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Supreme Court No. _____
COA No. 59200-2-II

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

JOESEPH LAURSEN,

Petitioner.

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

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER AND DECISION BELOW

Jade Laursen,¹ petitioner, asks this Court to accept review of the Court of Appeals’ decision terminating review. The Court of Appeals issued its opinion on January 14, 2025 (App. A), and it denied Mx. Laursen’s motion to reconsider on February 19, 2025 (App. B).

B. INTRODUCTION

As acknowledged by the Court of Appeals, Washington courts rarely grant an exceptional sentence to a criminal defendant based on a significant impairment of the defendant’s capacity to appreciate the wrongfulness of their conduct or to conform their conduct to the requirements of the law. *State v.*

¹ The petitioner is gender non-binary, uses gender neutral plural pronouns, and their chosen name is “Jade.” This brief refers to Mx. Laursen by their chosen name and pronouns.

Laursen, No. 59200-2-II, 2025 WL 88699, at *5 (Jan. 14, 2025); RCW 9.94A.531(1)(e). This rarity is caused in part by confusion among sentencing courts about the meaning of this mitigating circumstance.

When considering Mx. Laursen's request for an exceptional sentence due to this mitigating circumstance, the sentencing court truncated and misconstrued the circumstance and equated it with incompetency. Requiring impairment to rise to the level of incompetency in order to be eligible for a mitigated sentence effectively eliminates this mitigating circumstance because incompetent defendants cannot be prosecuted. This Court should grant review to give guidance to superior courts considering this mitigating circumstance. RAP 13.4(b)(4).

C. ISSUES PRESENTED

1. The Sentencing Reform Act (“SRA”) allows courts to depart below a standard range sentence when it finds, by a preponderance of the evidence, the existence of a mitigating factor. One mitigating factor exists for significant impairment in the defendant’s capacity to appreciate the wrongfulness of their conduct or to conform their conduct to the requirements of the law. This factor does not require defendants to show that their impairment rises to the level of a legal excuse in order to claim the benefit of mitigation. Where a sentencing court refused to apply this mitigating factor because it both found that Mx. Laursen’s symptoms did not meet the legal excuse of incompetency and applied a truncated, incorrect standard, the court abused its discretion. Should this

Court grant review to give guidance to trial courts about this mitigating circumstance?

D. STATEMENT OF THE CASE

- Mx. Laursen suffered physical, sexual, and psychological abuse as a child

As a child, Jade Laursen was physically abused, sexually abused, neglected, and bullied. CP 344. Mx. Laursen's parents were absent or addicted. CP 346. The State removed Mx. Laursen from their childhood home multiple times and put them in foster care. CP 345-46.

Mx. Laursen suffered abuse from multiple family members and caregivers. Mx. Laursen's mother physically abused them with her hand or objects. CP 346. Mx. Laursen's maternal grandmother physically and sexually abused them. *Id.* This included using a "spanking stick" that left bruises and cuts and throwing Mx. Laursen into a television. CP 347.

Mx. Laursen's older brother was sent to juvenile detention for tying Mx. Laursen up and threatening them with knives. CP 345-46. Mx. Laursen's stepfather punched them in the face, choked them, and physically abused Mx. Laursen's privates. CP 347-48.

Mx. Laursen was also physically and sexually abused and bullied while in foster care. CP 347. The child of one foster family grabbed Mx. Laursen's genitals, and the father beat Mx. Laursen and referred to Mx. Laursen with homophobic slurs. *Id.*

Mx. Laursen attempted suicide several times as a teenager and engaged in self-harm by cutting their arm. CP 349. They began using and abusing drugs and alcohol as a child, likely fueled by a need to calm their emotions and psychological pain. CP 349-50, 354-55.

