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SUPREME COURT
STATE OF WASHINGTON
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No. 96709-1

THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Appellant,

v.

CRISTIAN DELBOSQUE,

Respondent.

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

SUPPLEMENTAL BRIEF OF RESPONDENT

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A. INTRODUCTION

Cristian Delbosque was sentenced to die in prison for crimes he committed as a child.

Eighteen years after Cristian's crimes, the United States Supreme Court found mandatory life sentences, such as the one Cristian received, violated the Eighth Amendment. The Washington Legislature responded by ordering new sentencing hearings for juveniles sentenced to life in prison.

Here, the trial court conducted hearing and entered findings purporting to consider the mitigating qualities of youth. But the court did not consider how Cristian's immaturity, impetuosity, and failure to appreciate risks and consequences. The court did not address his limited executive functioning. Nonetheless the court concluded the crime demonstrated Cristian is irredeemably corrupt and sentenced him to a minimum term of 48 years in prison.

In doing so, the trial court relieved the State of its burden of proving Cristian's crime demonstrated irredeemable corruption. Instead, the trial court reached its conclusion because Cristian had not proven otherwise.

The Court of Appeals properly reversed the sentence, concluding the trial court's failed to conduct a hearing that complies with RCW

10.95.030 and *Miller v. Alabama*, 567 U.S. 460, 479, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012).

B. ISSUES PRESENTED

1. Did the Court of Appeals properly reverse the minimum sentence imposed by the trial court?

2. Does Article I, section 22 guarantee an individual the right to appeal a sentence imposed for a criminal offense?

C. STATEMENT OF THE CASE

Cristian was the tenth of ten children in a poor family in Saltillo, Mexico. RP 211-14. Cristian's mother drank throughout her pregnancy, giving birth after only 6 months. RP 333-34. Cristian weighed only 4 pounds. RP 415-16. As a result of his premature birth, Cristian suffered from congenital strabismus, an abnormal alignment of his eyes. RP 415-16. Despite eye surgery as a young child, Cristian's eyes remained noticeably crossed causing blurred vision, pain, and eye inflammation. *Id.*

Cristian and his siblings suffered from malnutrition throughout childhood. RP 271-72. The family's home lacked electricity, water, and toilets. RP 231-33, 266-69.

Cristian's dad physically abused the children. RP 235-37. Their mother was frequently absent for extended periods. RP 400-01.

When he was 6 or 7, Cristian's mother died. RP 215-16. His father sent Cristian, a brother and sister to live with an aunt. RP 279. Their aunt ran a brothel in a nearby city. RP 20-81. While with their aunt, Cristian and his sister were physically and sexually abused. RP 346, 407-09, 490-91. Cristian later learned he, his brother and sister probably had a different father than their siblings; likely explaining why their father sent them away. RP 327-28.

After several years with their aunt, the three siblings returned to their village. RP 346, 407-09, 490-91. There they lived with an older sister who suffered from schizophrenia. RP 329, Ex. 5. Cristian quit school to begin working. RP 285-86. He also began drinking heavily. *Id.*

A few years later, when he was 16, Cristian moved to Shelton to live with a brother. RP 294-96. Rather than enroll in school, Cristian took a job as a dishwasher. *Id.* His abuse of alcohol continued. RP 256-60, 301.

Soon after Cristian's arrival, Filiberto Sandoval, a friend from Mexico, joined Cristian in Shelton. RP 26, 249.

In October 1993, 17-year-old Cristian went to the apartment Filiberto shared with his 16-year-old girlfriend. RP 15-17. Filiberto and Cristian drank throughout the night and got into an argument. *Id.* Cristian shot and killed Filiberto. RP 25, 32, 42. Cristian then stabbed and killed Filiberto's girlfriend. RP 25, 35, 42, 179.

Cristian was convicted of aggravated first degree murder and received a sentence of life without parole.

Following the enactment of RCW 10.95.030 and RCW 10.95.035, Cristian was resentenced.

At that resentencing, Dr. Manuel Saint Martin offered his diagnosis that at the time of his offense Cristian suffered with borderline intellectual functioning and alcohol dependence. RP 423. Dr. Martin testified Cristian IQ is 76-77, placing him in the 6th percentile on the intelligence scale. RP 397-98.

