

**FILED**

**AUG 31 2012**

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

**NO. 30005-6-III**

**STATE OF WASHINGTON**

**COURT OF APPEALS - DIVISION III**

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**STATE OF WASHINGTON,**

**Respondent,**

**vs.**

**DELONDE NATHANAL PLEASANT**

**Appellant.**

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**APPEAL FROM THE SUPERIOR COURT FOR  
FRANKLIN COUNTY**

**BRIEF OF RESPONDENT**

**SHAWN P. SANT  
Prosecuting Attorney**

by: **Frank W. Jenny, #11591  
Deputy Prosecuting Attorney**

**1016 North Fourth Avenue  
Pasco, WA 99301  
Phone: (509) 545-3543**

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COUNTERSTATEMENT OF ISSUES

- A. WHERE A DEFENDANT AT HIS INITIAL SENTENCING HEARING CALLS A WITNESS WHO LATER BECOMES UNAVAILABLE, DOES ER 804(B)(1) AUTHORIZE ADMISSION OF THE WITNESS'S TESTIMONY AT A RESENTENCING HEARING WHERE THE SAME AGGRAVATING FACTORS ARE AT ISSUE?
  
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COUNTERSTATEMENT OF THE CASE

The exceptional sentence of Delonde Nathanal Pleasant (hereinafter defendant) is before this court for the third time.

Defendant was first sentenced on March 21, 2003. (CP 91-105). He filed a notice of appeal to this court that same date. (CP 89-90). While his appeal was pending, the United States Supreme Court decided Blakely v. Washington, 542 U.S. 296, 124 S.Ct. 2531, 159 L.Ed.2d 403 (2004). However, this court decided in the first appeal that the failure to follow the sentencing procedure later required by Blakely was harmless error; in light of overwhelming evidence, a properly instructed jury would necessary have reached the same conclusion as the trial court. State v. Pleasant, noted at 139 Wn. App. 1091, 2007 WL 2199265 (2007).

Defendant petitioned for review by the Washington Supreme Court. That court remanded for reconsideration in light of the intervening case of In re Pers. Restraint of Hall, 163 Wn.2d 346, 181 P.3d 799 (2008), which held that a Blakely error cannot be harmless when there was no statutory procedure in place at the time for submitting an aggravating factor to a jury. See State v. Pleasant, 148 Wn. App. 408, 410, 200 P.3d 722 (2009). The State conceded that the trial judge's imposition of an exceptional sentence based on its own findings of aggravating circumstances could not be deemed harmless in light of Hall. Id. at 411. This court remanded for resentencing while finding unripe the issue of

the applicability of RCW 9.94A.537(2), which allows a sentencing court to empanel a jury to determine aggravating factors when an exceptional sentence is reversed and remanded. Id. at 413. The mandate was issued on March 3, 2009. (CP 77). While defendant was attempting to litigate the validity of RCW 9.94A.537(2), the Washington Supreme Court upheld the constitutionality of that statute on December 17, 2009. State v. Powell, 167 Wn.2d 672, 223 P.3d 493 (2009). After all of defendant's efforts at interlocutory review failed, the matter proceeded to a new sentencing hearing pursuant to RCW 9.94A.537(2) on March 23, 2011. (RP 3).

Angel Montelongo testified at the resentencing hearing that she is the sister of the late Juanita Montelongo. (RP 434-35). Juanita was 20 years old at the time of her death. (RP 435). Her son Cincere was two years old at the time. (RP 435). Defendant is Cincere's father. (RP 436). At the time of her death, she was living with defendant and her two sons in Pasco. (RP 436).

Further testimony at the hearing showed that Officer Raul Cavazos of the Pasco Police Department was on duty during the graveyard shift on March 2, 2002. (RP 535). He overheard dispatch sending an ambulance to 514 North 8<sup>th</sup> Street in Pasco, and he went to that location. (RP 536-37). He arrived at 6:05 a.m.

(RP 546). Upon arrival he saw a motor vehicle parked in front still running and with the driver's side door open. (RP 537). Officer Cavazos saw defendant walking toward the residence, at which time defendant looked over his shoulder at the officer, and waived him off. (RP 538). Defendant entered the residence as the officer was leaving his vehicle and heading toward the residence. (RP 539). Officer Cavazos saw Officer Jon Baker drive past going northbound on 8<sup>th</sup> Street in front of the house and then advised Officer Baker to "cover" the front of the residence while he went to the rear. (RP 539). He went to the back of the house because he thought individuals in the house might attempt to leave from the rear of the residence. He saw defendant start to leave from the back door until he saw the officer and went back inside. (RP 539-40).

