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NO. 68042-1-1

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

REC'D
JUL 31 2012
King County Prosecutor
Appellate Unit

STATE OF WASHINGTON,

Respondent,

v.

BENNETT REEDY,

Appellant.

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COURT OF APPEALS
DIVISION ONE

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KING COUNTY

The Honorable Theresa B. Doyle, Judge

BRIEF OF APPELLANT

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A. INTRODUCTION

Appellant Bennett Reedy is appealing from the court's denial of his motion for relief from sex offender registration. Reedy was released from incarceration for third degree rape on March 1, 1995. Significantly, however, the department of corrections (DOC or the department) had no authority to hold Reedy beyond December 24, 1994, his maximum release date. In other words, Reedy was held illegally for nearly two-and-a-half months beyond his maximum release date. Had Reedy been released on December 24, 1994, as was his right, he would have been eligible for automatic de-registarion by statute as of December 24, 2004.

Because he committed a new qualifying offense in February 2005 – fourth degree assault (allegedly involving domestic violence) – the court ruled Reedy was not entitled to relief from registration, as his *actual* date of release was not until March 1, 1995. Using the illegal release date as the benchmark, the court held Reedy was two weeks shy of spending ten years in the community crime free. As a result of the court's ruling, Reedy must register now for an additional 10 years.

The issue here is whether Reedy is entitled to relief as a matter of equity, since the statutory period would have run were it not for the illegal actions of DOC.

B. ASSIGNMENT OF ERROR

The court erred in denying Reedy's motion for relief from registration.

Issue Pertaining to Assignment of Error

Whether Reedy is entitled to relief from registration as a matter of equity since the statutory time period would have elapsed had it not been for the illegal actions of DOC?

C. STATEMENT OF THE CASE

On October 26, 1993, the King County Prosecutor charged appellant Bennett Reedy with one count of second degree rape, allegedly committed between October 23 and 24, 1993. CP 1-3. According to the certification for determination of probable cause, the complainant had invited Reedy to her home after an alcoholics anonymous meeting. CP 2. While the two initially talked for several hours, Reedy's conversation and behavior "became more bizarre" as the evening progressed and culminated in the purported rape. CP 2.

Reedy was found incompetent pending trial and involuntarily committed to Western State Hospital on multiple occasions. See e.g. Supp. CP ___ (sub. no. 28, Minutes, 3/18/94). Once Reedy's competency was restored, he pled guilty to amended charges of third degree rape and unlawful imprisonment. Supp. CP ___ (sub. no. 49 Statement of Defendant on Plea of Guilty, 8/2/94); Supp. CP ___ (sub. no. 50, Statement of Defendant on Plea of Guilty, 8/2/94).

On August 26, 1994, the court sentenced Reedy to concurrent sentences of 14 and 3 months, respectively.¹ Supp. CP ___ (sub. no. 55, Judgment and Sentence, 8/26/94). At that time, the court gave him credit for 309 days. Id. Accordingly, Reedy had approximately 116 more days to serve at the time of sentencing, assuming arguendo he received no earned early release time. (425 days (14 months) minus 309 days credit equals 116 days).² The department must have used a similar formula, as it calculated Reedy's maximum release date – or expiration of the 14 months – to be December 24, 1994.³ CP 5, 25.

¹ Reedy had no prior felony convictions. Supp. CP ___ (sub. No. 54, Presentence Statement of King County Prosecuting Attorney, 8/29/94).

² For ease of calculations, this brief assumes, but does not attest, that DOC equates one month with 30 days, although such would make logical sense.

³ Reedy did, in fact, have earned early release credit, however – 155 days as of August 1994. CP 24-25.

What stymied Reedy's timely release, however, was a condition written on the judgment and sentence next to the section giving Reedy credit for 309 days, ordering: "Mr. Reedy may only be released to CCO when appropriate housing has been arranged. See Appendix F." Supp. CP ___ (sub. no. 55, Judgment and Sentence). Appendix F, in turn, provided:

[Reedy] may be released to the CCO as soon as appropriate living arrangements can be made (which would require a plan appropriate to ensure that he will be available for the court for supervision throughout the 24 months community custody placement period).

Congregate care facility placement is a condition of release. Mr. Reedy shall remain in a congregate care facility throughout 24 mo. period.

Id.

