

FILED

AUG 02 2007

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

80587-3

COURT OF APPEALS

DIVISION III

OF THE STATE OF WASHINGTON

NO: 21989-5-III

STATE OF WASHINGTON

v.

JOHN EDWARD MINES, JR.

SUPPLEMENTAL
BRIEF OF APPELLANT

LAW OFFICE OF CYNTHIA JORDAN PLLC

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IN THE COURT OF APPEALS
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DIVISION III

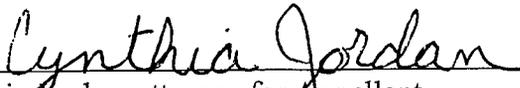
State of Washington,)	
Respondent,)	NO. 21989-5-III
)	
vs)	
JOHN E. MINES,)	SUPPLEMENTAL BRIEF
)	OF APPELLANT
Appellant.)	
_____)	

The facts of this case have been set out in the previous briefing done by both parties. The issue was stated in the brief submitted by the prosecutor. The prosecutor submits that the change in the law does not apply to this case. The appellant respectfully disagrees.

The Supreme Court has rendered a decision in *State vs. Clarke*, 156 Wn. 2d 880 134 P. 3d 188 (2006) which decided that sentences under RCW 9.94A.712 are indeterminate sentences and the minimum terms set by the court are not subject to *Blakely*. Mr. Mines was sentenced under RCW 9.94A.712. The discussion by the court focused on whether the sentence was determinate or indeterminate since there is both a standard range and a statutory maximum outside the standard range to be decided by the Indeterminate Sentence Review Board. The newly enacted statute focuses on the standard range not the minimum and maximum range of the sentence. The appellant

argues that if the focus is on the standard range he was given an exceptional sentence and this case should be remanded back to the trial court for re-sentencing.

Dated this 2ND day of August, 2007.


Cynthia Jordan, attorney for Appellant