

FILED
Court of Appeals
Division III
State of Washington
11/20/2019 8:27 AM

NO. 36570-1-III
COURT OF APPEALS
STATE OF WASHINGTON
DIVISION III

STATE OF WASHINGTON,

Plaintiff/Respondent,

V.

CHARLES WALTER WEBER,

Defendant/Appellant.

REPLY BRIEF

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RCW 9.94A.530 (2) provides, in part:

On remand for resentencing following appeal or collateral attack, the parties shall have the opportunity to present and the court to consider all relevant evidence regarding criminal history, including criminal history not previously presented.

Mr. Weber was originally convicted of first degree assault and attempted second degree murder under King County Cause No. 03-1-05510-3. At sentencing the first degree assault conviction was vacated on double jeopardy grounds.

In *State v. Weber*, 127 Wn. App. 879, 881-82, 112 P.3d 1287 (2005) the first degree assault conviction was reinstated and the attempted second degree murder conviction was vacated on double jeopardy grounds.

Mr. Weber was resentenced in King County on March 27, 2007.

In the interim Mr. Weber was convicted of second degree assault. The Judgment and Sentence in this case was predicated upon three prior most serious offenses including the attempted second degree murder. Mr. Weber was sentenced to life in prison without the possibility of parole (LWOP).

Mr. Weber's Judgment and Sentence still includes the attempted second degree murder as a predicate offense. Since that conviction no longer exists it cannot be a predicate offense for his current sentence.

Mr. Weber's Judgment and Sentence in this case has never been amended. In the absence of such an amendment Mr. Weber's LWOP is invalid.

Mr. Weber asserts that he is entitled to an evidentiary hearing on the current validity of his LWOP.

Mr. Weber otherwise relies upon the argument contained in his original brief.

Dated this 20th day of November, 2019.

Respectfully submitted,

s/ Dennis W. Morgan
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36570-1-III

COURT OF APPEALS

DIVISION III

STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	WALLA WALLA COUNTY
Plaintiff,)	NO. 04 1 00534 2
Respondent,)	
v.)	
)	CERTIFICATE OF SERVICE
CHARLES WALTER WEBER,)	
)	
Defendant,)	
Appellant.)	
_____)	

I certify under penalty of perjury under the laws of the State of Washington that on this 20th day of November, 2019, I caused a true and correct copy of the *REPLY BRIEF* to be served on:

Court of Appeals, Division III
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CERTIFICATE OF SERVICE

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CERTIFICATE OF SERVICE

November 20, 2019 - 8:27 AM

Transmittal Information

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