) should not be read to deprive sentencing courts of their discretion to impose exceptional sentences when there are firearm enhancements. The legislature knows how to preclude an exceptional sentence, as it did in RCW 9.94A.540. As noted above, this statute sets mandatory minimum terms for certain offenses. It expressly states that the mandatory minimum sentence for these particular offenses “shall not be varied or modified under RCW 9.94A.535.” The presence of a clause barring exceptional sentences downward in RCW 9.94A.540, and the absence of such a clause in RCW 9.94A.533, demonstrates the legislature intentionally omitted this limitation on the court's sentencing authority.

A sentencing court violates the Eighth Amendment⁷ when it fails to consider the defendants' youthfulness when sentencing juveniles in adult court. *Houston–Sconiers*, 188 Wn.2d at 9. Although *Houston–Sconiers* applies to

⁷ “Excessive bail shall not be required, nor excessive fines imposed, nor

juveniles, the Court's reasoning in *Houston-Sconiers* should logically be applied to youthful—but technically adult—offenders such as Mr. Quichocho, who was 20 years old at the time of the offenses.

In *Houston-Sconiers*, the Court held that the Eighth Amendment requires sentencing courts to consider the mitigating qualities of youth for juveniles sentenced in adult court, and that trial courts must have discretion to impose any sentence below the otherwise applicable SRA (Sentencing Reform Act of 1981, chapter 9.94A RCW) range and/or sentence enhancements. *Houston-Sconiers*, 188 Wn.2d at 20-21. *Houston-Sconiers* thus provides authority that a sentencing court has discretion to run a firearm enhancement concurrent with the base sentence, rather than consecutively, based upon the mitigating factor that youth diminished the defendant's culpability.

When a defendant requests an exceptional sentence downward, review is limited to instances where the sentencing court either (1) categorically refuses to impose an exceptional sentence downward under any circumstances or (2) relies on an impermissible basis for refusing to impose an exceptional sentence below the standard range. *State v. Garcia-Martinez*, 88 Wn. App. 322, 330, 944 P.2d 1104 (1997). “While no defendant is entitled to an exceptional sentence below the standard range, every defendant is entitled to

cruel and unusual punishments inflicted.” U.S. CONST. amend. VIII.

ask the [sentencing] court to consider such a sentence and to have the alternative actually considered.” *Grayson*, 154 Wn.2d at 342. A sentencing court abuses its discretion when the defense requests an exceptional sentence below the standard range and the court fails to consider mitigating factors raised by the defense. See *O'Dell*, 183 Wn.2d at 697 (citing *Grayson*, 154 Wn.2d at 342).

“Proportionality and consistency in sentencing are central values of the SRA, and courts should afford relief when it serves these values.”. In *McFarland*, the Court held that “in a case in which standard range consecutive sentencing for multiple firearm-related convictions ‘results in a presumptive sentence that is clearly excessive in light of the purpose of [the SRA],’ a sentencing court has discretion to impose an exceptional, mitigated sentence by imposing concurrent firearm-related sentences.” *McFarland*, 189 Wn.2d at 55 (alteration in original) (quoting RCW 9.94A.535(1)(g)).

As Mr. Quichocho’s case shows, the imposition of mandatory enhancements, without the ability to consider the same meritorious mitigating factors utilized by the court to grant a departure in the base sentence, creates an absurd situation where the mandatory sentences that are “may be as long as or even vastly exceed the portion imposed for the substantive crimes.” *Houston-Sconiers*. at 25. This Court should continue the trend away from *Brown*

and return to the trial courts the discretion to go below the “mandatory” term for firearm enhancements. Declining to follow *Brown* would return discretion back to sentencing courts to grant exceptional downward sentences regarding firearm enhancements, particularly where the court has already found that youthfulness diminished the offender’s culpability under *O’Dell*. This would achieve the result noted by Justice Madsen to “align firearm enhancements with the rest of [this Court’s] sentencing jurisprudence.” *Houston-Sconiers*, 188 Wn.2d at 35 (Madsen, concurring).

Mr. Quichocho received a 32 year sentence for offenses committed when he was twenty; approximately two thirds of the sentence is comprised of sentencing enhancements. The expansion of the *Houston-Sconiers* holding to youthful adult offenders would also permit the sentencing court to impose the proportionate sentence that the Sentencing Reform Act mandates. Mr. Quichocho asks this Court to find the trial court abused its discretion when it failed to consider whether it could reduce the length of the imposed firearm enhancement.

b. The remedy is a new sentencing hearing.

When a sentencing court might have imposed an exceptional sentence if “it had known an exceptional sentence was an option,” remand is proper. *Mulholland*, 161 Wn.2d at 334. Here, the court acknowledged Mr.

Quichocho's youthfulness impaired his ability to appreciate the wrongfulness of his conduct and that his youth diminished his culpability for the offenses. RP (2/21/19) at 222. The court imposed an exceptional sentence downward, but did not believe an exceptional sentence was an option for the firearm enhancements. RP (2/21/19/) at 215. In light of *Miller, O'Dell*, and *Houston-Sconiers*, the trial court erred when it concluded that it had no discretion to impose any sentence other than "mandatory" consecutive firearm enhancements. Consequently, the trial court did not adequately consider mitigating circumstances associated with Mr. Quichocho's youth when sentencing him. Reversal and remand for resentencing is required. *Houston-Sconiers*, 188 Wn.2d at 21; *O'Dell*, 183 Wn.2d at 683; Because it misunderstood its authority to craft an appropriate term, a new sentencing hearing should be ordered.