Dr. Sara Heavin testified, as compared to adults, youthfulness impacts children's executive functioning resulting in greater risk-taking behavior and susceptibility to peer influence and approval. *Delbosque*, 430 P.3d at 1156. Cristian's traumatic childhood and low intellectual functioning differentiated Cristian from even typical children. *Id.* Dr. Heavin opined Cristian had even greater deficits in brain development than the norm. *Id.*

In the first 13 years of his imprisonment, Cristian had 10 infractions. In the six years preceding his resentencing he had none. *Id.*

At resentencing, the State urged the court to again impose a minimum sentence of life without parole. CP 60, 73.

The trial court concluded Cristian was irreparably corrupt, permanently incorrigible, and irretrievably depraved and imposed a minimum term of roughly 48 years. CP 31.

The Court of Appeals reversed the trial court concluding is failed to specifically consider the mitigating qualities of youthfulness as required by RCW 10.95.030.

D. ARGUMENT

1. The Court of Appeals properly concluded the trial court did not consider the mitigating qualities of youthfulness and that there was insufficient evidence to permit imposition of a lengthy adult-like sentence for the crime Cristian committed by a child.

a. The State bears the burden of proving a child deserves an adult sentence.

The trial court began its oral ruling saying there was no presumptive sentence and neither party had the burden of proving what sentence was appropriate. RP 644. But the court noted almost immediately it “gave [Cristian] the opportunity to show his crime did not reflect irreparable corruption.” RP 644. Thus, the court plainly required Cristian to prove he was not irreparably corrupt and deserving of a lesser sentence. That improper presumption must necessarily factor into any analysis of whether the trial court properly and adequately considered the mitigating qualities of youth as required by RCW 10.95.030.

i. Youthfulness is a per se mitigating factor for a child convicted of aggravated murder.

Unlike for an adult, the attributes of youthfulness are per se mitigating factors for a child convicted of the offense of aggravated murder. RCW 10.95.030 recognizes youthfulness mitigates the crime when committed by a child, by requiring a trial court set a minimum term for juveniles while mandating life without parole for adults. Additionally, by prohibiting the imposition of a life sentence for juveniles, *State v. Bassett* further recognized children are categorically different from adults who commit aggravated murder and must receive a lesser sentence. 192 Wn.2d 67, 91, 328 P.3d 343 (2018). Taken together, this means a 17 year-old's crime is categorically a reflection of immaturity and lessened culpability. That recognition is consistent with what *Miller* itself said; “. . . we think appropriate occasions for sentencing juveniles to this harshest possible penalty will be uncommon.” *Miller*, 567 U.S. at 479. Instead, the harshest sentences are appropriate only for “the rare juvenile offender who exhibits such irretrievable depravity that rehabilitation is **impossible**” *Montgomery v. Louisiana*, ___ U.S. ___, 136 S. Ct. 718, 733, 193 L. Ed. 2d 599 (2016) (Emphasis added.)

Consistent with this legislative and judicial recognition of youth as a per se mitigating factor for aggravated murder, it follows that a

sentencing court must presume an adult-like sentence is not appropriate for a crime committed by a child. That presumption must stand unless the State proves otherwise.

ii. Requiring Cristian to prove he is a typical child with diminished culpability is illogical and contrary to the premise of Miller.

Placing the burden of proof on Cristian is contrary to *Miller* and to this Court's decision in *State v. Houston-Sconiers*, 181 Wn.2d 1, 21, 391 P.3d 409 (2017).

The normal child is not as culpable as an adult. *Miller*, 567 U.S. at 471-72. When a sentencing scheme is applied to a child in the same fashion as an older offender, the scheme is "the same in name only." *Id.* at 475 (Internal citations and ellipses omitted.) To require a child being sentenced under RCW 10.95.030 to satisfy the same standard as an adult sentenced under the Sentencing Reform Act (SRA) as an adult ignores the observation in *Miller* that "a sentencer misses too much if he treats every child as an adult." 567 U.S. at 477. Instead, it is only the rare or "exceptional" child who is as culpable as an adult. *Graham v. Florida*, 560 U.S. 48, 72-73, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (2010). A harsh adult sentence is proper for only an offender so irretrievably depraved such that rehabilitation is "impossible" *Montgomery*, 136 S. Ct. at 733. Logic

dictates, the State must bear the burden of proving a child is among this few for whom rehabilitation is impossible.

