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Division I
State of Washington

Supreme Court No. 92026-5
Court of Appeals No. 71342-6-I

THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

DERRON P. ALEXIS,

Petitioner.

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STATE OF WASHINGTON

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

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

Derron P. Alexis, petitioner here and appellant below, requests this Court grant review of the decision designated in Part B of the petition.

B. COURT OF APPEALS DECISION

Pursuant to RAP 13.4, Mr. Alexis requests this Court grant review of the decision of the Court of Appeals, No. 71342-6-I (June 8, 2015). A copy of the decision is attached as Appendix A.

C. ISSUES PRESENTED FOR REVIEW

1. Jury instructions must clearly inform a jury of the allocation of the burden of proof and not be misleading. The State contended Mr. Alexis was an accomplice to unlawful imprisonment. The State bears the burden of proving accomplice liability beyond a reasonable doubt. The jury was instructed on the definition of accomplice liability, but it was not instructed on the State's burden of proof on accomplice liability. Rather, the "to convict" instruction for unlawful imprisonment informed the jury that the State bore the burden of proving "the following elements" beyond a reasonable doubt but referred only to "the defendant" and not to accomplice liability. By contrast, the "to convict" instruction for criminal mistreatment informed the jury the State bore the burden of proving "the following elements," including "the defendant or a person to whom the defendant was an accomplice." Under these circumstances, does the Court

of Appeals ruling that the jury was properly instructed conflict with decisions by this Court regarding the burden of proof for accomplice liability and clarity of instructions, conflict with another decision of the Court of Appeals, raise a significant question of law under the state and federal constitutions, and involve an issue of substantial public interest that should be determined by this Court?

2. Accomplice liability does not extend to mere presence and failure to act. An essential element of the crime of unlawful imprisonment is restraint of a person. Where the evidence established that Mr. Alexis's housemate restrained the victim and Mr. Alexis merely knew of the restraint and failed to act, does the Court of Appeals ruling that sufficient evidence supported his conviction for unlawful imprisonment as an accomplice conflict with decisions by this Court regarding accomplice liability, raise a significant question of law under the state and federal constitutions, and involve an issue of substantial public interest that should be determined by this Court?

3. An exceptional sentence above the standard range may be based only on facts either admitted by the defendant or found by a jury beyond a reasonable doubt. The jury returned special verdicts that Mr. Alexis knew or should have known that N.A. was particularly vulnerable and that he abused his position of trust to facilitate the crimes. The sentencing court,

however, did not limit itself to the special verdicts but, rather, entered factual findings that far exceed the jury's verdicts. Does the Court of Appeals ruling that "the other facts recited in the court's findings ... were permissible considerations in determining the length of Alexis's sentence" conflict with decisions by the United States Supreme Court and this Court regarding a defendant's right to jury trial, raise a significant question of law under the state and federal constitutions, and involve an issue of substantial public interest that should be determined by this Court?

E. STATEMENT OF THE CASE

Sixty-seven-year-old Genevieve Alexis sent her adopted daughter, eight-year-old N.A., to Seattle to live for one year with her adult son, Derron Alexis, and his housemate, Mary Mazalic. RP 614, 617, 925, 932-33. One year later, when Ms. Mazalic and N.A. were at women's clothing store, two employees became concerned that Ms. Mazalic was verbally abusive to N.A., and N.A. was trembling, she had a "gash" on her wrist, and she appeared sick and very undernourished. RP 317-18, 326, 329, 331. The employees obtained Ms. Mazalic's name from her credit card receipt and called Child Protective Services. RP 319, 329. Two officers went to the home of Mr. Alexis and Ms. Mazalic to conduct a child welfare check. RP 309, 335. They removed N.A. and she was hospitalized that evening. RP 313, 341, 383. At the hospital, N.A. was diagnosed as suffering from

significant injuries in various stages of healing, including cigarette burns, ulcerations, a urinary tract infection, a kidney infection, muscle wasting, dry and cracked skin, sunken cheeks, prominent ribs, and extreme malnourishment. RP 380, 382-83, 387, 395, 394-97, 399, 423, 524-26, 569-70, 575-76, 579.

At first, N.A. reported that Ms. Mazalic was solely responsible for her injuries and malnourishment. RP 688. Several months later, N.A. reported that Mr. Alexis participated in the abuse, although to a much lesser extent. RP 689, 691.

Mr. Alexis was charged with criminal mistreatment in the first degree, in violation of RCW 9A.42.020, and unlawful imprisonment, in violation of RCW 9A.40.040, in addition to the aggravating circumstances on each count of abuse of a position of trust and particular vulnerability, as provided by RCW 9.94A.535(3)(b), (n). CP 81-82.[1]

At trial, N.A. testified that Mr. Alexis and Ms. Mazalic were very nice when she first arrived at their home. RP 619, 621. Ms. Mazalic took care of her, while Mr. Alexis worked nights, slept during the daytime, and spent most of his time in his bedroom. RP 647, 650. As time progressed, however, N.A. testified that Ms. Mazalic became "meaner and meaner."

[1] In 2012, at a separate trial, Ms. Mazalic was convicted of assault of a child in the first degree, criminal mistreatment in the first degree, and tampering with a witness.

RP 647. She started beating N.A. with a belt, wire, and extension cords, and burned her wrist and ankle with cigarettes, sometimes securing a ball in N.A.'s mouth so she could not scream. RP 622, 628, 630, 670. Ms. Mazalic was in charge of the household food and N.A.'s meal portions became increasingly smaller, and sometimes she was not fed at all. RP 624, 670. Even when Mr. Alexis suggested Ms. Mazalic feed N.A. or offered to provide N.A. food, Ms. Mazalic instructed him to not feed N.A., and he complied. RP 634, 640, 647, 650.

N.A. also testified that Mr. Alexis never hit her, although she acknowledged that she previously told a CPS investigator that Mr. Alexis hit her with a belt and wire. RP 622, 636-38. Ms. Mazalic once left N.A. locked in a metal dog crate, she made some noise, and Mr. Alexis came into the room holding a belt, but he did not release her. RP 626-27.