After going back into the house, defendant locked the door and would not open it for the officer, who was yelling at him to do so. (RP 541). When defendant refused to open the door, Officer Cavazos kicked in the door. (RP 541). After initially refusing to comply with commands to get on the ground, defendant was finally taken into custody by Officer Baker. (RP 541-42). After defendant was placed in handcuffs, Officer Cavazos observed a woman

cradling what appeared to be a body covered with a blanket on the living room floor. (RP 542, 546).

Apart from watery eyes, Officer Cavazos observed no signs of defendant being under the influence of alcohol. (RP 543). Defendant had no difficulty walking. (RP 542). Officer Cavazos took defendant to the police department and placed him in an interview room. (RP 544). Defendant exhibited no difficulty walking or navigating at the police department. (RP 544).

Officer Baker believed he could detect a faint pulse in the victim. (RP 443). She was unconscious on the floor and had numerous obvious injuries. (RP 443). The furniture in the house was in disarray and there blood smears, blood drops, and blood puddles throughout the house. (RP 445).

Dr. Louis Koussa is an emergency room physician who was working at the hospital on the morning that Juanita Montelongo was brought in by ambulance. (RP 529-30). He provided treatment to her. (RP 530). While he tried to resuscitate her, she was not responsive, was not breathing, and had no cardiac activity. (RP 530-31). She was pronounced dead at 7:22 a.m. (RP 531). She had clearly suffered severe facial and head trauma, she had multiple wounds to the head and face, was bleeding from the head

and nose, and both eyes were swollen shut and bruised. The area behind her ears was bruised as was the base of her skull. She had numerous additional bruises on her back and extremities. (RP 530-31). Dr. Koussa testified that in his 23 years of emergency room work this probably the most severe beating he had ever seen. (RP 532-33).

Dr. Daniel Selove is a forensic pathologist and performed the autopsy in this case on March 4, 2002. (RP 448-53). He recognized biting tooth impressions on the body. (RP 472-73). There were injuries to the lip area indicative of having been punched in the mouth. (RP 477). There was many distinctive pattern bruises consistent with victim having been stomped upon by her assailant. (RP 478-78). The sole pattern of the footwear worn by defendant on the night of the incident matched these bruises. (RP 479-81). The other bruises on the body could have been caused by a fist, the end of a shoe, or another hard, round or blunt surface such as the furniture in the house. (RP 481). The cause of death was determined to as follows:

The cause of death was multiple contusions or bruises of the brain due to multiple blunt impacts to the head. Impacts to the chin, the face, the side, the top of the head all would contribute to the brain bruising and also bleeding on the brain's surface that I

observed during internal examination stage of autopsy.

(RP 482). Impacts to the chin, the face, the side, and the top of the head all would contribute to the brain bruising and also bleeding on the brain surface that were observed. (RP 482). The injuries to arms, legs, and even the stomping injuries were not necessary to cause the death. (RP 483). Dr. Selove conservatively counted 12 injuries to the head, 20 on the torso or trunk, 30 on the arms, and 40 on the legs. (RP 484). Dr. Selove estimated there were approximately 100 total blows to the body. (RP 484).

Joe Nunez was the Pasco Police Department detective assigned to the case and interviewed defendant at the police station at 9:42 a.m. on the morning the victim was killed. (RP 586-88, 590). In conducting the interview in a small room, Detective Nunez detected no odor of intoxicants and no indication defendant was under the influence of alcohol. (RP 589). Defendant was coherent in his speech and did not slur his words. (RP 589-90).

Defendant stated that the night before he had gone to the Chinese Gardens Restaurant and the Crazy Moose Casino before returning home. (RP 591). He was let into the house by the victim.

(RP 592). An argument ensued when she began asking him where and with whom he had been. (RP 592).

