

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
3/24/2020 8:53 AM  
BY SUSAN L. CARLSON  
CLERK

IN THE SUPREME COURT FOR THE STATE OF WASHINGTON

In re Personal Restraint Petition of  
ADAM BETANCOURT,  
Petitioner.

NO. 97973-1  
PETITIONER'S SUPPLEMENTAL  
BRIEF RE: *DELBOSQUE*

I. INTRODUCTION

Mr. Betancourt, who was a juvenile at the time of his crime of conviction, filed a PRP challenging the Indeterminate Sentence Review Board's (ISRB) decision to deny parole. On December 11, 2019, the Court of Appeals issued an order transferring the PRP to this Court to "be certified to the Supreme Court of the State of Washington for such disposition as it deems fit" pursuant to RCW 2.06.030 and RAP 4.4. On December 16, 2019, this Court issued an order stating: "Having reviewed the matter, it is agreed that transfer to this court is justified. Since this case is a personal restraint petition, this court will make an initial determination whether to retain the petition, transfer it to another court, or dismiss it. RAP 16.11(b)."

On March 12, 2020, this Court sent a letter to the parties stating: "The Court requests that the parties file supplemental briefs addressing *State of Washington v. Cristian Delbosque*, No. 96709-1.

1 II. ARGUMENT

2 Mr. Betancourt claims that the ISRB failed to adequately consider  
3 evidence of his rehabilitation. This Court’s recent decision in *State v.*  
4 *Delbosque*, \_\_ Wn.2d \_\_\_, 456 P.3d 806 (2020), supports that conclusion.  
5  
6

7 *Delbosque*, which involved a sentencing rather than a parole hearing,  
8 held that resentencing courts “must consider the measure of rehabilitation  
9 that has occurred since a youth was originally sentenced, and must  
10 “adequately consider mitigation evidence,” including by acknowledging and  
11 reconciling and significant evidence that supports the conclusion that the  
12 crime reflected transient immaturity rather than permanent incorrigibility.  
13 *Delbosque*, 456 P.3d at 814.  
14  
15  
16

17 This Court’s holding in *Delbosque* echoes Betancourt’s claim in his  
18 PRP. *PRP*, p. 2-5. Betancourt claimed that the ISRB focused on the facts of  
19 the crime and resulting sentence, to the exclusion (or at least minimization)  
20 of the facts of his rehabilitation and reformation.  
21  
22

23 However, the ISRB’s decision denying parole failed to comply with the  
24 statutory mandate in an additional manner: the ISRB discarded, without  
25 explanation, the DOC-conducted risk assessment which concluded that  
26 Betancourt was unlikely to reoffend. *PRP Reply*, p. 5-6.  
27  
28

29 Betancourt seeks a different remedy than the one imposed by the  
30 *Delbosque* court. Remand for resentencing was appropriate in that case

1 because the law changed (or was further defined) after the sentencing. Here,  
2 the statutory directive to the ISRB has always been to focus on the likelihood  
3 of current reoffense, not what minimum term the ISRB feels is appropriate  
4 for the crime. As a result, this Court should grant the PRP and direct the  
5 ISRB to release Betancourt, rather than remand for another hearing.  
6  
7

### 8 **CONCLUSION**

9  
10 This Court should grant Mr. Betancourt's PRP.

11 DATED this 24<sup>th</sup> day of March 2020.

12  
13 Respectfully Submitted:

14 /s/Jeffrey Erwin Ellis  
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**ALSEPT & ELLIS**

**March 24, 2020 - 8:53 AM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 97973-1  
**Appellate Court Case Title:** Personal Restraint Petition of Adam Betancourt  
**Superior Court Case Number:** 97-1-00295-1

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