In closing argument, the State contended Mr. Alexis committed unlawful imprisonment as accomplice and he committed criminal mistreatment as either a principal or an accomplice. RP 1128-29. The jury found Mr. Alexis guilty of both charges. CP 59, 60. By special verdict, the jury also found Mr. Alexis used his position of trust to facilitate the crimes and he knew or should have known N.A. was particularly vulnerable or incapable of resistance. CP 61, 62. The court imposed an exceptional

sentence of 120 months for criminal mistreatment and 30 months for unlawful imprisonment, to be served consecutively. CP 20.

On appeal, Mr. Alexis argued the insufficiency of evidence and instructional error required reversal of Mr. Alexis's conviction for unlawful imprisonment, the exceptional sentence above the standard range was improperly based on facts found by the court and not limited to the facts found by the jury, and the aggravating factor of "abuse of a position of trust" inhered in the offense of criminal mistreatment. The Court accepted the State's concession of error that "abuse of a position of trust" inhered in the offense of criminal mistreatment, but otherwise affirmed the convictions and exceptional sentence.

E. ARGUMENT

1. The Court of Appeals erroneously ruled the instructions on unlawful imprisonment were adequate, when the instructions did not make the State's burden of proof manifestly apparent and were misleading.

When read as a whole, instructions must clearly inform the jury of the applicable law and the allocation of the burden of proof, and not be misleading. *State v. Bennett*, 161 Wn.2d 303, 307, 165 P.3d 1241 (2007). Instructions that fail to make clear the applicable law or that reduce the State's burden of proof violate a defendant's right to due process. *Id.* at 306. "[T]he test is whether the jury is informed of the State's burden in an

understandable way." *State v. Teal*, 117 Wn. App. 831, 839, 73 P.3d 402 (2003), *aff'd*, 152 Wn.2d 333, 96 P.3d 974 (2004) (citing *State v. Ng*, 110 Wn.2d 32, 41, 750 P.2d 632 (1988)).

Even though accomplice liability is not an element of the substantive offense, the State must prove accomplice liability beyond a reasonable doubt. *State v. Cronin*, 142 Wn.2d 568, 579-82, 14 P.3d 752 (2000). Therefore, the jury must be clearly instructed that the State bears the burden of proving accomplice liability beyond a reasonable doubt. *Teal*, 117 Wn. App. at 839.

The jury was not clearly informed of the State's burden of proof for accomplice liability. The jury was instructed on the State's burden of proof for elements of the offense only. Instruction No. 3 provided, in pertinent part:

> The defendant has entered a plea of not guilty. That plea puts in issue every element of the crime charged. *The State is the plaintiff and has the burden of proving each element of the crime beyond a reasonable doubt.*

CP 50 (emphasis added).

Moreover, the jury was not instructed to consider accomplice liability on the charge of unlawful imprisonment or that the State bore the burden of proving accomplice liability beyond a reasonable doubt on that charge. The jury was instructed in relevant part:

> To convict the defendant of the crime of unlawful imprisonment ...the following elements of the crime must be proved beyond a reasonable doubt:
>
> (1) That during the time period beginning on or about the 7th day of September, 2010 and concluding on or about the 15th day of August, 2011 the defendant restrained the movements of N.A., in a manner that substantially interfered with her liberty....

CP 56 (Instruction No. 9). Significantly, in contrast, on the charge of criminal mistreatment, the jury was specifically instructed to consider whether the State proved "the following elements" beyond a reasonable doubt, including whether the proscribed conduct was performed by Mr. Alexis either as a principal or as an accomplice:

> To convict the defendant of the crime of criminal mistreatment in the first degree ... each of the following elements of the crime must be proved beyond a reasonable doubt:
>
> 1. That during the time period beginning on or about the 7th day of September, 2010 and concluding on or about [sic] 15th day of August, 2011 *the defendant, or a person to whom the defendant was an accomplice*, withheld any of the basic necessities of life from N.A.

CP 52 (Instruction No. 5) (emphasis added). Under these circumstances, the instruction defining accomplice liability was insufficient to direct the jury to consider accomplice liability for the charge of unlawful imprisonment.

Further, the "reasonable doubt" instruction and the "to convict" instruction clearly set forth the State's burden as to the elements of the

offense, but the definitional instruction on the accomplice liability was completely silent as to the State's burden of proof.[2] Because accomplice liability and the State's burden of proof were included in the "to convict" instruction for criminal mistreatment, but not included in the "to convict" instruction for unlawful imprisonment, the instructions were misleading and improperly relieved the State of its burden as to accomplice liability.

In *State v. Spencer*, the defendant was convicted of drive-by shooting and witness tampering. 111 Wn. App. 401, 403, 45 P.3d 209 (2002), *rev. denied*, 148 Wn.2d 109, 45 P.3d 209 (2003). As here, the jury was provided a pattern instruction defining accomplice liability but it was not instructed it could convict the defendant based on accomplice liability.

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[2] The jury was provided the following definition of "accomplice liability":

> A person is guilty of a crime if it is committed by the conduct of another person for which he or she is legally accountable. A person is legally accountable for the conduct of another person when he or she is an accomplice of such other person in the commission of the crime.
>
> A person is an accomplice in the commission of a crime if, with knowledge that it will promote or facilitate the commission of the crime, he either:
>
> (1) solicits, commands, encourages, or requests another person to commit the crime; or
>
> (2) aids or agrees to aid another person in planning or committing the crime.
>
> The word "aid" means all assistance whether given by words, acts, encouragement, support, or presence. A person who is present at the scene and ready to assist by his or her presence is aiding in the commission of the crime. However, more than mere presence and knowledge of the criminal activity of another must be shown to establish that a person present is an accomplice.
>
> A person who is an accomplice in the commission of a crime is guilty of that crime whether present at the scene or not.

CP 51 (Instruction No. 4).

Id. at 406-07. The court reversed the convictions on other grounds, but addressed the accomplice liability instructions as an issue that might arise on remand, and stated:

> Spencer also contends that the prosecutor improperly argued accomplice liability because the court did not instruct the jury that a person who is an accomplice in the commission of a crime is guilty of that crime.
> ...
> We agree that the prosecutor made an improper argument. The trial court gave a definitional instruction regarding accomplice liability, but it did not instruct the jury that it could convict Spencer of the crime if it found that he was an accomplice.

Id. at 411-12. Similarly here, the jury was given a definition of accomplice liability, but it was not given any context for that theory of liability or guidance on the significance of the definition.

