

Jan 27, 2017, 9:57 am

RECEIVED ELECTRONICALLY

NO. 93897-0

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

BRANDON M. BIGSBY,

Petitioner.

ANSWER TO
PETITION FOR REVIEW

MARK K. ROE
Prosecuting Attorney

SETH A FINE
Deputy Prosecuting Attorney
Attorney for Respondent

Snohomish County Prosecutor's Office
3000 Rockefeller Avenue, M/S #504
Everett, Washington 98201
Telephone: (425) 388-3333

TABLE OF CONTENTS

I. IDENTITY OF RESPONDENT 1

II. STATEMENT OF THE CASE..... 1

III. ARGUMENT..... 1

THE COURT OF APPEALS PROPERLY INTERPRETED THE
2008 AMENDMENTS TO THE SENTENCING REFORM ACT IN
ACCORDANCE WITH THE LEGISLATURE’S STATED INTENT... 1

IV. CONCLUSION..... 2

TABLE OF AUTHORITIES

WASHINGTON CASES

State v. Gamble, 146 Wn. App. 813, 192 P.3d 399 (2008) 1

WASHINGTON STATUTES

RCW 9.94A.6332 1

OTHER AUTHORITIES

Sentencing Reform Act, Laws of 2008, ch. 231, § 18 1

I. IDENTITY OF RESPONDENT

The State of Washington, respondent, asks that review be denied.

II. STATEMENT OF THE CASE

The facts are correctly set out in the Court of Appeals opinion.

III. ARGUMENT

THE COURT OF APPEALS PROPERLY INTERPRETED THE 2008 AMENDMENTS TO THE SENTENCING REFORM ACT IN ACCORDANCE WITH THE LEGISLATURE'S STATED INTENT.

This case presents a straightforward issue of statutory intent. Prior to 2008, trial courts clearly had concurrent authority to impose sanctions for sentence violations. State v. Gamble, 146 Wn. App. 813, 192 P.3d 399 (2008). The petitioner claims that this authority was eliminated by the 2008 amendments to the Sentencing Reform Act, Laws of 2008, ch. 231, § 18, codified as RCW 9.94A.6332. It is clear, however, that those amendments were not intended to have any such effect:

Sections 7 through 58 of this act are intended to simplify the supervision provisions of the sentencing reform act and increase the uniformity of its application. These sections are not intended to either increase or decrease the authority of sentencing courts or the department relating to supervision...

Laws of 2008, ch. 231, § 6.

The petitioner claims that the 2008 amendments eliminated concurrent sanctioning authority of sentencing courts. This would be a major decrease in their authority – something that the legislature expressly said it did not intend. The Court of Appeals properly interpreted the statute in accordance with the legislature's intent. The court's resolution of this issue does not warrant review by this court.

IV. CONCLUSION

The petition for review should be denied.

Respectfully submitted on January 27, 2017.

MARK K. ROE
Snohomish County Prosecuting Attorney

By: *Seth A Fine*
SETH A FINE, WSBA #10937
Deputy Prosecuting Attorney
Attorney for Respondent

Sent via e-mail

On this day I mailed a properly stamped envelope addressed to the attorney for the defendant that contained a copy of this document.
I certify under penalty of perjury under the laws of the State of Washington that this is true.
Signed at the Snohomish County Prosecutor's Office
the 27th day of Jan 20 17