Because of this condition, Reedy's early release date came and went, and the department refused to release him. CP 24-25. Thereafter, Reedy's attorney filed a motion to modify the judgment and sentence and for Reedy's release. CP 24-26. As counsel attested:

5. King County Jail will not release the defendant because of language in the original Judgment and Sentence stating, "Mr. Reedy may only be released to CCO when appropriate housing has been arranged."

6. Department of Corrections will not release Mr. Reedy based upon the above quoted language in the two Judgment and Sentences.
7. The Community Corrections Officer assigned to Mr. Reedy, Barbara McPhee, has not been able to find appropriate housing and treatment due in part to Mr. Reedy's custody status.
8. Department of Corrections, without further action by the court, will hold Mr. Reedy until December 24, 1994.

CP 25.

Counsel further averred that if released, Mr. Reedy would be treated by Mental Health North, where he was an enrolled client:

Mr. Reedy is an enrolled client of Mental Health North and he has an assigned case manager with them. Once he is in the community, Mental Health North cannot simply refuse him treatment, but as long as he is in custody, they have not been willing to be involved in his placement. As of my last conversation with the State, Mental Health North has made no referrals at all on Mr. Reedy's behalf.

CP 26.

Defense counsel concluded with this plea: "The Court shall not allow Mr. Reedy to languish further in jail due to this deadlock, and should sign an order for immediate release." CP 26.

The court signed an order for Mr. Reedy's immediate release. CP 28. Before the order could be executed, however, the court vacated it, explaining: "the order entered on October 24,

1994 was entered upon a misunderstanding by this court that the defendant was DAD inmate rather than a DOC inmate.”⁴ CP 30.

Defense counsel filed notice of a new sentencing review hearing on January 24, 1995, after Reedy was not released on his maximum release date of December 24, 1994. Supp CP __ (63, Notice of Sentence Review Hearing, 1/25/95). On February 16, the court modified Reedy’s community placement to allow for his conditional release for an assessment at a congregate care facility:

The defendant may be temporarily released to the care of DOC Debbie Garner and Ed Turnbull to be interviewed by RTS (should RTS not come to the jail) and then subsequently released to RTS once placement has been made. Defendant shall abide by all conditions of his CCO and RTS during community placement.

CP 32; Supp. CP __ (sub. no. 67, Order Modifying Community Placement, 2/17/95).

Apparently, however, Reedy was turned away from the facility, due to lack of space. Supp. CP __ (sub. no. 70, Order Modifying Sentence, 3/1/95). Accordingly, it was not until March 1, 1995, that Reedy was actually released from incarceration, following a hearing at which the court was advised by residential

⁴ The court previously ordered DOC to transport Reedy from Shelton to the King County jail so he could arrange mental health treatment. Supp. CP __ (sub. no. 57, Motion , Affidavit and Order for Transportation of Prisoner, 9/2/94).

treatment counselors at RTS of their lack of space. Supp. CP __ (sub. no. 69, 3/1/95). The court ordered Reedy's release on condition that he report to DOC daily and in person, inform his CCO of his residence and report to congregate care "upon availability."
Id.

On April 28, 1997, the court entered a Certificate and Order of Discharge, recognizing that Reedy had completed the terms of his sentence, including the period of community placement, and restoring his civil rights. Supp. CP __ (sub. no. 80, Certificate and Order of Discharge, 5/7/97).

During the period of community placement on this matter, Reedy did not willfully violate any community custody conditions. Nor was he ever remanded to custody under this cause number. In fact, Reedy remained crime-free until February 15, 2005; he was charged with fourth degree assault, with a domestic violence designation, and pled guilty to the offense on March 9, 2005. CP 6; Supp. CP __ (sub. no. 88, State's Response to Defense Motion to Relieve Registration, 11/11/09).

As a result of that offense – which occurred just 14 days shy of when the 10-year period for automatic de-registration would have occurred (based on Reedy's actual release date of March 1, 1995),

the Sheriff's office did not consider Mr. Reedy eligible for automatic de-registration. CP 6.

On March 3, 2008, Reedy moved for relief from registration, based on principles of equity, as Reedy should have been released no later than December 24, 1994, which would have allowed for the 10-year period to elapse.

Had Mr. Reedy been released, as required, on December 24, 1994 the maximum release date possible under his sentencing range, he would have been eligible for automatic de-registration under RCW 9.94A.140(3). The offense barring his automatic de-registration occurred on February 15, 2005, approximately 13 days before he would have been eligible even given that his term of total confinement exceeded the maximum in his standard range.

