COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II
2021 AUG 16 AM 7:50
STATE OF WASHINGTON
BY
DEPUTY

STATE OF WASHINGTON Respondent, v. NAVIN A. MILKO Appellant.	Appeal No. 55267-1-II Pierce Co. No. 18-1-04203-0 STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

I, Navin A. Milko, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the court will review this statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

I was sentenced to an exceptional sentence of 602 months undeterminate on 10/2/20 (10/2/20 pgs. 18-20). However the Honorable Judge Sorensen never actually said that my sentence was undeterminate when he pronounced the Judgement/Sentence. (10/2/20 pgs 18, 19, 20 and 21)

Also according to RCW 9.94A.535, Departures from the guidelines: "whenever a sentence outside the standard

Sentence range is imposed, the court shall set forth the reasons for its decisions in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence."

I was sentenced outside the standard sentence range to an exceptional sentence. (10/2/20 pg 18-19). An example of this is count 1. The standard sentence range for Rape in the First degree, with 7 points, is 178-236 months (10/2/20 pg-6) and RCW 9.94A.510. I was sentenced to an exceptional sentence of 300 months (10/2/20 pg 19,20) - which is outside the standard sentence range by 64 months. (10/2/20 pg-6). Another example is counts 2 and 9 which are both attempted Rape in the First degree. Which has a standard sentence range of 69.75 to 92.25 (10/2/20 pg-6) with an offender score of 8. I was sentenced to 100 months exceptional sentence on both counts. (10/2/20 pgs 19,20)

Also RCW 9.94A.585(2) states: "A sentence outside the standard sentence range for the offense is subject to appeal by the defendant or the state."

Additional Ground 2

I was charged with Attempted Rape in the First degree in regards to victim A.Q. I was found guilty

of that charge on 8/3/20 (8/3/20 pg. 6) and sentenced to an exceptional sentence of 100 months on that charge. (10/2/20 pg. 19)

I am appealing this specific charge based on the fact that the state did not prove <u>any</u> element of the charge.

A.Q. said that I did not try to rape her. "Never grabbed at her clothes or tried to take them off her". (7/20/20 pg 55, 56). I never grabbed at her private parts. Either her chest or vaginal area (7/20/20 pg 56) "I didn't say "I want to rape you" or Take off your clothes"". (7/20/20 pg 54)

Also the victim in this case did <u>not</u> pick me out of the 6-Pack line-up. She picked someone else by the name of Lester Lewis. Picked the wrong person. (7/20/20 pg 60-62)

And finally we never had a hearing about the identification process to use for a victim that picked the wrong person or didn't pick anyone at all. (6/30/20 pg 36, 37)

Signature: [signature] Date: 8/10/21

Count	Charge/Type	Victim	Offender Score	Standard Range (In Months)	Sentenced TO (In Months)
1	Rape 1st	B.P.	7	178-236	300 (exceptional)*
2	Attempted Rape 1st	A.Q.	0	69.75-92.25	100 (exceptional)*
3	Burglary 2nd	B.P.	9+	51-68	68 (high end)
4	Burglary 2nd	A.Q.	9+	51-68	68 (high end)
5	Burglary 1st	A.B.	9+	87-116	116 (high end)
6	Attempted Kidnapping 1st	A.B.	0	38.25-51	51 (high end)*
7	Attempted Robbery 1st	A.B.			NOT Guilty
8	Felony Harassment	A.B.	9+	51-68	60 (high end)
9	Attempted Rape 1st	C.D.	0	69.75-92.25	100 (exceptional)*
10	Attempted Robbery 1st	C.D.			NOT Guilty
11	Attempted Burglary 1st	K.T.	9+	62.25-87	87 (high end)
12	Attempted Kidnapping 1st	K.T.	0	38.25-51	51 (high end)*

* Counts that are ran consecutive