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FILED

OCT 22 2007

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

SA

C.O.A. No: 263631

In the Court of Appeals for the State of Washington

Division III

81244-6

Shawn Christopher Rainey,

Petitioner,

VS.

State of Washington,

Respondent.

Restraint of Petitioner from the Superior Court of the
State of Washington for the County of Spokane

Petitioner's answer to Respondent's Brief

Shawn Christopher Rainey
Pro Se

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In the Court of Appeals for the State of Washington

Division III

In Re Personal Restraint)	C.O.A. No: 263631
Petition of:)	
Shawn C. Rainey,)	Petitioner's answer to
Petitioner.)	Respondent's Brief:
)	
)	
)	

The question of whether a no-contact order can legally be given to Mr.Rainey for **LIFE**, has a simple and definitive answer, **NO**. According to the SRA, Mr.Rainey's Judgement and sentence, RCW 9A.20.021(1), RCW 9.94A.505(2)(a)(i), State v Knotek, 136 Wn.App.412-414 [13], Blakely V Washington, 542 U.S. 296 (2004). The single most important issue in this Petition is, would a life sentence in Mr.Rainey's case be an exceptional sentence? The answer is **YES**.

Mr.Korsmo refers to RCW 9A.20.021(1)(a), this is not even a question in Mr.Rainey's case because he was **NOT** sentenced under RCW 9A.20.021(1)(a). Mr.Rainey was sentenced under RCW 9.94A.505(2)(a)(i), nowhere in Mr.Rainey's judgement and sentence does it say that he is sentenced under RCW 9A.20.021(1)(a) as Mr.Korsmo implies. On every

page of Mr. Rainey's Judgement and Sentence, at the bottom it says that Mr. Rainey is sentenced under RCW 9.94A.500, .505. Where Mr. Korsmo makes his mistake is when he reads RCW 9.94A.505(5) which states that a court may not impose a sentence which exceeds the statutory maximum for the crime as provided in Chapter RCW 9A.20.

RCW 9A.20.021(1) clearly states " Felony. **UNLESS** a felony is **SPECIFICALLY ESTABLISHED BY A STATUTE OF THIS STATE**, no person convicted of a crime...." This section alone shows that Mr. Rainey **WAS NOT** sentenced under RCW 9A.20 because Mr. Rainey was convicted of **Kidnapping 1st degree**, RCW 9A.40.020(1) which is clearly a **STATUTE OF THIS STATE** as required under RCW 9A.20.021(1), so as **NOT** to be sentenced under RCW 9A.20.021(1)(a), as Mr. Korsmo implies.

As well in State V Knotek, Division II Court of Appeals further supports Mr. Rainey in stating that "A life sentence is possible for a class A felony only if the trier of facts [**Jury**] specifically finds beyond a reasonable doubt or the defendant admits to aggravating facts supporting an exceptional sentence. **OTHERWISE, THE EFFECTIVE MAXIMUM SENTENCE FOR A CLASS A FELONY IS THE TOP END OF THE STANDARD SENTENCING RANGE.**" In Mr. Rainey's case the [**Jury**] never found that aggravating facts existed.

RCW 9.94A.505(2)(a) states "The court **SHALL** impose a sentence as provided in the following sections and as applicable in the case:"**(i)**" unless another term of

confinment applies, the court shall impose a sentence within the standard sentence range established in RCW 9.94A.510, which further supports that Mr. Rainey's **EFFECTIVE MAXIMUM SENTENCE** after finding Kidnapping 1st degree is a seriousness level of X in RCW 9.94A.515, and with zero points, has a **STATUTORY MAXIMUM SENTENCE** range of **51-68 Months**.

Mr. Korsmo also argues that under State V Armendariz, the court may impose a crime-related prohibition as part of a sentence, he is correct that a court may impose a crime-related prohibition, however the prohibition, confinement time, and the community custody, can only be to the maximum of the standard sentence range as outlined above for the conviction of the crime of Kidnapping 1st degree, RCW 9A.40.020(1).



A handwritten signature in black ink, appearing to read 'Shawn Christopher Rainey', written over a horizontal line.

Shawn Christopher Rainey
Pro Se
Petitioner

SUBSCRIBED AND SWORN TO BEFORE ME THIS 17 DAY OF October, 2007.
MY COMMISSION EXPIRES: 3/10/08

Mary Lou Nelson
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT SPOKANE.

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By _____

In the Court of Appeals for the State of Washington

Division III

	<u>State of Washington</u> ,)	
)	
	<u>Respondent</u> ,)	No: 263631
)	
v.)	DECLARATION OF SERVICE
)	BY MAILING
	<u>Shawn C. Rainey</u>)	
	<u>Petitioner</u> .)	

I, Shawn C. Rainey , Petitioner , in the above entitled cause, do hereby declare that I have served the following documents; Petitioner's Brief in response to Respondent's Brief.

Upon:

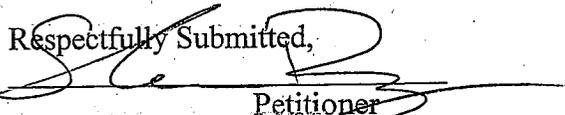
Kevin Michael Korsmo
1100 W. Mallon Ave.
Spokane, Wa. 99260-2043

Court of Appeals Division III
Attn: Renee S. Townsley Clerk
P.O. Box 2159
Spokane, Wa. 99210-2159

I deposited with the N-Unit Officer Station, by processing as *Legal Mail*, with first-class postage affixed thereto, at the Airway Heights Correction Center, P.O. Box 1839 , Airway Heights, WA 99001-1839 .

On this 18 day of OCT , 20 07 .

I certify under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Respectfully Submitted,

Petitioner

Shawn C. Rainey

DECLARATION OF SERVICE BY MAILING