Other states which have addressed the burden of proof at a *Miller* sentencing hearing have found the burden must logically rest on the State. A sentencing court must start with the premise that only the rarest of children deserve the harshest penalties. *Davis v. State*, 415 P.3d 666, 681 (Wyo. 2018). Certain penalties are not available at all for children. *See Bassett*, 192 Wn.2d at 91 (concluding life without parole for a child violates Article I, §section 14.) “Any suggestion of placing the burden on the juvenile offender is belied by the central premise of *Roper*,^[1] *Graham*, *Miller* and *Montgomery*—that as a matter of law, juveniles are categorically less culpable than adults.” *Commonwealth v. Batts*, 640 Pa. 401, 163 A.3d 410, 452 (2017). Instead, these courts presume a life sentence, or its equivalent, is unavailable and require the State prove otherwise. *Id.*; *Davis*, 415 P.3d at 681; *State v. Riley*, 315 Conn. 637, 110 A.3d 1205, 1214 (2015); *State v. Houston*, 353 P.3d 55, 77, 83 (Utah 2015); *State v. Seats*, 865 N.W.2d 545, 555 (Iowa 2015); *State v. Hart*, 404 S.W.3d 232, 241 (Mo. 2013); *Conley v. State*, 972 N.E.2d 864, 871 (Ind. 2012).

¹ *Roper v. Simmons*, 543 U.S. 551, 551, 125 S. Ct. 1183, 161 L. Ed. 2d 1 (2005).

The SRA does not require an adult offender to prove they are a typical adult offender in order to receive a presumptive sentence. As a matter of law and science the typical child is not deserving of the same punishment as an adult because “children are different.” *Miller*, 567 U.S. at 480. Nonetheless, the State contends RCW 10.95.030 requires children to prove they fall within the norm, that they are a typical child, in order to receive an age appropriate sentence. That is illogical. And to be sure, RCW 10.95.030 requires no such proof.

Where the State asks a juvenile court to decline jurisdiction of a child, courts do not presume adult jurisdiction is appropriate unless the child can prove otherwise. Instead, the State bears the burden of proving the declination of jurisdiction is appropriate. *State v. Childress*, 169 Wn. App. 523, 532, 280 P.3d 1144 (2012), *review denied*, 176 Wn.2d 1002, *cert. denied*, 569 U.S. 989 (2013); *State v. Massey*, 60 Wn. App. 131, 137, 803 P.2d 340 (1990), abrogated by *Miller* (citing *State v. Jacobson*, 33 Wn. App. 529, 531, 656 P.2d 1103 (1982)). Similarly, courts cannot presume an adult-like sentence is appropriate unless the child can prove otherwise.

In any instance in which the State seeks to treat a child like an adult the State should bear the burden of establishing the appropriateness of that treatment. Thus, where the State advocates for an adult-like

sentence for a child, the State must bear the burden of proving the child's crimes are the product of irredeemable corruption.

iii. Cases addressing adult sentencing procedures do not require Cristian to carry the burden of proof.

On appeal, the State acknowledges the trial court's presumption and contends a court may properly presume a child is irreparably corrupt, permanently incorrigible, and irretrievably depraved and require the child to prove otherwise. Petition at 7. The State insists this is so contending youthfulness does not necessarily "entitle" a person to an exceptional sentence. *Id.* (citing *State v. O'Dell*, 183 Wn.2d 680, 698-99, 358 P.3d 359 (2015)); *Id.* at 5 (citing *State v. Ramos*, 187 Wn.2d 420, 434-37, 387 P.3d 650, *cert. denied*, __U.S.__; 138 S. Ct. 467 (2017)). Neither *O'Dell* nor *Ramos* permit a court to place the burden on a child when conducting a sentencing under RCW 10.95.030.

O'Dell concerned adult sentencing and not the sentencing of juveniles. The Eighth Amendment and Article I, section 14 do not provide adults the same protections as children at sentencing. While *O'Dell* drew on much of the same science as cases addressing the sentencing of children, it is not a constitutional ruling and instead simply addresses the reach of the SRA when sentencing an adult. Cristian is not being sentenced for an offense committed as an adult.