**2. THE COURT ERRED IN IMPOSING
JURY DEMAND FEE, INTEREST
ACCRUAL AND COMMUNITY
SUPERVISION COSTS**

a. Recent statutory amendments prohibit discretionary costs for indigent defendants

A court may order a defendant to pay legal financial obligations (LFOs), including costs incurred by the State in prosecuting the defendant. RCW 9.94A.760(1); RCW 10.01.160(1), (2). The legislature recently amended former RCW 36.18.020(2)(h) in Engrossed Second Substitute House Bill 1783,

which modified Washington's system of LFOs and amended RCW 10.01.160(3) to prohibit trial courts from imposing criminal filing fees, jury demand fees, and discretionary LFOs on defendants who are indigent at the time of sentencing. LAWS OF 2018, ch. 269, §§ 6, 9, 17. The amendments to the LFO statutes apply prospectively to cases pending on direct review and not final when the amendment was enacted. *State v. Ramirez*, 191 Wn.2d 732, 747, 426 P.3d 714 (2018).

As amended in 2018, subsection (3) of RCW 10.01.160 now states, “[t]he court shall not order a defendant to pay costs if the defendant at the time of sentencing is indigent as defined in RCW 10.101.010(3) (a) through (c).” RCW 10.01.160(3). Subsection .010(3) defines “indigent” as a person who (a) receives certain forms of public assistance, (b) is involuntarily committed to a public mental health facility, (c) whose annual after-tax income is 125% or less than the federally established poverty guidelines, or (d) whose “available funds are insufficient to pay any amount for the retention of counsel” in the matter before the court. RCW 10.101.010(3).

b. Jury demand fee

ESHB 1783 amended RCW 36.18.020(2)(h) and RCW 10.46.190 to prohibit trial courts from imposing the \$ 200 criminal filing fee and \$ 250 jury demand fee on indigent defendants. LAWS OF 2018, ch. 269, §§ 9, 17.

Mr. Quichocho was represented by court-appointed counsel, and shortly after sentencing the court found Mr. Quichocho indigent and unable to

contribute to the costs of his appeal while ordering the appeal to proceed solely at public expense. RP (2/21/19) at 227; CP 231. Thus, the record indicates that Mr. Quichocho was indigent under RCW 10.101.010(3) at the time of sentencing. Because Quichocho is indigent, the jury demand fee is no longer authorized. RCW 10.46.190.

c. Community supervision and interest accrual provision

In Section 4.2(B) of the judgment and sentence, the court also directed Mr. Quichocho to pay a community supervision fee to the Department of Corrections. CP 193. Although the judgment and sentence cites no authority for these costs, a statute allows them as a discretionary community custody condition. RCW 9.94A.703(2)(d).

This Court made it clear these costs are discretionary. *State v. Lundstrom*, 6 Wn.App.2d 388, 396 n. 3, 429 P.3d 1116 (2018). Because these costs are discretionary and prohibited by statutory amendments, this Court should remand to strike them.

Mr. Quichocho also challenges the interest accrual on non-restitution LFOs assessed in Section 4.3 of the judgment and sentence. CP 196. The 2018 legislation eliminated the accrual of interest on non-restitution LFOs. The judgment and sentence states that financial obligations imposed by it shall bear interest from the date of the judgment until payment in full at the rate applicable to civil judgments. CP 196. ESHB 1783 amended RCW 10.82.090 to prohibit interest accrual on no restitution LFOs. LAWS OF 2018, ch. 269, §

1. As amended, RCW 10.82.090 now provides:

(1) Except as provided in subsection (2) of this section, restitution imposed in a judgment shall bear interest from the date of the judgment until payment, at the rate applicable to civil judgments. As of the effective date of this section [June 7, 2018], no interest shall accrue on non-restitution legal financial obligations.

The interest accrual provision in the judgment and sentence pertaining to non-restitution LFOs should be stricken.

E. CONCLUSION

The Sentencing Reform Act was not intended to deprive sentencing courts of their ability to use discretion in the appropriate circumstances. Because the sentencing court failed to understand it could exercise its discretion here, Mr. Quichocho asks this Court to reverse his sentence and to direct the trial court that it has authority to impose an exceptional sentence that reduces the term of a firearm enhancement.

Mr. Quichocho respectfully requests this Court remand for resentencing with instructions to strike the discretionary costs of the jury demand fee, community supervision fee, and the interest accrual provision to the extent it applies to non-restitution LFOs.

DATED: September 9, 2019.

Respectfully submitted,
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CERTIFICATE OF SERVICE

The undersigned certifies that on September 9, 2019, that this Appellant's Opening Brief was sent by the JIS link to Mr. Derek M. Byrne, Clerk of the Court, Court of Appeals, Division II, 950 Broadway, Ste. 300, Tacoma, WA 98402, and Rachael Rogers and copies were mailed by U.S. mail, postage prepaid, to the following Appellant:

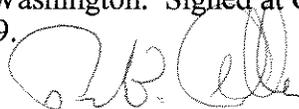
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This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Centralia, Washington on September 9, 2019.



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THE TILLER LAW FIRM

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Superior Court Case Number: 13-1-02318-1

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