Contrary to *Spencer*, in *State v. Teaford*, the defendant appealed his convictions for robbery and assault, on the grounds the trial court failed to include accomplice liability as an additional element in the instructions defining the crimes, regardless that the jury was provided pattern instructions on reasonable doubt and accomplice liability. 31 Wn. App. 496, 497, 500, 644 P.2d 136 (1982). The court affirmed his convictions, and stated:

> Considered as a whole, the instructions required the jury to determine defendant's liability as an accomplice in light of the elements of the principal crimes in the perpetration of which such liability arose and under the overall

> requirement that criminal liability must be proved beyond a reasonable doubt.

Id. at 500.

Here, the court erroneously ruled Mr. Alexis's argument was considered and rejected in *Teal, supra*. Opinion at 11-12. However, Mr. Alexis's issue was not raised in *Teal.*

> Teal's argument can be summarized as follows: the purpose of the "to convict" instruction is to set forth the elements of the charge which the State must prove beyond a reasonable doubt. When the State employs a theory of accomplice liability, the "to convict" instruction must communicate that the elements can be established by the conduct of the defendant *or an accomplice*. If the "to convict" instruction refers only to the conduct of the defendant, accomplice liability is beyond the scope of the instruction, and the State assumes the burden of proving that the defendant's conduct established all the elements of the crime without reference to the conduct of an accomplice.

117 Wn. App. at 837 (emphasis in original). Mr. Alexis does not argue that accomplice liability is an element of the substantive offense or that it necessarily must be included in the "to convict" instruction. Rather, he argues the jury instructions as a whole must, in some manner, make clear the State's burden of proving accomplice liability beyond a reasonable doubt, in addition to its burden to prove the elements of the substantive offense beyond a reasonable doubt. The Court's reliance on the *Teal* is misplaced.

The court noted that the instructions were based on pattern instructions and that the definitional instruction on accomplice liability was an accurate statement of the law. Opinion at 11. Mr. Alexis does not challenge the accuracy of the instructions given. However, an instruction may be both an accurate statement of the law and misleading. *Furfaro v. City of Seattle*, 144 Wn.2d 363, 382, 27 P.3d 1160 (2001). Under the circumstances of the present case, Mr. Alexis challenges the failure to additionally inform the jury on the State's burden of proving accomplice liability beyond a reasonable doubt on the charge of unlawful imprisonment. The "to convict" instruction for unlawful imprisonment informed the jury only that the State bore the burden of proving the *elements* of the substantive offense beyond a reasonable doubt, whereas the "to convict" instruction for criminal mistreatment specifically included accomplice liability as an "element" that the State needed to prove beyond a reasonable doubt. Compare CP 56 (Instruction No. 9) with CP 52 (Instruction No. 5). Accordingly, even assuming the instructions were accurate statements of the law, they were misleadingly inconsistent.

The Court of Appeals ruling is contrary to this Court's decisions regarding the necessity that jury instructions must make the burden of proof manifestly apparent and not be misleading, conflicts with another decision of the Court of Appeals that accomplice liability must be

included in the "to convict" instruction, raises a significant question of law under the state and federal constitutions, and involves an issue of substantial public interest that should be determined by this Court. Pursuant to RAP 13.4(b)(1), (2), (3), and (4), this Court should accept review.

2. The Court of Appeals erroneously ruled that sufficient evidence was presented to establish Mr. Alexis was an accomplice to unlawful imprisonment, when the evidence established only that he was aware of the restraint and failed to act.

The constitutional right to due process requires the State to produce sufficient evidence to prove beyond a reasonable doubt every essential element of a crime charged. *In re Winship*, 397 U.S. 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970); *State v. Deer*, 175 Wn.2d 725, 731, 287 P.3d 539 (2012); U.S. Const. amends. VI, XIV; Const. art. I, § 3. On review, evidence is sufficient to support a conviction only if, "after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 318, 99 S.Ct. 628, 61 L.Ed.2d 560 (1970); *accord State v. Rose*, 175 Wn.2d 10, 14, 282 P.3d 1087 (2012).

RCW 9A.40.040 provides, "A person is guilty of unlawful imprisonment if he or she knowingly restrains another person." To prove

this count, the State argued that Mr. Alexis was an accomplice to Ms. Mazalic who locked N.A. in a dog crate. RP 1128-29. N.A. testified:

> A. One day when Mary went to work, she put me in the [dog] crate, and I would have to stay in there locked up with a lock the piece that locks it.
> Q. Did Derron ever come downstairs when that was happening?
> A. Yes.
> Q. Tell the jury what happened with that.
> A. Well, I was making some noise in the crate, and he heard me, probably thinking that I was getting out, and came downstairs with a belt.
> Q. What did he say to you?
> A. I forgot.
> Q. Did he tell you he was going to do anything with the belt?
> A. No.
> Q. I notice you are looking over at him before you are answering. Are you worrying about saying anything?
> A. No.
> Q. Did he let you out of the crate?
> A. No.

RP 626-27. Noticeably missing was testimony that Mr. Alexis personally placed N.A. in the crate, that he assisted Ms. Mazalic in doing so, or that N.A. was capable of escape and he prevented her.[3]

Accomplice liability does not extend to mere presence or failure to act.

> A defendant s not guilty as an accomplice unless he has associated with and participated in the venture as something he wished to happen and which he sought by his

[3] The lack of evidence is reflected in the jury inquiry, "Can the court provide a diffanition [sic] of restrained the movement in a matter that substantially interfered with her liberty?" CP 44.

> acts to make succeed. Mere presence at the scene of a crime, even if coupled with assent to it, is not sufficient to prove complicity. The State must prove that the defendant was ready to assist in the crime.

State v. Luna, 71 Wn. App. 755, 759, 862 P.2d 620 (1993) (citing, *inter alia*, *State v. J-R Distributors, Inc.*, 82 Wn.2d 584, 593, 512 P.2d 1049 (1973); *State v. Rotunno*, 95 Wn.2d 931, 933, 631 P.2d 951 (1981); *In re Welfare of Wilson*, 91 Wn.2d 487, 491, 588 P.2d 1161 (1979).