Both *Ramos* and *O'Dell* concerned a request for an exceptional mitigated sentence. In such circumstances RCW 9.94.535 plainly places the burden of proof on the party seeking an exceptional sentence. By contrast, Cristian was being sentenced pursuant to RCW 10.95.030. That statute does not place any burden on him, nor mention the burden of proof at all.

b. The Court of Appeals properly concluded the court did not consider the mitigating qualities of youthfulness as there was insufficient evidence to support the trial court's ruling.

The State offered little evidence beyond the crime itself to demonstrate Cristian was irredeemably corrupt. Yet the court still agreed with the State's contention that a minimum term of 48 years was appropriate. But as the Court of Appeals observed the court did not consider the evidence in the context of the *Miller* factors.

In support of its conclusion that Cristian is irredeemably corrupt, the court pointed to the brutal nature of the crime, Cristian's initial attempts to lay blame on another person, and a prison infraction committed 6 years before the resentencing hearing. RP 656-59.

It is undeniable that children sentenced to life without parole received such sentences because they committed very serious crimes. In Washington, it means those children committed the most serious offense,

aggravated first degree murder. By definition, *Miller* will only apply to very serious offenses. Thus, it is somewhat circular for a court to rely on the grave nature of the crime to justify a lengthy sentence.

Further, the Court of Appeals properly concluded the 2010 infraction did not support the trial court's finding that Cristian's crime was the product "of irreparable corruption, permanent incorrigibility, and irretrievable depravity. *State v. Delbosque*, 6 Wn. App. 2d 407, 418, 430 P.3d 1153 (2018). The Court of Appeals properly concluded this isolated act in the course of more than 20 years of confinement simply could not bear the weight the trial court placed on it. *Id.*

Beyond that, the Court of Appeals properly concluded the trial court's findings are silent as to how the evidence related to poor executive functioning or increased risk taking. *Id.* at 420. When sentencing a child a court

must consider the mitigating circumstances related to the defendant's youth, including, but not limited to, the juvenile's immaturity, impetuosity, and failure to appreciate risks and consequences—the nature of the juvenile's surrounding environment and family circumstances, the extent of the juvenile's participation in the crime, the way familial and peer pressures may have affected him or her, how youth impacted any legal defense, and any factors suggesting that the juvenile might be successfully rehabilitated.

State v. Gilbert, 193 Wn.2d 169, 176, 438 P.3d 133 (2019) (citing *Houston-Sconiers*, 188 Wn.2d at 23). Not only must the court consider this wide range of factors it must “[take] care to thoroughly explain its reasoning.” *Gilbert*, 193 Wn.2d at 176. As the Court of Appeals recognized, the trial court did not engage in this analysis.

In the absence of sufficient evidence from the State, the trial court could not reach its conclusion based upon a finding that Cristian was in fact irredeemable. Instead, it becomes clear that the court premised its conclusion simply on the fact that Cristian had not proved he was not irredeemable. The court never acknowledged *Miller’s* caution that the harshest sentences would only be imposed in the rarest of cases. Instead, the court presumed a longer sentence was appropriate and found Cristian had not proved otherwise. RP 644.

That presumption is improper. The State was required to prove Cristian was irredeemably corrupt. The State never met its burden. The Court of Appeals properly reversed.

c. Because the court did not understand the bounds of its discretion, resentencing is required.

When Cristian was sentenced, the court believed the relevant range was anywhere from 25 years to life. In fact, the State argued the court should impose a life sentence. CP 60, 73.

It is now clear a life sentence was not permissible in any circumstance. *Bassett*. 192 Wn.2d at 91. Moreover, a court may impose a sentence of less than 25 years. *Gilbert*, 193 Wn.2d at 169. Thus the range of available sentences has dramatically shifted downward since the time of Cristian's sentencing.

Nothing in the record suggests the court understood the true bounds of its discretion when sentencing Cristian. As in *Gilbert*, because the court did not appreciate the discretion it had, resentencing is required. 193 Wn.2d at 177.

2. Just as it does for every other felony sentence, Article I, section 22 guarantees Cristian the right to appeal the sentence imposed by the trial court in this case.