Supp. CP __ (sub. no. 82, Motion for Relief from Registration, 3/3/08).

Attached to the motion was a letter from Reedy's probation officer attesting to his rehabilitation and reintegration into the community:

During the 18 months I have supervised Mr. Reedy, he has successfully integrated into the community. He has been model in his compliance with his conditions of community custody supervision and has been fully compliant with mental health treatment. Further, he has shown remarkable efforts to work and establish a quality of life, and made significant positive life changes. He appears to embrace sobriety as a lifestyle and continues to

attempt to improve himself and his ability to contribute to society.

CP 35.

For unknown reasons, the motion was never heard. RP (11/7/11) 3-4. A revised motion was filed November 1, 2011, however, and heard November 7, 2011. RP 4; CP 4-44.

The state responded the court was limited to looking at the defendant's behavior since the actual date of his release, whether illegally postponed or not:

Your Honor, just very briefly. I think I understand the defense's argument in terms of the relief situation, but I think what the Court should be looking at is how the defendant has spent his time in the community, whether he was released in December or whether he was released in February, you look at the time that he's spent in the community and was the defendant able to reside in the community without committing any new offenses. And the facts of the case are that he was not.

RP 6.

While the court appeared to agree with the defense that Reedy was held illegally, the court ultimately held it did not have authority to take that into consideration:

THE COURT: All right. And the Court agrees with the State's position. I find that there's not been the required ten consecutive years in the community without being convicted of a disqualifying offense.

And it sounds like your client served a longer sentence than he should have –

. . . was not released on time from DOC, but that matter is really not before the Court. If that – if what I had before me now were a record with that conviction having been vacated or something like that, it – excuse me – would be a different matter, but I find that the Court doesn't have the authority to look at DOC's error and find that that removes that conviction from his record for the purposes of the argument.

So for those reasons, I will deny the motion. Thank you.

MS. WALLACE [defense counsel]: Your Honor, would I – could I ask that you revisit the matter should I be able to find some sort of authority that allows you to look at that conviction – not at the conviction – at the DOC's holding him too long?

THE COURT: Yes, but I think it's highly unlikely you will find any such authority, but if you do I'd be happy to consider it.

RP 7.

Reedy timely appeals the court's denial of his motion for relief from registration. CP 46-48.

D. ARGUMENT

THE COURT ERRED IN DENYING THE MOTION FOR RELIEF FROM REGISTRATION.

Reedy was convicted of third degree rape and therefore required to register. RCW 9A.44.130; see also Former RCW 9A.44.130(1), Laws of 1991, c 274 § 2. Because the offense is a

class C felony, Reedy was required to register for ten years following the last date of release from confinement for the offense, provided he committed no new offenses:

The duty to register under RCW 9A.44.130 shall continue for the duration provided in this section.

(3) For a person convicted in this state of a class C felony, a violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to commit a class C felony, and the person does not have one or more prior convictions for a sex offense or kidnapping offense and the person's current offense is not listed in RCW 9A.44.142(5), the duty to register shall end ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of a disqualifying offense during that time period.

RCW 9A.44.130; see also Former RCW 9A.44.140(1)©, Laws of 1991, c 274 § 3.⁵

⁵ Whereas the statute now provides only a "disqualifying" offense will interrupt the required 10-year period, the version in effect at the time Reedy committed his offense provided "any new offense" would interrupt the 10-year period. Former 9A.44.140(1)(c)(1991). Fourth degree assault with a domestic violence (domestic violence) is a "disqualifying offense," regardless. RCW 9A.44.128.

Under the plain language of the statute, de-registration is automatic, following a 10-year, crime-free period. See e.g. Cerrillo v. Esparza, 158 Wash.2d 194, 201, 142 P.3d 155 (2006) (under rules of statutory construction, court must give effect to plain language of the statute if not ambiguous); Singleton v. Frost, 108 Wash.2d 723, 728, 742 P.2d 1224 (1987) (the word “shall” is presumptively mandatory). Indeed, the state conceded de-registration is automatic under such circumstances:

For offenders with class C felonies, the process of being relieved from registration is typically done outside of the courtroom. Once a defendant achieves ten consecutive years in the community without being convicted of any new offenses, the sheriff's office reviews the file and takes the offender out of the system.