In *State v. Jackson*, the defendants, husband and wife foster parents, were convicted of felony murder of their foster child who died as the result of a blunt impact head injury following a jury trial where the jury was instructed that accomplice liability could attach where a parent was present and failed to come to the aid of his or her child. 137 Wn.2d 712, 716-17, 720-21, 976 P.2d 1229 (1999). This Court reversed the convictions on the grounds, *inter alia*, the Washington accomplice liability statute,[4] unlike the Model Penal Code upon which the state statue was

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[4] The Washington accomplice liability statute, RCW 9A.08.020(3), provides:

> (3) A person is an accomplice of another person in the commission of a crime if:
> (a) With knowledge that it will promote or facilitate the commission of the crime, he or she
> (i) Solicits, commands, encourages, or requests such other person to commit it; or
> (ii) Aids or agrees to aid such other person in planning or committing it; or
> (b) His or her conduct is expressly declared by law to establish his or her complicity.

modeled, does not extend liability to a parent who fails to come to the aid of a child. *Id.* at 722. Accordingly, Mr. Alexis's mere knowledge of N.A.'s restraint and failure to act cannot support his conviction for unlawful imprisonment, either as a principal or as an accomplice.

The court ruled sufficient evidence was presented to establish more than mere presence and failure to come to N.A.'s aid. Opinion at 8-9. The court noted that two witnesses testified that a dog crate was in the house, whereas Mr. Alexis denied a dog crate was in the house or that N.A. was placed in a crate. *Id.* However, this conflicting testimony does not support a finding that Mr. Alexis acted as an accomplice to unlawful imprisonment. The court further noted N.A. testified Mr. Alexis appeared in the room with the crate holding a belt which he allegedly used to beat her, thereby creating the inference that he "intimidated" her into remaining in the cage. *Id.* at 9. But N.A.'s testimony does not support this inference. N.A. did not remember what, if anything, Mr. Alexis said when he came into the room, and she did not testify that she was attempting to get out of the crate or that Mr. Alexis took any action to cause her to remain in the crate. Rather, she testified simply that he appeared holding a belt, saw her in the crate, and left the room without releasing her. RP 626-27. Even viewing the evidence in the light most favorable to the State, N.A.'s testimony establishes only that Mr. Alexis was aware of her confinement

and took no action to release here. However objectionable that may be, the evidence is insufficient to establish Mr. Alexis's liability as an accomplice to unlawful imprisonment.

In *Luna*, the defendant and a group of other juveniles were engaged in vehicle prowling, while riding in a car driven by one of the other juveniles. 71 Wn. App. at 756. At one point, the driver stopped the car and left, while the defendant and the other occupants got out of the car but remained by it. *Id.* Suddenly, a truck driven by the other juvenile sped past the group by the car. *Id.* The defendant and the remaining juveniles got into the car and, with the defendant driving the car, followed the truck until it pulled to the side of the road. *Id.* The driver of the truck got back into the driver's seat of the car, the defendant got into the back of the car, and one of the other juveniles got into the truck and drove away. *Id.* Eventually, the second driver of the truck abandoned the truck at an apartment complex, where a witness observed the defendant and two other people approach the truck. *Id.* The defendant was convicted as an accomplice to taking a motor vehicle without permission. *Id.* 757. On appeal, however, the court reversed due to insufficient evidence of accomplice liability, and ruled:

> The State's evidence is insufficient to prove that Mr. Luna possessed the mental state required of an accomplice. While Mr. Luna knew, after the fact, that Mr. Lauriton took

> the truck without permission, there is no evidence that he knew of, or even suspected, Mr. Lauriton's intent before the theft occurred. Neither can it rationally be concluded under the evidence that Mr. Luna, by following the stolen truck in the Camaro, promoted or facilitated the theft, or aided Mr. Lauriton in stealing the truck. Mr. Luna did not, by driving away in the Camaro, seek to make the theft succeed, since it had already occurred and he was unaware of Mr. Lauriton's plans after that point.
>
> While a person may be an accomplice if his conduct aids another in planning or committing the crime, the aid must be rendered with knowledge that it will promote or facilitate the crime. There is no evidence Mr. Luna had such knowledge.

Id. at 759-60 (internal citation omitted).

Similarly, here, there is no evidence that Mr. Alexis knew beforehand of Ms. Mazalic's intent to confine N.A. to the crate or that he took any action to promote or facilitate the confinement. In the absence of sufficient evidence to establish Mr. Alexis aided in the planning or commission of unlawful confinement or that he knowingly acted to promote or facilitate the offense, the Court of Appeals ruling affirming his conviction conflicts with decisions by this Court and by the Court of Appeals regarding the limits of accomplice liability, raises a significant question of law under the state and federal constitutions, and involves an issue of substantial public interest that should be determined by this Court. Pursuant to RAP 13.4(b)(1), (3), and (4), this Court should accept review.

3. The Court of Appeals erroneously upheld the exceptional sentence based on facts found by the court, and not limited to the facts found by the jury.

On each count, the jury returned a special verdict that Mr. Alexis knew or should have known N.A. was particularly vulnerable or incapable of resistance and that he used his position of trust to facilitate the commission of the crimes. CP 40, 41. At sentencing, however, the court did not limit itself to the jury's findings but, rather, entered the following findings that far exceeded the jury's special verdicts.

> I. FINDINGS OF FACT
>
> The defendant was responsible for Mary Mazalic as her caregiver and was responsible for N.A. The defendant was N.A.'s adoptive brother. She was sent to his home. She was particularly vulnerable and the defendant knew it. The defendant was not merely a person with his "head in the sand." He acted alone and as an accomplice, causing N.A.'s severely starved & emaciated condition. Based on the jury's finding that N.A. was a particularly vulnerable victim, and that he abused a position of trust which facilitated the commission of these crimes, the Court finds substantial & compelling reasons to impose an exceptional sentence.

CP 28.

A criminal defendant has the constitutional right to a jury trial and to proof beyond a reasonable doubt. *Blakely v. Washington*, 542 U.S. 296, 301, 124 S.Ct. 2531, 159 L.Ed.2d 403 (2004); *State v. Green*, 94 Wn.2d 216, 220-21, 616 P.2d 628 (1980); U.S. Const. amend. VI, XIV; Const. art. I, §§ 3, 21, 22. Thus, an exceptional sentence above the standard range

may be based only on facts either admitted by the defendant or found by a jury beyond a reasonable doubt. *Blakely*, 542 U.S. at 304; *Apprendi v. New Jersey*, 530 U.S. 466, 476-77, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000). "When a court imposes an exceptional sentence predicated on an unstipulated fact not found by a jury beyond a reasonable doubt, the court violates the defendant's Sixth Amendment *(Blakely)* right." *In re Pers. Restraint of Beito*, 167 Wn.2d 497, 503, 220 P.3d 489 (2009).