In a transcribed taped interview, defendant said he "lost it" because the victim was "asking too many questions." (Ex. 41, p. 4). The night before, he had been at the Chinese Gardens from 7:30 until 9:30. (Ex. 41, p. 4). He then went to the Crazy Moose before going home. (Ex. 41, p. 6). He arrived home between midnight and 1:00 a.m. (Ex. 41, p. 7). He did not have his keys with him at the time. (Ex. 41 p. 7-8). He knocked on the door and the victim let him in. (Ex. 41 p. 3, 8). At first everything was "cool" while they were in the hallway. (Ex. 41 p. 3). The victim accused him of having been out with another woman. (Ex. 41 p.3). The victim was asking him too many questions and did not give him a chance to explain. (Ex. 41 p. 3-4). The reason he "lost it" was because the victim accused him of something he didn't do. (Ex. 41, p. 7). He admitted hitting the victim. (Ex. 41, p. 7). He did not know how many times he hit her. (Ex. 41, p. 8). Defendant stated, "I don't want to say I over hit her and I don't want to say I under hit her." (Ex. 41 p. 8).

Defendant called Dr. Mark Mays in an effort to show his intoxication impaired his ability to act with deliberate cruelty.

Defendant had told Dr. Mays that his last recollection prior to the incident was leaving the casino, and the next thing he remembered after that was standing in the middle of the living room with everything tossed over. (RP 626). The prosecutor informed Dr. Mays that the jury had heard the taped recoding of defendant's statement to Detective Nunez, in which defendant had stated the following recollections of things occurring after leaving the casino:

[H]e was driven home from the casino by his cousin, that he had forgotten his keys; that he had to knock on the door; that San Juanita came to the door and let him in; that everything was cool at first; that San Juanita kept asking too many questions; asking him whether he was out with another woman; that she didn't give him a chance to explain; that he just lost it; that he didn't want to say that he over hit her, he didn't want to say he under hit her, but he did hit her.

(RP 627). Dr. Mays never confronted defendant with the inconsistencies between what defendant told him and what defendant told Detective Nunez. (RP 628-29).

The testimony of two witnesses who had been called by defendant during the first sentencing hearing and who were unavailable at the time of the second hearing was read to the jury. (RP 555-56). Randy Pleasant testified he is the younger brother of defendant. (RP 601-02). On the night the victim died, he was present in the house. (RP 602). At the time of the incident, the

young son of the victim and defendant was in defendant's bedroom and was never awake. (RP 602). Jamar Sims testified he is defendant's cousin and was also present at the house on the night of the victim's death. (RP 603). He also testified that the baby was there at the house but was never awake. (RP 603).

During closing argument, the prosecutor discussed the fact that defendant acted with deliberate cruelty in committing the crime:

And the victim felt every one of those stomps, every one of those kicks, every one of those bites, every one of those punches. She was not going to surrender to death with her two-year-old child there in the next room. That was not going to happen. She felt every one of those assaults, every one of those bites, kicks, punches, over a hundred of them according to the testimony that you've heard from Dr. Selove. She felt every one of them and the defendant knew he was inflicting every one of them, and the whole purposes of doing it was to inflict pain as an end in itself.

(RP 696). Defendant did not object to this argument in any way.

(RP 696).

The jury returned unanimous verdicts finding the existence of the same three aggravating factors previously found by the court. (RP 729-32). The trial court again imposed an exceptional sentence above the standard range. (CP 4-28).

## GROUND FOR RELIEF AND ARGUMENT

### **A. THE TRIAL COURT PROPERLY ADMITTED THE TESTIMONIES OF TWO WITNESSES FROM THE FIRST SENTENCING HEARING WHO WERE UNAVAILABLE AT THE TIME OF THE SECOND HEARING.**

ER 804(b)(1) provides an exception to hearsay rule where the declarant is unavailable as a witness and the offered statements are “[t]estimony given as a witness at another hearing of the same or a different proceeding . . . if the party against whom the testimony is now offered . . . had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.” The plain and unambiguous language of this rule applies here. A trial court’s admission of testimony under this rule is reviewed only for abuse of discretion. State v. Benn, 161 Wn.2d 256, 265, 165 P.3d 1232 (2007). The instant hearing was held pursuant to RCW 9.94A.537(2), which provides: “In any case in which an exceptional sentence above the standard range was imposed and where a new sentencing hearing is required, the superior court may impanel a jury to consider any alleged aggravating circumstances listed in RCW 9.94A.533(3), that were relied upon by the superior court in imposing the previous sentence, at the new sentencing hearing.” (Emphasis added).

While the State was required at the new hearing to prove the aggravating factors beyond a reasonable doubt to the satisfaction of a jury, the issues at the two hearings were identical: The State was limited to proving the aggravating factors that were relied upon by the superior court in imposing the previous sentence.

