68123-1 68123-1

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON RESPONDENT,	NO. 68123-1-I
V.	STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW
CHRISTOPHER MAZDRA APPELLANT,	

I, CHRISTOPHER MAZDRA, HAVE RECIEVED AND REVIEWED THE OPENING BRIEF PREPARED BY MY ATTORNEY. SUMMARIZED BELOW ARE THE ADDITIONAL GROUNDS FOR REVIEW THAT ARE NOT ADDRESSED IN THE BRIEF. I UNDERSTAND THE COURT WILL REVIEW THIS STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW WHEN MY APPEAL IS CONSIDERED ON THE MERITS.

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ADDITIONAL GROUND #1

The trial Court failed to hold a treatment termination hearing prior to the anticipated treatment Completion date. Pursuant to RCW 9.94A.670(6)(2002), a treatment termination Hearing Was Supposed to have been Scheduled during MY Sentencing hearing IN May 2006, for three Months Prior to the anticipated treatment Completion date. As referenced in MY Sex offender Treatment Provider Norm Nelsons Progress Reports, MY anticipated treatment Completion Date, was to have been December 11, 2009. Therefore, a treatment termination hearing should have been Scheduled for September 2009 by the trial Court.

ADDITIONAL GROUND #2

The Trial Court erred, in Not Considering any other Possible Probation Violations Sanctions as an alternative to revocation Of the SSOSA. I do realize that the Trial Court has the overall authority to revoke the SSOSA, and Re-instate the Orisinal Sentence. However, Pursuant to RCW 9.94A.010(6) Island County, in revoking MY SSOSA, instead

Of Sanctioning Me to 60 Days in Jail Per each Violation, are in Violation Of Making Frugal Use of State Resources. Orisinally, DOC Wanted Island County Superior Court to Sanction Me to 60 Days in Jail, and extend MY SSOSA to May 2011 (Maximum of Supervision) but then reversed their decision, asking for revocatio Instead, in which the Court agreed without Considering other Possible Sanctions as an alternative to revocation of the SSOSA. Another Point in this, is back on February 13, 2007 I was arrested on a DOC Warrant in which I Spent the night in Jail. The next afternoon, I was Ordered to house Confinement Until February 6, 2008 Where I was Sanctioned to Credit for all time Served on house Confinement. When the notice of Violations from June 23, and August 10, 2010 Were filed, I was Not taken into Custody on either Occasion, And was Not Sanctioned for these Violations Until August 19, 2010 The only Confinement time I have been Sanctioned to was on August 19, 2010 when MY SSOSA Was revoked, and I was Sent to Prison.

ADDITIONAL GROUND #3

State V. Martinez 121 Wn. App. 2d (2004) "The Court in the furtherance of Justice after notice and hearing may dismiss any Criminal prosecution due to Arbitrary Action or Governmental Misconduct when there has been Prejudice to the rights of the Accused which Materially affect the accused's right to a fair trial. The Court shall set forth its reasons in a written order." Therefore, Pursuant to CrR 8.3 (b), I request this Court to see that the defendant has not recieved a fair hearing, and the Preponderance of the evidence is:

(1) ARBITRARY ACTION OR GOVERNMENTAL MISCONDUCT - The Trial Court, Relied on Notice of Violation Reports from the Department of Corrections at the revocation hearing, without testimony from any Witnesses to Provide Corroborating evidence, that the Violations Occured. The reporting Parties that reported the alleged Violations Were "Anonymous", So therefore both MY Washington State and U.S. Constitutional right to Confront Witnesses Were both Violated, according to Crawford V. Washington 124 S. Ct. 1354 (2004) 541 U.S. 36, 158 L. Ed. 2d 177,

Melendez-Diaz V. Massachusetts 129 S. Ct. 2527 (2009), State V. Rohrich 82 Wn. App. 674, 918 P. 2d 512, 132 Wn. 2d 472, 939 P. 2d 697, State V. Parris 98 Wn. 2d 140, 654 P. 2d 77, State V. Clark 139 Wn. 2d 152, 985 P. 2d 377, and Washington Constitution Article 1 (22). Also, a hearing before an IMPartial Doc Board to determine either innocence or guilt of the Violations, Was never held Prior to the revocation hearing. Due Process Was Violated by both Doc, and the State, Centered on RCW 9.94A. 205, RCW 9.94A. 207, and the 9th Circuit Case, Valdivia V. Schwarzenegger 548 F. Supp. 2d 852, 603 F. Supp. 2d 1275. In the 9th Circuit the Court Established the necessity of the two Part hearing Process. The issues of Due Process, Two-Step Hearing Process and right to Confront Complaining/Reporting witnesses, is referenced in L.H. V. Schwarzenegger 519 F. Supp. 2d 206. In MY SSOSA Case, I did not have a two-step hearing Proccess before an IMPartial Doc Board, then the Court. The Violations Were filed on June 23, and August 10, With the Revocation Hearing Aug 19. I should have had a hearing before an IMPartial Doc Board first before being Sent forth before the Court for Sanctioning Which resulted in revocation.