In addition, RCW 9.94A.537(3) provides:

> The facts supporting aggravating circumstances shall be proved to a jury beyond a reasonable doubt. The jury's verdict on the aggravating factor must be unanimous, and by special interrogatory. If a jury is waived, proof shall be to the court beyond a reasonable doubt, unless the defendant stipulates to the aggravating facts.

Even so, the court ruled, "The other facts recited in the court's findings – Alexis 'was not merely a person with 'his head in the sand,'' and he 'caus[ed] N.A.'s severely starved, emaciated condition – *were permissible considerations in determining the length of Alexis's sentence*"(emphasis added). This ruling is in direct conflict with *Blakely* and its progeny, in direct conflict with RCW 9.94A.537(3), raises a significant question of law under the state and federal constitutions, and involves an issue of substantial public interest that should be determined

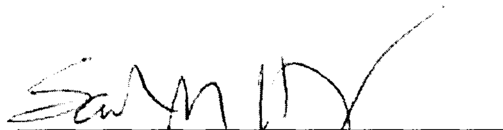
by this Court. Pursuant to RAP 13.4(b)(1), (3), and (4), this Court should accept review.

F. CONCLUSION

The decision of the Court of Appeals in violation of Mr. Alexis's right to jury instructions that make the State's burden of proof manifestly apparent and not be misleading, is contrary to accomplice liability jurisprudence, and in conflict with Mr. Alexis's right to a jury determination of every fact relied upon to justify a sentence above the standard range. For the foregoing reasons, Mr. Alexis respectfully requests this Court accept review of the Court of Appeals decision in this case.

DATED this 21 day of July, 2015.

Respectfully submitted,



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APPENDIX A

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

STATE OF WASHINGTON, Respondent, v. DERRON PATRICK ALEXIS, Appellant.	No. 71342-6-I UNPUBLISHED OPINION FILED: June 8, 2015

SCHINDLER, J. — The jury convicted Derron Patrick Alexis of unlawful imprisonment and criminal mistreatment in the first degree of N.A. By special verdict, the jury found N.A. was particularly vulnerable and Alexis used his position of trust to facilitate commission of the crimes. Alexis contends insufficient evidence supports the unlawful imprisonment conviction and the court did not properly instruct the jury on accomplice liability. Alexis also claims the court erroneously imposed an exceptional sentence and insufficient evidence supports the finding that N.A. was particularly vulnerable. We affirm.

FACTS

In November 2008, Genevieve Alexis adopted eight-year-old N.A. and her two younger brothers. The elementary school in New York placed N.A. in a special education program. Genevieve disagreed with the placement and in August 2010, sent N.A. to live in Washington with her adult son Derron Patrick Alexis.[1]

Alexis lived with Mary Mazalic in Mukilteo. Alexis and Mazalic had been together for over 15 years. Mazalic had a number of physical and mental health conditions, including epilepsy, osteoarthritis, diabetes, multiple sclerosis, and bipolar disorder. The side effects of Mazalic's epilepsy medication affected her ability "to stay awake." Alexis was paid by the State to act as Mazalic's caregiver, including cooking meals, helping her bathe and dress, and taking her to doctor's appointments.

Alexis worked as an airplane mechanic four days a week during the night shift. On his days off, Alexis frequently worked out at a gym and trained in mixed martial arts.

Alexis shared responsibility with Mazalic for taking care of N.A. At first, N.A. enjoyed living with Alexis and Mazalic, "[i]t was really good and nice." But beginning the "[m]iddle" of the school year, Alexis and Mazalic began beating and torturing N.A.

N.A. was confined to her room for up to three or four days at a time and was not allowed to eat. Mazalic often handcuffed N.A. to a couch during the day while Mazalic slept. N.A. was kept isolated from the other neighborhood children. Mazalic told neighbors that N.A. was "a monster" who would hurt their children or steal from them.

[1] Because Genevieve Alexis and Derron Patrick Alexis share the same last name, we refer to Genevieve Alexis by her first name and Derron Patrick Alexis by his last name.

Alexis and Mazalic withheld food from N.A. At mealtimes, Alexis and Mazalic would eat food in front of N.A. but would not allow her to eat. N.A. did not sneak food from the kitchen cupboards because she was afraid Alexis or Mazalic would hear and she would be punished. N.A. sometimes surreptitiously ate the dog's food.

Mazalic and Alexis physically abused N.A. Mazalic would gag N.A. with a sock or a ball and hit N.A. with a belt, a wire, and extension cords. Mazalic also burned N.A. on the wrist and ankle with cigarettes. Alexis hit N.A. with a wire and with a black belt "[a] lot." When Alexis beat N.A., Mazalic watched.

In August 2011, Mazalic took N.A. with her to a clothing store. Two clothing store employees said N.A. appeared "emaciated," was "trembling," and had a deep open gash on her wrist. One of the employees testified that she "knew something was wrong by [N.A.'s] appearance" because her "bones were protruding" and "[h]er cheeks were sunken in. . . . She just looked way too thin for a child." Using the name on Mazalic's credit card receipt, the employees called Child Protective Services (CPS).

Prior to taking N.A. into protective custody, Mukilteo Police Department Corporal Gary Marienau interviewed Alexis. Alexis told Corporal Marienau that Mazalic was his significant other and that he and Mazalic planned to adopt N.A. When asked about the marks on N.A.'s body, Alexis claimed they were from "plants and bushes in the back of the residence."

Medical professionals examined N.A. and diagnosed her with severe malnutrition and a kidney infection. N.A. had abrasions, bruising, and scarring consistent with cigarette burns and high-velocity whipping with a looped cord and a belt buckle. N.A.

had no subcutaneous fat and had prominent muscle wasting, low body temperature, pancreatic and liver inflammation, and a distended abdomen. The forensic nurse who examined N.A. testified that in 12 years of practice, she had never seen a child as malnourished as N.A.