- Research and testing show Mx. Laursen suffers from cognitive impairment, some relating to their childhood trauma

Mx. Laursen scored high on the Adverse Childhood Experiences (“ACES”) scale, which assesses the connection between childhood trauma and adult risk behavior and violence. CP 352. Mx. Laursen’s score indicated that they experienced “toxic stress, which can ‘change brain development and affect . . . attention, decision-making, learning, and response to stress.’” CP 352.

Mx. Laursen has diagnoses of depression, anxiety, and posttraumatic stress disorder (“PTSD”). CP 349. Neuropsychological testing suggests that Mx. Laursen has complex PTSD or developmental trauma. CP 353.

They also suffer from sleep apnea, which causes a loss of sleep. CP 349. They have ongoing nightmares.

Id. Mx. Laursen also did not receive adequate nutrition, and the combination of sleep deficits and lack of nutrition are associated with a “heightened social threat detection and response system.” CP 355.

Testing revealed that Mx. Laursen’s IQ is 73, which is borderline with mildly impaired functioning. CP 353. Their functional ability is “1.8 standard deviations below average peers.” *Id.* “Many cognitive domains were impaired,” including inhibition of innate behaviors. *Id.* “Mx. Laursen also demonstrated severe difficulty with metacognition such that [they] have severe trouble with initiating activities, working memory, planning and organization and monitoring [their] task ability and completion.” CP 352.

- **Mx. Laursen befriends others, forming a “chosen family”**

As a young adult, Mx. Laursen became friends and formed close attachments to several other young

adults, including Ashleigh Butsch, Kyle Jarstad, John Carroway, and Helen Richardson and her mother, B.J. CP 3. They all lived together in a studio apartment. *Id.*

- **Shaun Moore moves into the apartment with Mx. Laursen and Mx. Laursen and the other residents cause Mr. Moore's death**

Shaun Moore eventually joined Mx. Laursen and their chosen family in this apartment. CP 11. Mr. Moore's social security disability checks were sent to the apartment and used by the residents. CP 11-12.

After moving in, Mr. Moore developed a romantic relationship with Mx. Laursen and then cheated on them, which caused Mx. Laursen and the other occupants of the apartment to turn on Mr. Moore. CP 11. ● Over a series of months, Mx. Laursen and the other residents of the apartment assaulted Mr. Moore, forced him to stand against the wall, deprived him of food and water, and refused to let him leave the apartment. *Id.*

Eventually Mr. Moore was so injured and malnourished that he could not move. CP 12. Mr. Jarstad ultimately punched Mr. Moore in the side of the head and he died. *Id.* The residents kept Mr. Moore's body in the apartment for two weeks before disposing of it alongside nearby railroad tracks. CP 9-10, 12.

After law enforcement discovered Mr. Moore's body, they interviewed the apartment's residents. CP 4. All of the residents admitted to abusing and imprisoning Mr. Moore before his death. *Id.* Multiple residents claimed that Mr. Jarstad inflicted the most injury to Mr. Moore. CP 10. Mr. Jarstad expressed no remorse when interviewed about Mr. Moore's death. CP 11.

Mx. Laursen admitted to punching and assaulting Mr. Moore in the two weeks prior to his

death. CP 4. These statements, and others, were suppressed before trial. CP 927-35.

- Mx. Laursen admits their role in Mr. Moore's death and requests a downward departure from the standard range based on impairment

Mx. Laursen reached a negotiated resolution with the prosecutor. CP 294. Mx. Laursen pled guilty to murder in the second degree, criminal mistreatment in the first degree, assault in the second degree, and unlawful imprisonment. CP 290-303. Mx. Laursen had no criminal history before this case. CP 29.

Mx. Laursen requested an exceptional sentence based on the mitigating circumstance of a significant impairment in their capacity to appreciate the wrongfulness of their conduct or to conform their conduct to the requirements of the law. CP 314-878.

