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COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON

BY _____

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

STATE OF WASHINGTON,)	
Plaintiff,)	No. 53822-9-II
)	
v)	STATEMENT OF ADDITIONAL GROUNDS
)	
PHILLIP VICTOR HICKS,)	
Defendant.)	
)	

I, Phillip Victor Hicks believe that these additional grounds should be considered by this Court, and that said grounds present a constitutional basis for relief this Court can provide.

Both the State and the trial court repeatedly referred to the fact that I was 20.5 years old at the time of this incident, and went on to make the conclusion that I understood right from wrong based on both my age and previous exposure to the criminal justice system.

1. The trial court failed to consider evidence of brain science development.

"The brain isn't fully mature at...18, when we are allowed to vote, or at 21, when we are allowed to drink, but closer to 25, when we are allowed to rent a car." *State v. Moretti*, ___ Wn.2d ___, ___, ___ P.3d ___ (2019 Case No. 95263) (citing MIT Young Adult Development Project: Brain Changes, MASS. INST. OF TECH.). The *Moretti* Court went on to state that "[t]hese studies reveal fundamental differences between adolescent and mature brains in the areas of

risk and consequence assessment, impulse control, tendency toward antisocial behaviors, and susceptibility to peer pressure." (citing *State v O'Dell*, 183 Wn.2d 680, 691-92, 358 P.3d 359 (2015)).

According to prevailing science on brain development, at the age of 20.5 I was much closer to the underdeveloped and immature stage of brain development. Additionally, understanding right from wrong is only one small aspect of determining culpability. The court failed to consider impulse control and my inability to appreciate the consequences of my actions -- and not just in the sense of right and wrong, but in the greater sense of me not understanding that I was ending a life -- that I was destroying lives. I did not understand what I was doing, and the trial court failed to consider these things when considering my request for an exceptional sentence downwards.

2. The trial court should have ordered an assessment by a professional trained in youthful developmental issues.

My attorney submitted evidence by psychologist Dr. Robert Halon, establishing that I endured "early life experiences that deterred, prevented and delayed development of maturity in the areas of understanding, anticipating and assessing risks and consequences, impulse control, pro-social behavior and resistance to peer pressure." (CP 53).

The State submitted nothing to refute these findings, and the trial court lacked the mental health training to render a decision contrary to Dr. Halon.

3. My sentence violates the prohibition against cruelty.

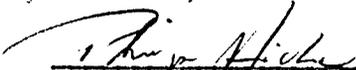
The Washington Constitution prohibits a sentence that is cruel. My sentence is cruel because it is a life sentence without parole that was

imposed for crimes that I lacked the ability to understand and comprehend the consequences of.

In *Moretti*, Justice Yu (with Madsen and Gonzalez) stated that "a life sentence without the possibility of parole is the deprivation of hope. It is the forfeiture of liberty for life." Justice Yu goes on to state that "[t]hose sentenced to life without a possibility of parole are treated as irredeemable and incapable of rehabilitation. The indefinite isolation of an individual conflicts with the prohibition on cruel punishment because removing the possibility of redemption is the definition of cruel."

I was sentenced under the SRA which does not permit parole, and the sentence that I was given equates to a life sentence. Therefore, my sentence alone is cruel. The cruelty of my sentence is increased by the fact that I lacked the ability at the time of my offense to understand and comprehend the consequences of what I was doing.

Respectfully submitted this 29th day of March, 2020.



Phillip Victor Hicks
Appellant, pro se