Snohomish County Sheriff's Office Detective Tyler Quick recorded the interview with Alexis. Alexis told Detective Quick that he and Mazalic shared responsibility for taking care of N.A. Alexis stated that he was close to N.A., that N.A. called him "dad," and that "he would know" if N.A. had any medical problems. Alexis said N.A. received plenty of food and "didn't miss any meals." Alexis described the large meals that N.A. would eat and said they took her "to all-you-can-eats where she would eat herself sick to where her belly swelled up." Alexis said he worked four days a week on swing shift but he had Wednesdays, Thursdays, and Fridays off and "always" made sure N.A. was fed. Alexis denied he had ever "raised a hand" to N.A. When asked if Mazalic ever hit N.A., Alexis said, "Absolutely not."

The State charged Alexis with criminal mistreatment in the first degree and unlawful imprisonment.[2] The State also alleged as aggravating factors that Alexis knew or should have known that N.A. was particularly vulnerable or incapable of resistance under RCW 9.94A.535(3)(b) and that he used his position of trust or confidence to facilitate the commission of the offenses under RCW 9.94A.535(3)(n).

---

[2] The State also charged Mazalic. In a separate trial, the jury convicted her of criminal mistreatment in the first degree, assault of a child in the first degree, and tampering with a witness.

Before trial, the court granted the defense motion to exclude some of the evidence of Mazalic's conduct against N.A.[3] but ruled the following evidence was admissible:

1. Burning N.A. with cigarettes
2. Hitting N.A. with extension cords
3. Hitting N.A. with her clothes off
4. Hitting N.A. with a black belt
5. Hitting N.A. with "a stiff wire with red things on the end."
6. Making N.A. go without food
7. Eating meals in front of N.A. when she could not eat
8. Beating N.A. in various areas of the home
9. Making N.A. wear diapers . . .
10. Making N.A. sleep in a tent in the backyard
11. Making N.A. . . . eat "jail food"
12. Listening in on N.A.'s phone conversations with Genevieve Alexis
13. Beating N.A. until she needed a break, then would beat N.A. again
14. Putting a squeeze ball into N.A.'s mouth to stifle her screams.

Twenty-nine witnesses testified during the five-day jury trial. Detective Quick's interview with Alexis was admitted and played for the jury.

Pediatrician and child abuse expert Dr. Kenneth Feldman testified N.A. had "a lot of sores on her skin . . . , some of which are circular, small ulcerations or scars," and "a lot of pigmentary change where she is darker than normal because of previous skin

[3] The court ruled the following evidence was excluded:

1. Threats to kill N.A. and dump her body
2. Attempts to drown N.A. in a bathtub
3. The application of ice on N.A.'s wounds
4. Making N.A. put a pee-filled diaper on her head
5. Making N.A. take cold showers
6. Putting soap in N.A.'s food
7. Making N.A. gargle with dish soap and shampoo
8. Making N.A. sleep in a bathtub
9. Making N.A. stay in a bathroom
10. Cutting N.A.'s hair
11. Whether Mazalic wanted N.A.'s scars to show
12. Telling N.A. [Mazalic] had done similar things to [N.A.'s adopted brother].

injury." Dr. Feldman identified a "loop-type" whipping mark on the left side of N.A.'s chest.

> Here you can see much more formed examples of whipping a child with a looped cord. One of the characteristics of the whipping with a cord is that the blood vessels under it are compressed. The blood is pushed out from under the injuring object. There is also a sheer plane at the edge of the injuring object.
>
> So often with those high velocity impacts, we will get this railroad track appearance where the actual impact site under the cord looks pretty normal, but outlining either side of it is a row of broken blood vessels causing what we call petechiae or little capillary bursts of blood vessels within the skin.

Dr. Feldman identified other whipping marks on N.A.'s right chest and left thigh and testified the marks had "somewhat of a pinker hue suggesting they are fairly acute." Dr. Feldman testified N.A. had an E. coli bacteria infection and, if untreated, the kidney infection was potentially fatal, particularly in N.A.'s weakened condition.

N.A. testified. During her testimony, the prosecutor asked N.A. about statements she had previously made to CPS investigator Jennifer Brady. N.A. admitted telling Brady that Alexis hit her "[a] lot" with the belt and wire on her chest and side. N.A. also said that she told Brady that Alexis refused to give her food. N.A. testified that when Genevieve visited her in the hospital, Genevieve told her not to "say anything, and if they ask you questions, lie about it." N.A. testified that after Mazalic left her locked in a dog crate, Alexis came into the room with a belt in his hand and did not let her out.

Brady testified that N.A. was initially unwilling to talk to her because the "family could get in trouble" and N.A. said, "They are all I have." N.A. told Brady someone had told her that "if I talk to you, my brothers will be taken away and separated." Brady testified N.A. eventually "told me that [Alexis] hit her with a belt and a cord many times, and that he had also given her the bad oatmeal, which was not cooked."

Alexis testified. He denied the charges of criminal mistreatment and unlawful imprisonment. Alexis said there was "only one time" that N.A. did not eat and that was because she had the flu and "wasn't hungry." Alexis testified he and Mazalic did not have a dog crate and denied N.A. was ever locked in a dog crate.

The court instructed the jury. The jury convicted Alexis as charged and returned special verdicts as to the aggravating factors on both counts. The court imposed an exceptional sentence by ordering the sentences to be served consecutively.

ANALYSIS

Sufficiency of the Evidence

Alexis contends insufficient evidence supports the conviction for unlawful imprisonment. Sufficient evidence supports a conviction if, when viewed in the light most favorable to the State, any rational trier of fact would find the essential elements of the crime beyond a reasonable doubt. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). "A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom." Salinas, 119 Wn.2d at 201. On review, we need not be convinced of the defendant's guilt beyond a reasonable doubt but only that substantial evidence supports the State's case. State v. Fiser, 99 Wn. App. 714, 718, 995 P.2d 107 (2000). We defer to the trier of fact on "issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence." Fiser, 99 Wn. App. at 719; State v. Camarillo, 115 Wn.2d 60, 71, 794 P.2d 850 (1990).

