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Court of Appeals  
Division III  
State of Washington  
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NO. 96434-3

No. 35130-1-III

THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION III

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STATE OF WASHINGTON,

Respondent,

v.

TREVON J. SOLOMON-MCDONALD,

Appellant.

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

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APPELLANT'S REPLY BRIEF

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A. ARGUMENT

**1. The imposition of a manifest injustice sentence is ripe for review.**

If the court did not impose a manifest injustice sentence, Mr. Solomon-McDonald would be serving a local sanctions sentence, pursuant to RCW 13.40.020(18), of 0 – 30 days of confinement with 83 days credit. *See* RP 313; RCW 13.40.0357 (local sanctions for instant offense); RCW 13.40.160 (credit for time served required for time spent in detention prior to disposition); *State v. L. W.*, 101 Wn. App. 595, 600, 6 P.3d 596 (2000) (failure to give credit for time spent in pre-disposition detention violates a juvenile’s due process and equal protection rights). Therefore, Mr. Solomon-McDonald’s sentence would have been a maximum of 30 days imposed with credit for all of those 30 days, which would not leave any suspended confinement time hanging over his head and the imposition of SSODA would essentially be ineffective. *See* RCW 13.40.162(3) (either a standard range sentence or a manifest injustice sentence may be suspended). Mr. Solomon-McDonald’s current sentence includes 24 months of community supervision on SSODA, whereas local sanctions only allow up to 12 months of supervision. Mr. Solomon-McDonald would not be subject to those additional 12 months of intensive

monitoring but for the sentence imposed by the Superior Court. Moreover, Mr. Solomon-McDonald would not be subject to modifications of the SSODA sentence for violations, short of revocation.

The disposition of a juvenile offender is appealable in the same manner as criminal cases. *State v. J.W.*, 84 Wn. App. 808, 811, 929 P.2d 1197 (1997) (citing RCW 13.04.033). A criminal defendant is permitted to appeal an exceptional sentence generally or he may appeal a standard range sentence if the sentencing court failed to follow a procedure required by the Sentencing Reform Act. *J.W.*, 84 Wn. App. at 811 (citing *State v. Mail*, 121 Wn.2d 707, 712, 854 P.2d 1042 (1993)).

The cases the State cites for the proposition that the proper timeframe for appeal is after revocation of the SSODA sentence are distinguishable. *State v. Langland*, 42 Wn. App. 287, 292, 711 P.2d 1039 (1985) addressed ripeness in challenging whether a sentence constitutes cruel and unusual punishment pursuant to the Eighth Amendment. *State v. J.B.*, 102 Wn. App. 583, 585, 9 P.3d 890 (2000) involves an untimely appeal of a SSODA sentence after the defendant pled guilty. In *J.B.*, the Court of Appeals noted that SSODA dispositions are not appealable under RCW 13.40.230. *J.B.*, 102 Wn. App. at 585 (citing RCW 13.40.162(10)). Ordinarily, a disposition outside the standard range is appealable under RCW 13.40.230 by the state or the respondent. RCW 13.40.160(2). The

SSODA statute does indicate that a SSODA disposition is not appealable under RCW 13.40.230. RCW 13.40.162(10). However, Mr. Solomon-McDonald is appealing his manifest injustice sentence, not the imposition of SSODA. Moreover, he is timely appealing after trial, not untimely appealing after entering a plea of guilty as in *J.B., supra*. To the extent that this court deems that *J.B.* is controlling authority, Appellant respectfully requests that this court abrogate that 17 year old Court of Appeals decision.

Given the foregoing, Mr. Solomon-McDonald's improper manifest injustice sentence is ripe for review.

B. CONCLUSION

Given the foregoing and from previous briefing, Mr. Solomon-McDonald respectfully requests this court to reverse his exceptional sentence upwards and remand to the Superior Court for resentencing.

DATED this 4th day of December, 2017.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Sean M. Downs, a person over 18 years of age, served the Spokane County Prosecuting Attorney a true and correct copy of the document to which this certification is affixed, on December 4, 2017 to email address [scpaappeals@spokanecounty.org](mailto:scpaappeals@spokanecounty.org). Service was made by email pursuant to the Respondent's consent. I also served Appellant, Trevon Solomon-McDonald, a true and correct copy of the document to which this certification is affixed on December 4, 2017 via first class mail postage prepaid to 12204 E 4th Ave. Apt. 10, Spokane Valley, WA 99206.

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