Supp. CP __ (sub. No. 88, State's Response, 11/9/11).

As indicated above, however, the sheriff's office did not consider Reedy eligible for automatic de-registration by virtue of his February 2005 fourth degree assault.

Reedy therefore moved for relief from registration under RCW 9A.44.142, which provides in relevant part:

(1) A person who is required to register under RCW 9A.44.130 may petition the superior court to be relieved of the duty to register:

(a) If the person has a duty to register for a sex offense or kidnapping offense committed when the offender was a juvenile, regardless of whether the conviction was in this state, as provided in RCW 9A.44.143;

(b) If the person is required to register for a conviction in this state and is not prohibited from petitioning for relief from registration under subsection (2) of this section, when the person has spent ten consecutive years in the community without being convicted of a disqualifying offense during that time period; or

(c) If the person is required to register for a federal or out-of-state conviction, when the person has spent fifteen consecutive years in the community without being convicted of a disqualifying offense during that time period.

Emphasis added.

It is questionable whether this statute applies to class C felony registrants, as their duty to register automatically ends once ten consecutive years in the community is spent crime-free. There would be no need for them to petition for relief under such circumstances. It seems more logical that this statute provides a mechanism for individuals with lengthier registration periods to petition for early relief under well-defined circumstances. See e.g. Kilian v. Atkinson, 147 Wash.2d 16, 21, 50 P.3d 638 (2002) (When interpreting a statute, the court should read it in its entirety, and if possible each provision must be harmonized with other provisions:

statutes “must be construed so that all the language is given effect and no portion is rendered meaningless or superfluous.”).

Regardless, the court ruled Reedy was ineligible to petition for relief by virtue of the 10-year prerequisite in subsection (1)(b). As a matter of equity, however, the court had the authority to establish a constructive release date of December 24, 1994, the last date DOC and the King County Jail lawfully could hold Reedy. With December 24, 1994, as the constructive release date, Reedy spent ten consecutive years in the community without committing any new offenses.

Accordingly, Reedy qualified for automatic de-registration under RCW 9A.44.130. Alternatively, the court should have considered the factors listed in 9A.44.142(4) to determine whether Reedy was sufficiently rehabilitated to justify relief, under RCW 9A.44.142.

The court erred in failing to recognize its equitable powers. A trial court abuses its discretion when its decision is “manifestly unreasonable, or is exercised on untenable grounds, or for untenable reasons.” State v. Rohrich, 149 Wn.2d 647, 654, 71 P.3d 638 (2003). A trial court’s failure to exercise its discretion or to properly understand the breadth of its discretion is an abuse of

discretion. See State v. Elliott, 121 Wn. App. 404, 408, 88 P.3d 435 (2004) (refusal to hear expert testimony was a failure to exercise discretion); State v. Fleiger, 91 Wn. App. 236, 242, 955 P.2d 872 (1998) (failure to determine whether defendant was a security risk before ordering “ shock box” was abuse of discretion), review denied, 137 Wn.2d 1003 (1999); State v. Garcia-Martinez, 88 Wn. App. 322, 330, 944 P.2d 1104 (1997) (refusal to exercise discretion in imposing an exceptional sentence below the range is reviewable error), review denied, 136 Wn.2d 1002 (1998).

1. Reedy Was Incarcerated Illegally from December 24, 1994 – if not earlier – until his Release on March 1, 1995.

DOC and the King County jail held Reedy illegally for over two months. The standard range for third degree rape was 12+ to 14 months. CP 14. The court imposed 14 months. The King County jail calculated the 14-month sentence to expire on December 24, 1994. CP 5. Yet, Reedy was not released until March 1, 1995. Neither the court nor the jail/DOC was authorized to extend Reedy’s sentence beyond the determinate sentence imposed.

A person judicially sentenced to confinement remains in custody until the maximum term for which he has been sentenced

expires. In re Pascheke, 61 Wn. App. 591, 595, 811 P.2d 694 (1991). It cannot be disputed that Reedy had a liberty interest in being freed from confinement when his sentence expired. And while there is no “constitutional or inherent right of a convicted person to be conditionally released before the expiration of a valid sentence,” Greenholtz v. Inmates of Nebraska Penal and Corrections Complex, 442 U.S. 1, 99 S. Ct. 2100 (1979), a prisoner in the penitentiary is entitled to release as a matter of right when he has completed his maximum sentence. Scott v. Callahan, 39 Wn.2d 801, 239 P.2d 333 (1952).