A person is guilty of unlawful imprisonment if he or she knowingly restrains another person. RCW 9A.40.040(1). "Restrain" means "to restrict a person's movements without consent and without legal authority in a manner which interferes

substantially with his or her liberty." RCW 9A.40.010(6). Restraint is "without consent" if it is accomplished by physical force, intimidation, or deception. RCW 9A.40.010(6)(a).

An individual is an accomplice when he aids another person in committing a crime with knowledge that his actions will promote or facilitate the commission of the crime. RCW 9A.08.020(3). An accomplice need not participate in or have specific knowledge of every element of the crime nor share the same mental state as the principal. State v. Sweet, 138 Wn.2d 466, 479, 980 P.2d 1223 (1999).

Relying on State v. Jackson, 137 Wn.2d 712, 976 P.2d 1229 (1999), Alexis argues that accomplice liability does not extend to his mere presence or failure to act. Alexis's reliance on Jackson is misplaced.

In Jackson, a husband and wife were convicted of second degree felony murder of their foster child. Jackson, 137 Wn.2d at 715. The trial court instructed the jury that either defendant could be an accomplice to the murder if he or she failed to come to the aid of the child. Jackson, 137 Wn.2d at 720-21. The instruction was improper because a parent's failure to protect his or her child from abuse, without more, is not a basis for accomplice liability. Jackson, 137 Wn.2d at 722-24.

Here, unlike Jackson, the court correctly instructed the jury that accomplice liability required more than Alexis's mere presence and knowledge of the criminal activity and the evidence establishes Alexis did more than simply fail to come to the aid of N.A.

N.A. testified that after Mazalic locked N.A. in the metal dog crate and left, "I was making some noise in the crate, and [Alexis] heard me, probably was thinking that I was getting out, and came downstairs with a belt." Alexis denied that he and Mazalic had a

dog crate in the house and that the event occurred. But a witness who was at the house "quite a bit" testified Alexis and Mazalic had a large wire dog crate "[b]ig enough for a child of [N.A.]'s size to fit in." And another witness and friend of Alexis and Mazalic's also testified they had a dog crate in the house.

Viewing the evidence in the light most favorable to the State, the evidence shows Alexis slept during the day and did not like to be disturbed, and he physically abused N.A. during the year that she lived with him. The evidence shows Alexis frequently hit N.A. with a wire and a belt. N.A.'s body had bruising and marks consistent with being hit with a belt. The jury could reasonably infer that Alexis promoted or facilitated the crime of unlawful imprisonment. When Alexis heard N.A. making noise while locked in the dog crate, he came into the room with a belt in his hand that he had previously used to beat her. The jury could conclude Alexis intimidated N.A. to stop making noise and remain in the locked dog crate. Sufficient evidence supports the conviction of unlawful imprisonment.

Accomplice Liability Instruction

Alexis argues the jury instructions improperly relieved the State of the burden of proving accomplice liability beyond a reasonable doubt.

We review a challenge to a jury instruction de novo, evaluating the jury instruction "in the context of the instructions as a whole." State v. Bennett, 161 Wn.2d 303, 307, 165 P.3d 1241 (2007). " 'Jury instructions are sufficient when they allow counsel to argue their theory of the case, are not misleading, and when read as a whole properly inform the trier of fact of the applicable law.' " Keller v. City of Spokane, 146

Wn.2d 237, 249, 44 P.3d 845 (2002) (quoting Bodin v. City of Stanwood, 130 Wn.2d 726, 732, 927 P.2d 240 (1996)).

Here, Jury Instruction No. 3 informed the jury that the State bore the burden of "proving each element of each crime beyond a reasonable doubt." The "to convict" instruction for unlawful imprisonment, Jury Instruction No. 9, accurately states the elements of the crime and the burden of proof.[4] Jury Instruction No. 10 defines when a person acts with knowledge:

> A person knows or acts knowingly or with knowledge with respect to a fact, circumstance or result when he or she is aware of that fact, circumstance or result. It is not necessary that the person know that the fact, circumstance or result is defined by law as being unlawful or an element of a crime.
>
> If a person has information that would lead a reasonable person in the same situation to believe that a fact exists, the jury is permitted but not required to find that he or she acted with knowledge of that fact.
>
> When acting knowingly as to a particular fact is required to establish an element of a crime, the element is also established if a person acts intentionally as to that fact.

[4] Jury Instruction No. 9 states:

> To convict the defendant of the crime of unlawful imprisonment as alleged in Count 2, each of the following five elements of the crime must be proved beyond a reasonable doubt:
>
> (1) That during the time period beginning on or about the 7th day of September, 2010 and concluding on or about the 15th day of August, 2011 the defendant restrained the movements of N.A in a manner that substantially interfered with her liberty;
>
> (2) That such restraint was without N.A.'s consent; and
>
> (3) That such restraint was without legal authority;
>
> (4) That, with regard to elements (1), (2), and (3), the defendant acted knowingly; and
>
> (5) That any of these acts occurred in the State of Washington.
>
> If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.
>
> On the other hand, if, after weighing all the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

Jury Instruction No. 4 is based on 11 Washington Practice: Washington Pattern Jury Instructions: Criminal 10.51, at 217 (3d ed. 2008), and accurately defines "accomplice liability." Jury Instruction No. 4 states:

> A person is guilty of a crime if it is committed by the conduct of another person for which he or she is legally accountable. A person is legally accountable for the conduct of another person when he or she is an accomplice of such other person in the commission of the crime.
>
> A person is an accomplice in the commission of a crime if, with knowledge that it will promote or facilitate the commission of the crime, he either:
>
> (1) solicits, commands, encourages, or requests another person to commit the crime; or
>
> (2) aids or agrees to aid another person in planning or committing the crime.
>
> The word "aid" means all assistance whether given by words, acts, encouragement, support, or presence. A person who is present at the scene and ready to assist by his or her presence is aiding in the commission of the crime. However, more than mere presence and knowledge of the criminal activity of another must be shown to establish that a person present is an accomplice.
>
> A person who is an accomplice in the commission of a crime is guilty of that crime whether present at the scene or not.

Alexis argues that because the accomplice liability instruction "was completely silent as to the State's burden of proof" and the to-convict instruction did not incorporate accomplice liability language, the jury instructions improperly relieved the State of its burden of proving accomplice liability beyond a reasonable doubt. We considered and rejected the same argument in State v. Teal, 117 Wn. App. 831, 73 P.3d 402 (2003).