Defendant nonetheless argues he did not have a similar motive to develop the witnesses' testimony. He claims he called the witnesses at the first hearing in an attempt to establish the child was asleep in the house, while the State used the testimony at the second hearing to show the child was present in the house. In the first place, it could not be shown the child was asleep in the house without also showing the child was present in the house. In any event, the instant case is controlled by State v. King, 113 Wn. App. 243, 292 n.20, 54 P.3d 1218 (2002), where the testimony of a witness who had died after the first trial was admitted at the second trial. The court stated:

At oral argument, King's attorney asserted that [the witness's] testimony [at the first trial] was admitted for the purpose of showing King's involvement in the conspiracy rather than his commission of the . . . robbery. But even assuming this to be so, we do not agree that the purpose for which the testimony was admitted controls its admissibility under ER 804(b)(1). As long as King was able to challenge the truth of [the

witness's] statements by cross-examination, the rules of evidence and the confrontation clause are satisfied.

Thus, the party's subjective purpose in calling a witness is not controlling. Even assuming the witnesses were called at the first hearing to show the child was asleep in the house, defendant had both the opportunity and motive to challenge the truth of their testimony that the child was present in the house. If defendant had been able to show the child was not even present, he wouldn't have had to worry about whether the child was awake at the time. The party against whom the testimony is offered need only have "had a substantially similar interest in asserting his side of the issue" at the first proceeding. Benn, 161 Wn.2d at 266. Such is the case here.

Defendant's reliance on United States v. DiNapoli, 8 F.3d 909 (2<sup>nd</sup> Cir. 1993) is misplaced. There the defendant attempted to offer the grand jury testimony of witnesses who were unavailable at time of trial. The court held that the prosecutor's lack of a similar motive to challenge the testimony of witnesses before a grand jury and a subsequent trial precluded admission of grand jury testimony in a trial for which the witnesses were unavailable; the prosecutor had no interest in showing falseness of the testimony to the grand jurors after the grand jurors already believed that a conspiracy

existed and already had indicated their disbelief in the witnesses's statements. Id. at 915. It is easy to understand that a prosecutor may have less incentive to examine a witness at an ex parte pre-trial proceeding, especially where the prosecutor had reason to believe the government had already met its lower burden of proof. But that is hardly the case for a defendant where, as here, the defendant himself called the witnesses as part of his own case at a contested evidentiary hearing. While the State had differing burdens of proof at the two hearings, defendant's objective at both hearings was to defeat the State's case. Accordingly, he had an incentive, wherever possible, to attack the truthfulness of any statement by a witness that benefited the State's case. The differing burdens of proof had no material affect on his defendant's motive to develop the testimony.

Also inapposite is United States v. Feldman, 761 F.2d 380 (7<sup>th</sup> Cir. 1985). There the deposition of a former co-defendant that was given in a civil lawsuit was admitted. The defendant in Feldman had chosen not to defend against the civil lawsuit and had no reason to anticipate the deposition would be used against him in a criminal prosecution. Id. at 383-86. In contrast, the defendant in our case called the witnesses himself at the first hearing to

determine the existence of the same aggravating factors. He was aware that all testimony could be considered by the trier of fact regardless of which party called the witnesses. As every jury is told, "Each party is entitled to the benefit of all of the evidence, whether or not that party introduced it." WPIC 1.02. Defendant knew full well that the trier of fact at the first hearing could rely on the testimony that the child was present in the house. He motive to challenge the truth of this testimony was identical at the two hearings.

Moreover, defendant never disputed at any time that the child was present. The entire reason this court initially found harmless the failure to anticipate Blakely was that there was overwhelming uncontradicted evidence of the child's presence. State v. Pleasant, noted at 139 Wn. App. 1091, 2007 WL 2199265 (2007).

A trial court abuses its discretion when the reason for its decision is manifestly unreasonable or based on untenable grounds. State v. Hyder, 159 Wn. App. 234, 246, 244 P.3d 454 (2011). Stated differently, a trial court abuses its discretion when it adopts a view no reasonable person would take. Id. Here, the trial court ruled:

First in regard to the issue of unavailability, I think the rule is as Mr. Jenny [prosecutor] stated. The individual was absent from the hearing, and the proponent of the statement has been unable to procure the declarant's attendance by process or other reasonable means. So the inquiry from the court is whether or not the State has gone to - - taken the necessary steps, taken all the reasonable steps to have these witnesses available.

