

NO. 46523-0-II

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

STATE OF WASHINGTON, Respondent

v.

JUSTIN SCOTT FESSEL, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
CLARK COUNTY SUPERIOR COURT CAUSE NO.13-1-01542-1

SUPPLEMENTAL BRIEF OF RESPONDENT

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A. RESPONSE TO SUPPLEMENTAL ASSIGNMENT OF ERROR

1. The trial court erred in imposing an exceptional sentence when it had no authority to do so, and did not properly declare the sentence as an exceptional sentence.

B. ARGUMENT

The trial court erroneously believed that it could run sentences imposed on the same day consecutively under RCW 9.94A.589 without declaring an exceptional sentence. The Court was incorrect, and the State concedes error. The plain language of RCW 9.94A.589 (1)(a) precludes the sentence in this case from running consecutive to the sentence imposed in 13-1-00551-4. This case should be remanded to the trial court for resentencing.

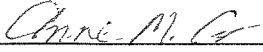
C. CONCLUSION

The case should be remanded for resentencing

DATED this 9th day of September 2015.

Respectfully submitted:

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By: 
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Transmittal Letter

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Case Name: State v. Justin Fessel

Court of Appeals Case Number: 46523-0

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