The Court of Appeals wrongly concluded Cristian could only seek review of his sentence by way of a personal restraint petition. As with any sentence, Article I, section 22 guarantees Cristian the right to appeal. Cristian properly raised this argument below yet the court refused to address it.

a. Article I, section 22 guarantees the right to appeal the sentence imposed.

Sentencing proceedings, like that proscribed by RCW 10.95.030, are subject to the accused's constitutional rights under the Washington Constitution. Article I, section 22 "grants not a mere privilege but a 'right

to appeal in all cases'. . . it is to be accorded the highest respect by" our courts. *State v. Sweet*, 90 Wn.2d 282, 286, 581 P.2d 579 (1978).

RCW 10.95.035(3) provides: "The court's order setting a minimum term is subject to review to the same extent as a minimum term decision by the parole board before July 1, 1986."

The Court of Appeals in *State v. Bassett* interpreted this subsection to mean there is no right to direct appeal from a sentencing under RCW 10.95.035. 198 Wn. App. 714, 721-22, 394 P.3d 430 (2017) *affirmed on other grounds*, 192 Wn.2d 67, 428 P.3d 343 (2018). Division Two reasoned parole board decisions setting a minimum term could be reviewed only through a personal restraint petition. *Id.* at 721. While this Court affirmed the conclusion in *Bassett* that a child may never be sentenced to life without parole, the Court did not address the appealability question.

In Cristian's case, the Court of Appeals, relying on its decision in *Bassett*, concluded Cristian could not appeal the sentence imposed. Instead the court reasoned his only avenue was a Personal Restraint Petition (PRP).

The imposition of a sentence by the superior court pursuant to RCW 10.95.035 is fundamentally different from the administrative setting of a minimum term by the parole board. Prior to the SRA, the superior court did not set the minimum term, but instead only imposed the

maximum term provided by statute. Following the defendant's transfer to the Department of Corrections, the parole board "fixed" the minimum term. Laws 1986, ch 224, §9 (former RCW 9.95.040). The administrative setting of a minimum term was not appealable as a matter of right, or even subject to discretionary review. *In re the Personal Restraint of Rolston*, 46 Wn. App. 622, 623, 732 P.2d 166 (1987). However, the court's imposition of its sentence and the procedure for doing so have always been subject to direct appeal. *In re the Personal Restraint of Sinka*, 92 Wn.2d 555, 565-66, 599 P.2d 1275 (1979) (noting setting of minimum term is unlike the other parts of a criminal prosecution in terms of due process); *see also State v. Williams*, 149 Wn.2d 143, 146-47, 65 P.3d 1214 (2003) (even under the SRA, "underlying legal conclusions and determinations by which a court comes to apply a particular sentencing provision" are appealable); *State v. Ammons*, 105 Wn.2d 175, 182-83, 713 P.2d 719 (1986) (even under the SRA, "appellant, of course, is not precluded from challenging on appeal the procedure by which a sentence within the standard range was imposed").

Unlike the sentencing court in Cristian's case, the parole board was an administrative agency. D. Boerner, *Sentencing in Washington*, 1-1 (1985). The setting of a minimum term was not a part of the criminal proceeding and the State was not a party. *Sinka*, 92 Wn.2d at 566; *In re*

Matter of Bonds, 26 Wn. App. 526, 529-30, 613 P.2d 1196 (1980). “The actual setting of a minimum term occurs at a meeting between the inmate and a two-person panel of the Parole Board; that meeting averages 15-20 minutes in length. . . . counsel, family and friends are not allowed to attend.” *Sinka*, 92 Wn.2d at 561.

The limits on the procedural and substantive rights of an inmate in a parole hearing rested on the idea that under a parole system a person had no expectation in anything other than maximum term. *Lindsey v. Superior Court*, 33 Wn.2d 94, 104, 204 P.2d 482 (1949). The law required the trial court to impose the maximum term. A minimum term, set by a parole board, was merely an act of administrative grace. *January v. Porter*, 75 Wn.2d 768, 774, 453, P.2d 876 (1969). That is no longer the case.

A child previously sentenced as an adult to life without parole has a constitutional right to be resentenced. In fact, this Court has concluded Article I, section 14 prohibits imposing the maximum term in any case. *Bassett*, 192 Wn.2d at 90. Instead, a sentencing court must exercise discretion whenever sentencing children as adults. *Houston-Sconiers*, 188 Wn.2d at 21. Unlike pre-1986 sentencing hearings where only one sentence was permissible, sentencing under RCW 10.95.035 requires a court to exercise a substantial amount of discretion.