And the testimony from Officer Gregory, Detective Gregory, indicated that attempts were made, a number of attempts were made to serve both of these individuals with subpoenas; also to call them, based on information provided by the defense as to their location. Spoke with at least one of the individuals and possibly both. Both first indicated that he would make himself available to be served by a subpoena and did not follow through with that.

Other attempts were made to locate that person by Mr. Gregory and other officers that he enlisted to help with that task. The same would apply to the second individual regarding the efforts of Detective Gregory and other law enforcement.

So the court does find that the State has made all reasonable efforts to procure the presence of these witnesses by process and other reasonable means. So the court does find that both Mr. Sims and Mr. Pleasant are unavailable.

In regard to the issue of the motivation of the parties in calling or questioning the witnesses in the previous proceeding, it seems clear to me that the motivation would be essentially the same; that the issue to be proved or refuted was whether or not the child was present or within sight or sound of the events when they occurred. So that issue is exactly the same issue that is being addressed by the court in this proceeding, so I think the motivation would be

essentially identical. So the court does find that the testimony is in fact admissible. I will allow the testimony to be presented (RP 562-63).

For from being unreasonable, the trial court's ruling was in fact based on tenable reasons. The trial court did not abuse its discretion in admitting the evidence.

**B. THE PROSECUTOR'S CLOSING ARGUMENT WAS PROPER. IN ANY EVENT, DEFENDANT DID NOT OBJECT OR REQUEST A CURATIVE INSTRUCTION.**

Defendant also challenges the prosecutor's closing argument. However, there was nothing improper about the argument:

[C]ounsel must be allowed some latitude in the discussion of their causes before the jury, and if they are not permitted to draw inferences or conclusions from the particular facts in evidence it would be impossible for them to make an argument at all. The mere recital of facts already before the jury is not an argument. There must be some reason offered for the purpose of convincing the mind, some inference drawn from facts established or claimed to exist, in order to constitute an argument.

City of Seattle v. Arensmeyer, 6 Wn. App. 116, 121, 491 P.2d 1305 (1971) (quoting Sears v. Seattle Consol. St. Ry., 6 Wash. 227, 233, 33 P. 389 (1893)). "In closing argument, the prosecuting attorney has a wide latitude in drawing and expressing reasonable inferences from the evidence." State v. Hoffman, 116 Wn.2d 51,

94-95, 894 P.2d 577 (1991). In considering whether inferences may be drawn from the facts in evidence, it is important to remember that Washington law makes no distinction between direct and circumstantial evidence. See State v. Rangel-Reyes, 119 Wn. App. 494, 499-500 & n.1, 81 P.3d 157 (2003). It is permissible to use passionate words to describe the nature of the defendant's crime. See State v. Pirtle, 127 Wn.2d 628, 673-74, 904 P.2d 245 (1996). "[A] prosecuting attorney is not muted merely because the acts committed arouse natural indignation[.]" State v. Gentry, 125 Wn.2d 570, 644 n.123, 888 P.2d 1105 (1995). A prosecutor's closing argument does not unfairly appeal to the jury's emotions merely because it relates the circumstances of the victim's death. Id. at 644.

In the instant case, the jury was instructed in Instruction No. 3 that "[a] person commits the crime of manslaughter in the first degree when or she recklessly causes the death of another person." (CP 38). The jury was further instructed in Instruction No. 5:

The defendant's guilty plea establishes the existence of each of the following facts, which are elements of the crime of manslaughter in the first degree:

(1) That on or about March 3, 2002, the defendant engaged in reckless conduct;

(2) That San Juanita Montelongo died as a result of defendant's reckless acts; and

(3) That any of these acts occurred in the State of Washington.

(CP 40). Thus, the crime did not involve any element of infliction of pain on the victim. The jury was further instructed in Instruction No.

8:

"Deliberate cruelty" means gratuitous violence or other conduct which inflicts physical, psychological, or emotional pain as an end in itself, and which goes beyond which is inherent in the elements of the crime or is normally associated with the commission of the crime.

(CP 43). Accordingly, defendant's infliction of pain on the victim as an end in itself was relevant to whether the aggravating factor of deliberate cruelty was present.