In Teal, although the accomplice liability instruction did not refer to the reasonable doubt standard and the to-convict instruction did not incorporate accomplice liability language, we concluded that as a whole, the jury instructions satisfied due process and did not relieve the State of its burden of proof. Teal, 117 Wn. App. at 839-

40. Here, as in Teal, the jury instructions considered as a whole correctly informed the jury of the State's burden of proof.

Aggravating Factor

The jury returned special verdicts on the charged aggravating factors. The jury found that Alexis knew or should have known N.A. was "particularly vulnerable or incapable of resistance" and used his position of trust or confidence to facilitate the commission of the crimes. Alexis challenges the factual basis for finding the State proved the aggravating factor that N.A. was a particularly vulnerable victim.

To prove a victim's vulnerability as an aggravating factor, the State must establish the defendant knew or should have known of the victim's particular vulnerability and vulnerability was a substantial factor in the commission of the crime. State v. Suleiman, 158 Wn.2d 280, 291-92, 143 P.3d 795 (2006). An "evident disparity in size and strength" between a defendant and victim may establish that a victim was particularly vulnerable, particularly in cases involving physical assault. State v. Olive, 47 Wn. App. 147, 153, 734 P.2d 36 (1987); State v. Holyoak, 49 Wn. App. 691, 695, 745 P.2d 515 (1987). Other relevant considerations include whether the defendant "perpetuated the abuse by psychological means designed to keep the victim within the cycle of abuse." State v. Brown, 55 Wn. App. 738, 753-54, 780 P.2d 880 (1989). We review whether the record supports the special verdict on an aggravating factor under the clearly erroneous standard. State v. Fowler, 145 Wn.2d 400, 405, 38 P.3d 335 (2002).

Alexis argues the evidence did not show N.A. was particularly vulnerable or that her vulnerability was a substantial factor in the commission of the crimes. We disagree.

As in Olive and Holyoak, there was an overwhelming disparity in age, size, and strength between Alexis and N.A.

Alexis was 44-years-old, weighed 285 pounds, frequently worked out at a gym, and trained as a mixed martial arts fighter. At the time N.A. was taken into protective custody, she was 10-years-old, weighed only 51 pounds, was emaciated, and was suffering from a serious kidney infection. The jury's special verdict was supported by the record and was not clearly erroneous.

Exceptional Sentence

Alexis argues that the court improperly relied on facts not found by the jury in imposing an exceptional sentence. The record does not support Alexis's claim.

A criminal defendant has a constitutional right to have a jury determine any fact that increases the penalty for a crime beyond the prescribed statutory maximum. Blakely v. Washington, 542 U.S. 296, 301, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004). Before imposition of an exceptional sentence, a jury must first determine by special verdict whether the State has proved the aggravating circumstances beyond a reasonable doubt. RCW 9.94A.537(3); Blakely, 542 U.S. at 301. If the jury returns a special verdict on the aggravating circumstances, a court may sentence the offender up to the maximum term allowed for the underlying conviction if it finds the facts alleged and found were sufficiently substantial and compelling to warrant an exceptional sentence. RCW 9.94A.537(6). Whenever the court imposes a sentence outside the standard range, it "shall set forth the reasons for its decision in written findings of fact and conclusions of law." RCW 9.94A.535.

Here, the court entered written findings of fact and conclusions of law in support of the exceptional sentence. The findings state:

> The defendant was responsible for Mary Mazalic as her caregiver and was responsible for N.A. The defendant was N.A.'s adoptive brother. She was sent to his home. She was particularly vulnerable and the defendant knew it. The defendant was not merely a person with his "head in the sand." He acted alone and as an accomplice, causing N.A.'s severely starved, emaciated condition. Based on the jury's finding that N.A. was a particularly vulnerable victim, and that he abused a position of trust which facilitated the commission of these crimes, the court finds substantial [and] compelling reasons to impose an exceptional sentence.

The court's findings that Alexis was responsible for N.A. and knew of N.A.'s particular vulnerability reiterates the jury finding Alexis abused a position of trust and N.A. was particularly vulnerable. The other facts recited in the court's findings—Alexis "was not merely a person with his 'head in the sand' " and he "caus[ed] N.A.'s severely starved, emaciated condition"—were permissible considerations in determining the length of Alexis's sentence.

Alexis also contends the court erred by imposing an exceptional sentence based on the aggravating factor of abuse of a position of trust for the criminal mistreatment conviction because abuse of a position of trust is inherent in the offense.[5] See State v. Ferguson, 142 Wn.2d 631, 647-48, 15 P.3d 1271 (2001) (a factor inherent in the offense cannot be used as an aggravating factor). The State concedes abuse of a position of trust is inherent in the offense of criminal mistreatment in the first degree but argues remand is not necessary. We agree remand is not necessary.

---

[5] A person is guilty of criminal mistreatment in the first degree if they are "entrusted with the physical custody of a child" and they recklessly cause great bodily harm to that child "by withholding any of the basic necessities of life." RCW 9A.42.020(1).

We may uphold an exceptional sentence when the court would have imposed the same sentence based upon other valid factors. State v. Jackson, 150 Wn.2d 251, 276, 76 P.3d 217 (2003). The written conclusions of law expressly state that the court would "impose the same exceptional sentence based on each aggravating factor independent of the other." We affirm the imposition of an exceptional sentence based on the vulnerable victim aggravating factor.

We affirm the jury conviction of unlawful imprisonment and criminal mistreatment in the first degree and imposition of the exceptional sentence.

Schindler, J.

WE CONCUR:

Trickey, J

Becker, J.

DECLARATION OF FILING AND MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original document **Petition for Review to the Supreme Court** to which this declaration is affixed/attached, was filed in the **Court of Appeals** under **Case No. 71342-6-I**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office or residence address as listed on ACORDS:

☒ respondent Mara Rozzano, DPA
[mrozzano@co.snohomish.wa.us]
Snohomish County Prosecutor's Office

☐ petitioner

☐ Attorney for other party

MARIA ANA ARRANZA RILEY, Legal Assistant
Washington Appellate Project

Date: July 6, 2015

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Court of Appeals Case Number: 71342-6

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- ○ Affidavit of Attorney Fees
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