Sentencing under RCW 10.95.030 is an adversarial proceeding and not merely an administrative act. Unlike parole proceedings, a sentencing hearing under RCW 10.95.035, as well as the resulting sentence, implicates several substantive and procedural constitutional rights. A sentence imposed under RCW 10.95.030 and RCW 10.95.035 does not exist merely as an exercise of administrative grace but rather by constitutional mandate.

This Court has already recognized a statute which absolutely prohibits the right to appeal a sentence imposed likely violates Article I, section 22. *State v. Herzog*, 112 Wn.2d 419, 423, 771 P.2d 739 (1989); *Williams*, 149 Wn.2d at 147. RCW 10.95.035(3) purports to do exactly that. Under the statute, children previously convicted of aggravated first degree murder and resentenced are the only individuals in Washington who do not have a right to appeal the sentence imposed or even the manner in which that sentence is imposed. Not only does that provision deny them their right to appeal under Article I, section 22, it casts substantial constitutional uncertainty under the Equal Protection Clauses of the State and Federal constitutions. As every other criminal defendant, Cristian has an unqualified right to appeal the sentence imposed in his case. To the extent RCW 10.95.035(3) purports to limit the right, it is unconstitutional.

Article I, section 22 guarantees the right to appeal the sentence imposed in a criminal matter. Thus, Cristian has the right to appeal the sentence imposed in this case.

b. *Cristian argued treating this matter as a PRP violated his right to appeal under Article I, section 22.*

Following the imposition of his sentence, Cristian filed a notice of appeal. The State did not object nor did the Court of Appeals comment. This Court sent appointed counsel a perfection schedule directing counsel to perfect the matter pursuant the Rules of Appellate Procedure pertaining to direct appeals. The State did not object. Over the next several months Cristian perfected his direct appeal pursuant to the Rules of Appellate Procedures as directed by the court. The State did not object nor did the Court of Appeals comment. Cristian filed his Brief of Appellant.

More than 10 months after he filed his notice of appeal and three months after Cristian filed his brief, the State argued for the first time that RCW 10.95.035 barred Cristian from appealing his sentence. Cristian filed a supplemental brief in which he contended RCW 10.95.035(3) violates Article I, section 22. The Court of Appeals refused to address Cristian's argument because it was raised in a supplemental brief, a brief which the court itself invited.

But at no point prior to the State's brief did Cristian have reason to argue his direct appeal was properly treated as a direct appeal. That is what the court and parties had done to that point. And as set forth above, that is what Article I, section 22 required. There is no reason for any litigant to proactively argue the unconstitutionality of a statute which no party or court has even suggested bars their case. Cristian did address the unconstitutionality of the statute after the State contended it barred his appeal.

The Court of Appeals treated this matter as a direct appeal up to the issuance of its opinion. Even though the court's view of the correct procedural posture of this case changed midcourse, it refused to address or consider Cristian's argument as to why the procedural posture could not change.²

Cristian properly raised his challenge to the constitutionality of RCW 10.95.035.

² Despite having argued Cristian's sentence is only reviewable as a minimum term decision prior to 1986, the prosecutor has never acknowledged much less addressed what that means for the State's participation in this case. Prior to 1986, a county prosecutor was not a party to either the administrative hearing at which the minimum term was set, nor was a prosecutor a party to any personal restraint petition filed challenging that administrative decision. Instead, the Parole Board, represented by the attorney general, was a party to the review of its administrative decision. Neither the State's brief below nor its petition address these limitations on the prosecutor's involvement in this case.

E. CONCLUSION

The Court of Appeals properly concluded the court's findings were unsupported by the evidence. Too, the trial court did not comply with RCW 10.95.030. However, the Court of Appeals wrongly treated Cristian's appeal as a personal restraint petition. This Court should affirm the remand of this matter for a proper sentencing.

Respectfully submitted this 28th day of June, 2019.



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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)
)
 Petitioner,)
) NO. 96709-1
 v.)
)
 CRISTIAN DELBOSQUE,)
)
 Respondent.)

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