The prosecutor merely asked the jurors to draw a reasonable inference from the facts in evidence. The presence of Ms. Montelongo's young child in the adjoining room is circumstantial evidence of the physical, physiological and emotional pain she endured. It is matter of common sense that a mother would continue to fight death as long as possible knowing that her

young child was in the next room; thus, the victim continued to feel the repeated blows to her body.

Indeed, defendant's trial counsel correctly perceived there was nothing improper about the argument. "The absence of an objection by defense counsel strongly suggests to a court that the argument or event in question did not appear critically prejudicial to an appellant in the context of the trial." State v. McKenzie, 157 Wn.2d 44, 53 n.3, 134 P.3d 221 (2006) (emphasis original; citations and quotes omitted). Or as this court has put it, "the fact that defense counsel did not object to the prosecutor's argument suggests that it was of little moment in the trial." State v. Mungia, 107 Wn. App. 328, 337-38, 26 P.3d 1017 (2001).

Even if the prosecutor's argument was improper, there would be no basis to reverse. Where the defense fails to object to an improper comment by the prosecutor, the error is considered waived unless the comment is so flagrant and ill-intentioned that it caused an enduring and resulting prejudice that could not have been neutralized by a curative instruction to the jury. McKenzie, 157 Wn.2d at 52. The argument here, even if improper, was not so flagrant that it could not have been cured. The argument was entirely based on the events in issue, and asked the jurors to draw

an inference that they could accept or reject; there was, for example, no appeal to racial or religious prejudice. See State v. Groth, 163 Wn. App. 548, 568, 261 P.3d 183 (2011) (failure to object to prosecutor's remarks waived any error where they could have been corrected by curative instruction). Moreover, as in McKenzie, the jury was instructed that the attorneys' arguments are not evidence and should be disregarded when not supported by the evidence or the law in the court's instructions. (Instruction No. 1, CP 35). See McKenzie, 157 Wn.2d at 57 n.3. The jury is presumed to have followed this instruction. See State v. Wilmoth, 31 Wn. App. 820, 824-25, 644 P.2d 1211 (1982).

**C. DEFENDANT'S PRO SE ADDITIONAL  
GROUNDS HAVE NO MERIT.**

Pro se, defendant complains that he was not resentenced during the window period between the issuance of Blakely on June 24, 2004, and the April 23, 2007 enactment of RCW 9.94A.537(2). However, it would have been impossible to do so because his case was pending before the appellate courts during that entire time.

Defendant's reliance on State v. Rich, 160 Wn. App. 647, 248 P.3d 597 (2011) is misplaced. There the case was remanded

for resentencing prior to Blakely. Id. at 650. The State successfully delayed the resentencing for another three years, during which time RCW 9.94A.537(2) was enacted. Id. at 650-52.

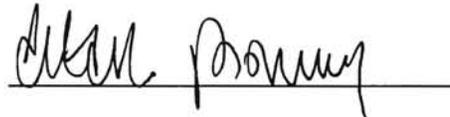
In contrast, the instant case was before the appellate courts from the time defendant filed his notice of appeal on March 31, 2003 (CP 89-90) until this court issued its mandate on March 3, 2009 (CP 77). As previously noted, the exceptional sentence was originally affirmed by this court even after Blakely was decided. State v. Pleasant, noted at 139 Wn. App. 1091, 2007 WL 2199265 (2007). The case was not remanded for resentencing until long after RCW 9.94A.537(2) had been signed into law. The directions of this court specifically anticipated consideration by the trial court of RCW 9.94A.537(2). Pleasant, 148 Wn. App. at 413.

#### CONCLUSION

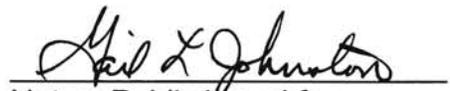
On the basis of the arguments set forth herein, it is respectfully requested that the exceptional sentence of Delonde Nathanal Pleasant be affirmed.



2842 by depositing in the mail of the United States of America a properly stamped and addressed envelope.

A handwritten signature in cursive script, appearing to read "Alan Brown", is written over a horizontal line.

Signed and sworn to before me this 29th day of August, 2012.

A handwritten signature in cursive script, appearing to read "Neil L. Johnston", is written over a horizontal line.  
Notary Public in and for  
the State of Washington,  
residing at Pasco  
My appointment expires:  
September 9<sup>th</sup>, 2014

adp