While the judgment and sentence ordered that Reedy not be released until “appropriate housing” were found, the condition only limited Reedy’s release under the statutory guidelines for “earned release.” RCW 9.94A.729(5)(b) (DOC must require offender to propose “a release plan that includes an approved residence and living arrangement” as part of any program for release to the community in lieu of earned release). The condition could not serve as a basis for keeping him in custody in excess of the maximum total term allowed for in the judgment and sentence and under the Sentencing Reform Act (SRA). See e.g. State v. Winborne, 167 Wn. App. 320, 327 273 P.3d 454 (2010) (defendant

sentenced to statutory maximum of 60 months for violation of domestic violence no-contact order was required to have 12-month period of community correction reduced to zero, so that total sentence did not exceed statutory maximum).

Nor could the court – without specific findings (even pre-Blakely)⁶ – exceed the standard range sentence prescriptions for total confinement. Former RCW 9.94A.400(1) and (2). The sentencing court made no such findings and any term of confinement in excess of the standard range would have been an exceptional sentence and prohibited.

Moreover, with exceptions not applicable here, the sentencing court is required to impose a determinate sentence under the SRA. In re Personal Restraint of Brooks, 166 Wn.2d 664, 671, 211 P.3d 1023 (2009); State v. Ames, 89 Wn. App. 702, 711, 950 P.2d 514 (1998). A sentence is indeterminate under the SRA, when it puts the burden on DOC rather than the sentencing court to ensure that the inmate does not serve more than the statutory maximum. State v. Linerud, 147 Wn. App. 944, 948-49,

⁶ Blakely v. Washington, 542 U.S. 296, 124 S.Ct. 2531, 159 L.Ed.2d 403 (2004) (invalidating a Washington statute authorizing the imposition of a sentence beyond the standard range for the offense based upon findings made by the sentencing judge).

197 P.3d 1224 (2008), disagreed with by, In re Brooks, 166 Wn.2d at 670.

Although the court imposed a determinate sentence of 14 months, it also provided: "Mr. Reedy may only be released to CCO when appropriate housing has been arranged." CP 15, 25. The condition rendered Reedy's sentence indeterminate and illegal. Worse, it prompted DOC to hold him illegally beyond what the Legislature authorized.⁷ CP 14.

Contrary to the court's ruling on the motion for relief, however, it did have authority to provide an equitable remedy for the blatant violation of Reedy's rights. Pursuant to its equitable powers, the court had authority to establish a *constructive* release date of December 24, 1994, and thereby grant the motion for relief from registration, since Reedy spent ten years crime-free following that date.

2. Equitable Principles Provided the Court Authority to Establish a Constructive Release Date.

Our Supreme Court adopted the equitable doctrine of credit for time spent at liberty in In re Personal Restraint of Roach, 150 Wn.2d 29, 74 P.3d 134 (2003). Roach involved a prisoner

⁷ DOC similarly recognizes (through its own policies) there will be those offenders who max out due to the lack of an approved release address. CP 39.

erroneously released from DOC custody after he had served only the lesser of two concurrent sentences. Roach, 150 Wn.2d at 31. The erroneous release apparently resulted from an incomplete transfer of his sentencing records from the county jail to DOC. Roach, 150 Wn.2d at 32. DOC discovered the error 10 days later and attempted to re-apprehend Roach, but he had left the state. Almost three years later, Indiana extradited Roach to Washington to serve the remainder of his sentence.

Roach filed a personal restraint petition, asking the court to apply the equitable doctrine of credit for time spent at liberty, as articulated by the Ninth Circuit in United States v. Martinez, 837 F.2d 861 (9th Cir. 1988) (7 year delay in execution of a 4 year sentence due to clerical error), and Green v. Christiansen, 732 F.2d 1397 (9th Cir. 1984) (prisoner erroneously released from state custody before serving concurrent federal sentence). Roach, 150 Wn.2d at 35.

Our Supreme Court accepted review of Roach's personal restraint petition and granted him equitable relief. The court agreed with the conclusion of federal and state courts that "fairness and equity" require the state to give a convicted person credit against

his sentence for time spent at liberty due to the state's mistake.

Roach, 150 Wn.2d at 37.

Thus, the court held that "a convicted person is entitled to credit against his sentence for time spent erroneously at liberty due to the State's negligence, provided that the convicted person has not contributed to his release, has not absconded legal obligations while at liberty, and has had no further criminal convictions."

