

NO. 33794-4-III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION III

FILED

Apr 24, 2017
Court of Appeals
Division III
State of Washington

STATE OF WASHINGTON,

Respondent,

v.

JEREMIAH JAMES GILBERT

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF
KLICKITAT COUNTY, STATE OF WASHINGTON
Superior Court No. 92-1-00108-1

SUPPLEMENTAL BRIEF OF RESPONDENT

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Cases

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STATUTES

RCW 9.94A.5401

ARGUMENT

The State of Washington submits this brief as directed by the court to address the applicability of *State v. Ramos*, 187 Wn.2d 420 (2017) to the instant appeal. The State of Washington takes the position that the arguments submitted to the court in the State's previously filed Brief of Respondent are unchanged, that the resentencing court adequately considered the appellant's request for the an exceptional sentence and after review of the record and testimony concluded justice required sentencing within the standard range mandated by state.

As demonstrated in the State's original brief and in the materials provided by counsel for the appellant the resentencing court was provided with a wealth of information it considered. The court concluded that the State's position was correct and that justice required the sentencing of the appellant pursuant to statute. However, appellant now seems to argue that the sentencing statute at issue, RCW 9.94A.540(1) is constitutionally suspect because it results in mandatory consecutive sentences for multiple murder convictions which amounts to a "*de facto*" life sentence. Appellant persists in the argument that he received a "*de facto*" life sentence even though he concedes that he will be eligible for early release in 2037 when he will be sixty years old, Appellant Brief at 7, an age below of the average life expectancy of an American male and far shorter than the 80 years at issue in *State v. Ramos*.

Appellant was not sentenced to a sentence of life without parole. Appellant was not sentenced to a “*de facto*” life sentence. He was sentenced pursuant to statute and has been properly held accountable for two heinous murders committed when he was 15. Just as in *Ramos* the sentencing court in this action considered the mitigation evidence offered without objection from the State and came to the conclusion that the punishment was just. The State of Washington asks this court to affirm the fair and just sentence imposed on the appellant.

Respectfully submitted this 24th day of April, 2017.

KLICKITAT COUNTY
PROSECUTING ATTORNEY



David R. Quesnel, WSBA No. 38579
Prosecuting Attorney

KLICKITAT COUNTY PROSECUTOR

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Transmittal Letter

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