

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

JEREMY ANTONE OLSON,
Appellant,

v.

Case No: 47667-3-II

FILED
COURT OF APPEALS
DIVISION II
2016 MAR 25 AM 11:07
STATE OF WASHINGTON
BY AP
DEPUTY

STATE OF WASHINGTON,
Respondent,

STATEMENT OF ADDITIONAL GROUND
FOR REVIEW (Pursuant RAP 10.10)

ADDITIONAL GROUND

I. THE TRIAL COURT ERRED WHEN IT MISCALCULATED CRIMINAL HISTORY &
OFFENDER SCORE THAT RESULTED IN AN "ERRONEOUS SENTENCE".

A. Jeremy Olson was in the community crime free from May 5th, 2009
to August of 2014, whereas Judgment & Sentence and State's findings
in the record must be provided by the respondent under RAP 16.9.

* corrected sentence will result in (ERD) of August 2016.

- B. Jeremy Olson has (5) prior class B felonies & (4) prior class C felonies. [Appendix A - Criminal History/Offender Score].
- C. Jeremy Olson's (4) prior class C felonies must wash-out.
- D. Jeremy Olson must be re-sentenced to 17 - 22 months with an offender score of (5) for the present conviction of Burglary in the Second Degree.

ARGUMENT

The 9th Circuit Court of Appeals reviews the interpretation of sentencing guidelines -- de novo -- in the application of sentence guidelines to the facts of care for abuse of discretion of factual findings for clear error & legal conclusions in U.S. v. Dann, 652 F.3d 1160 at 1171-75 (9th Cir. 2011).

RCW 9.94A.525(2)(c) "class C felonies convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement pursuant to a felony conviction, the offender had spent five years in the community without committing any crime that subsequently results in a conviction".

Jeremy Olson has no prior sex offenses and was in the community in the community crime free from July 2006 to August 2014; (8) years + (1) month. [J&S --].

State v. Ervin, 169 Wn.2d 815, 239 P.3d 354 (2010), "as a result of 5 year crime free period, even prior class C felonies apart wash-out".

Jeremy Olson's class C felonies were all committed in 1996 where Appellant was in prison from 1996 - 2006 for class B felonies.

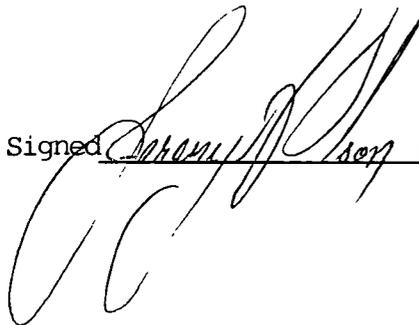
The Law is clear, all (4) of Jeremy Olson's prior class C felonies shall not count in offender score of present conviction of Burg II, and Appellant must be re-sentenced to an offender score of (5) with a correct standard range of 17 - 22 months.

In Re Cruze, 169 Wash.2d 422 at 426-27, 237 P.3d 274 (2010), clearly provides that "a judgment & sentence is invalid if it imposes a sentence in excess of the punishment by Law". And referring to In Re Carle, 93 Wash.2d 31 at 33, 165 Wn.2d 176, 604 P.2d 1293 (1980), "a court may not order a sentence beyond that authorized by law", whereas Id at 34, that because the trial court imposed an erroneous sentence, and since the error has now been discovered, this Court has both the power and duty to correct it.

In conclusion:

Will this Court consider McNutt v. Delmore, 47 Wash.2d 563 at 565, 288 P.2d 848 (1955), "entire sentence is not erroneous, and does not affect the finality of the sentence that was correct at the time it was pronounced, holding only erroneous portion of sentence must be corrected"?

I, Jeremy Antone Olson, depose and say, that I am the Appellant in Case No: 47667-3-II, and that the foregoing Statement of Additional Ground I "erroneous sentence" is true & correct to the best of my abilities.

Signed  and dated this 21 day of MARCH 2016

Jeremy Antone Olson #717305
BA-32-2U
Coyote Ridge Corrections Center
P.O. Box 769
Connell, WA 99326

APPENDIX A

CRIMINAL HISTORY (RCW 9.94A.525)

VUSCA	07/06	Pierce County, WA / 06-1-3506-9
Unl. Poss. F/A 1st	07/06	Pierce County, WA / 06-1-3506-9
* Att. Elude	12/96	Pierce County, WA / 96-1-4748-3
* Unl. Poss. F/A	12/96	Pierce County, WA / 96-1-4748-3
* Att. Elude	10/96	Pierce County, WA / 96-1-4131-1
VUSCA	08/96	Pierce County, WA / 96-1-3108-1
* Bail Jumping	11/96	Pierce County, WA / 96-1-3108-1
VUSCA	04/96	Pierce County, WA / 96-1-1399-6
VUSCA	05/93	Pierce County, WA / 93-1-1170-3

* Class C Felonies that wash under RCW 9.94A.525(2)(c)

CORRECTED SENTENCING DATA

Offender Score: 5

Standard Range: 17 - 22 months