Roach, 150 Wn.2d at 37.

Relying on Roach, Division Three of this Court has extended the equitable doctrine of credit for time spent at liberty to give credit against an individual's sentence for time spent in a statutorily *noncompliant* work release program due to the state's negligence. State v. Dalseg, 132 Wn. App. 854, 134 P.3d 261 (2006). There, Jeff Dalseg and Timothy Cestnik challenged the trial court's decision to deny them credit for time served in the Nisqually Tribal Jail "work release" program. After the men had served more than 11 months of a 12-month work release sentence in the Nisqually program, the state learned that the program did not comply with statutory requirements for work release and asked the court to order Dalseg and Cestnik to begin serving their sentences in one that did. Dalseg, 132 Wn. App. At 857.

On appeal, Division Two held that Dalseg and Cestnik were entitled to day-for-day credit against their sentences for their time served in the Nisqually day reporting program:

The equitable doctrine of credit for time spent at liberty applies by analogy to this case. If equity entitles a convicted person to day-for-day credit for time spent at liberty due to the State's mistake, equity should entitle him to credit for time spent in some lesser form of restraint than the punishment actually imposed. Thus, we hold that a convicted person is entitled to credit against his sentence for time spent in a statutorily noncompliant work release program due to the State's negligence, provided that the convicted person has not contributed to the error, has not absconded legal obligations while in the program, and has had no further criminal convictions.

Dalseg, 132 Wn.2d at 865.

The equitable doctrine of credit for time spent at liberty should apply by analogy here as well. If equity entitles a convicted person to day-for-day credit for time spent at liberty due to the state's mistake, equity should entitle a convicted person to day-for-day credit for time spent incarcerated, due to the state's mistake, against the ten year, crime-free period required for sex offender de-registration. For reasons similar as those in Roach and Dalseg, "fairness and equity" require the state to give credit for the time Reedy was illegally held; in effect, equity requires the establishment of a "constructive release date." In other circumstances, the law

has provided for a “constructive date” to remedy the state’s violation of a person’s rights. See e.g. State v. Greenwood, 120 Wn.2d 585, 845 P.2d 971 (1993) (constructive arraignment date) State v. Striker, 87 Wn.2d 870, 875, 557 P.2d 847 (1976) (same); State v. Raines, 83 Wn. App. 312, 922 P.2d 100 (1996) (adjusting release date to reflect reversal of erroneously served sentence). Equities favor a similar remedy here.

In response, the state may argue the court is precluded from providing such relief under State v. Jones, 172 Wn.2d 236, 257 P.3d 616 (2011), where the Supreme Court held an offender was not entitled to credit toward his sentence of community custody for time he spent incarcerated in excess of his amended sentence of incarceration. However, Reedy is not asking for credit against his community placement sentence. Indeed, he already successfully completed the terms of his community placement. The state’s potential argument therefore should be rejected.

E. CONCLUSION

This Court should remand with instructions to the lower court to exercise its equitable powers to establish a constructive release date of December 24, 1994, and consequently grant Reedy's motion for relief from registration, as he spent ten consecutive years in the community crime-free since that constructive date.

Alternatively, this Court should remand with instructions for the lower court to consider the factors set forth in RCW 9A.44.142(4) regarding whether Reedy is sufficiently rehabilitated to be relieved from the duty to register.

Dated this 31st day of July, 2012

Respectfully submitted

NIELSEN, BROMAN & KOCH



DANA M. NELSON, WSBA 28239
Office ID No. 91051
Attorneys for Appellant

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

STATE OF WASHINGTON,)	
)	
Appellant,)	
)	
vs.)	COA NO. 68042-1-1
)	
BENNETT REEDY,)	
)	
Respondent.)	

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 31ST DAY OF JULY, 2012, I CAUSED A TRUE AND CORRECT COPY OF THE **BRIEF OF APPELLANT** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] BENNETT REEDY
LUTHERAN COMPASS
77 S. WASHINGTON ST
FIFTH FLOOR
SEATTLE, WA 98104

2012 JUL 31 PM 4:29
COURT OF APPEALS DIVISION
STATE OF WASHINGTON

SIGNED IN SEATTLE WASHINGTON, THIS 31ST DAY OF JULY, 2012.

x Patrick Mayovsky