② Actual Prejudice offends the Defendant Right to a fair trial: The violations that resulted in the revocation of My SSOSA were treatment issues that could have been addressed in treatment. They are unenforceable and vague as they were Not Crime-Related Prohibitions according to State v. Bell 164 Wn. 2d 782, 739, State v. Riles 135 Wn. 2d 326, 347-51, 957 P. 2d 655, and State v. Valencia 169 Wn. 2d 782. When the violations came to light in May 2010, both Myself and My Treatment Provider, Norm Nelson agreed that I'd come back into Group as a refresher course and to address the violations. When DOC addressed the 5th violation in August 2010, Mr. Nelson and Myself revised and recreate My treatment Contract adding additional treatment, intensive, and keeping me in treatment for the duration of supervision (May 2011) To support dismissal under CrR 8.3(b) I have shown by preponderance of the evidence, both ① Arbitrary Action or Governmental Misconduct and ② Actual Prejudice Affecting My right to a fair hearing. Claimed Governmental Misconduct need not be evil or dishonest in nature. "Simple Mismanagement is sufficient."

ADDITIONAL GROUND #4

Pursuant to RCW 9.94A.030 (10) "Crime related Prohibition". Means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. 3 of the 5 violations, the 2 internet and "engaging in sexual relations without therapist approval" were not crime related prohibitions, as they did not directly relate to the circumstances of the crime for which I was convicted of. I agree "Being in a place minors are known to congregate" would be prohibitions, but I dont agree that the other 3 violations were crime related prohibitions, as I had a relationship with an age-appropriate woman, and access to the internet, which was allowed by my treatment provider with "parental supervision".

ADDITIONAL GROUND #5

Joyce v. DOC 116 Wn. App 569, 75 P. 3d 548 "The DOC through its CCO's Are legally responsible for reporting Violations of any Conditions of Community custody to the Superior Court, Which Sentenced the felon, and Must take action within 30 days of learning of a Violation." 11 CP at 2044. Also, the DOC Division of Community Corrections Division Directive 200.700 from February 28, 1995 States in Part "CCO's are legally responsible for reporting Violations to the Court. CCO's are to take action when they learn an offender has Violated Conditions of Supervision. Action Must be taken Within the following time frames Which begin When the Violation becomes known to the Officer... Within 30 days for Non-Correctional industries cases. Here, the DOC discovered the Violations May 20, Wrote the notice of Violation June 23, 2010 Signed June 30 and no action was taken until August 19, 2010 When My SSDSA was revoked

Conclusions

For the reasons Presented in Counsel's opening brief and pleading, this Court should Vacate the trial Court's order that revokes the SSOSA. However, in the alternative, this Court should Consider the forgoing Statement of Additional Grounds for review and individually or Collectively determine that there was a procedural Error, and that the Sentence does not Satisfy the doctrine of proportionality for the facts Presented, that due process requires Vacation of the Sentence, So the Court Can not have a reasonable assurance that Justice has been done in this Case. Therefore, this court Should Vacate the Underline Order Revoking Sentence / Warrant of Commitment of November 22, 2011 in Island County Superior Court, that revokes the Special Sex Offender Sentencing Alternative.

Dated This 24th day of June, 2012

Respectfully submitted,

Christopher Mazdra, Appellant

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STATE OF WASHINGTON
RESPONDENT,

V.

CHRISTOPHER MAZDRA
APPELLANT,

COA NO. 68123-1-I

DECLARATION OF SERVICE BY MAILING

CLERKS ACTION REQUIRED

I CHRISTOPHER MAZDRA IN THE ABOVE ENTITLED CAUSE, DO HEREBY DECLARE THAT I HAVE SERVED THE FOLLOWING DOCUMENTS:

1) STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW
2). DECLARATION OF SERVICE BY MAILING

UPON:

ERIC OHME	COURT OF APPEALS	DANA NELSON
ISLAND COUNTY PROSECUTORS OFFICE	DIVISION ONE	NIELSEN, BROMAN, KOCH
P.O. BOX 5000	ONE UNION SQUARE	1908 E. MADISON ST.
COUPEVILLE, WA 98239	600 UNIVERSITY ST.	SEATTLE, WA 98122
	SEATTLE, WA 98101-4170	

I DEPOSITED WITH THE K-UNIT OFFICER STATION, BY PROCESSING AS LEGAL MAIL, WITH FIRST CLASS POSTAGE AFFIXED THERETO, AT AIRWAY HEIGHTS CORRECTIONS CENTER, P.O. BOX 2049, AIRWAY HEIGHTS, WA 99001-2049

ON THIS 24th DAY OF June 2012.

I CERTIFY UNDER THE PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FORGOING IS TRUE AND CORRECT.

RESPECTFULLY SUBMITTED,

CHRISTOPHER MAZDRA,
APPELLANT

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