- The sentencing court denies Mx. Laursen's request for a mitigated sentence, repeatedly citing an incorrect standard

The court rejected Mx. Laursen's request for a mitigated sentence. RP 86-90. When rejecting the mitigating circumstance, the trial court found that Mx. Laursen possessed "a cognitive functioning that understood decisionmaking [sic] and was able to make decisions and an appreciation for legal principles." RP 88. The court repeatedly misstated the mitigating circumstance as the ability to appreciate wrongfulness rather than the ability to appreciate the wrongfulness *of one's own conduct* throughout the sentencing hearing. RP 86-90. The trial court then sentenced Mx. Laursen to 265 months in prison, the high end of the standard sentencing range. CP 915-916.

E. ARGUMENT

1. This Court should accept review to clarify the correct application of the mitigating circumstance available for individuals with a significant impairment in their capacity to appreciate the wrongfulness of their conduct or conform their conduct to the law

For individuals convicted of a felony offense, the SRA permits a trial court to depart below a standard range sentence when the court finds, by a preponderance of the evidence, that a mitigating circumstance exists. RCW 9.94A.535(1). To justify a departure from the standard range, mitigating circumstances must relate to a person's crime or personal characteristics and must make the crime less egregious when placed in the context of those circumstances. *State v. Fowler*, 145 Wn.2d 400, 404, 38 P.3d 335 (2002). By allowing a trial court to depart from a standard range sentence when mitigating circumstances exist, the SRA enables the trial court to

meet its goals of “ensur[ing] that the punishment for a criminal offense is proportionate to the seriousness of the offense” and that the punishment is “commensurate with the punishment imposed on others committing similar offenses.” RCW 9.94A.010(1), (3).

Every person is entitled to have mitigating circumstances actually and meaningfully considered by the trial court. *State v. McFarland*, 189 Wn.2d 47, 56, 399 P.3d 1106 (2017). When the trial court completely refuses to exercise discretion or relies on an impermissible basis for refusing to impose an exceptional sentence, a defendant may appeal the trial court’s improper reasoning. *State v. Garcia-Martinez*, 88 Wn. App. 322, 329-30, 944 P.2d 1104 (1997). A trial court refuses to exercise its discretion if it categorically refuses to impose an exceptional sentence below the

standard range. *Id.* at 330. Additionally, if a trial court's sentencing decision rests on a "clear abuse of discretion or misapplication of the law," then the appellate court may reverse the sentence. *State v. Blair*, 191 Wn.2d 155, 159, 421 P.3d 937 (2018) (quoting *State v. Porter*, 133 Wn.2d 177, 181, 942 P.2d 974 (1997)).

Mx. Laursen requested a mitigated sentence because their capacity to appreciate the wrongfulness of their conduct or conform their conduct to the requirements of the law was significantly impaired. RP 67-76, 81. This is a statutorily enumerated mitigating circumstance. RCW 9.94A.535(1)(e). A trial court that finds this mitigating circumstance by a preponderance of the evidence may sentence below the standard range. *Id.*

Mx. Laursen presented evidence that the substantial trauma they suffered during their developmental years, combined with their borderline-impaired IQ and impaired cognitive functioning, substantially impaired their ability to understand the wrongfulness of their conduct. *Id.*, CP 314-42. This impairment was meaningful in a case where incremental acts added up to cause a person's death.

Mx. Laursen presented evidence that their impaired cognitive functioning included impaired inhibitions and severe trouble planning, organizing and monitoring task completion. CP 352. These deficits impaired Mx. Laursen's ability to forecast the consequence of their individual acts against Mr. Moore.

Mx. Laursen also suffered from complex childhood trauma and sleep and nutritional deficits at the time, which can cause heightened social threat

detection and response. CP 355, 357-58. These factors combined to magnify Mx. Laursen's perceived threat of Mr. Moore, and to hinder Mx. Laursen's ability to understand the long-term outcome of their individual and collective abuse of Mr. Moore.

Despite this evidence and its nexus to Mx. Laursen's criminal behavior, the trial court employed reasoning that categorically excluded its ability to consider this mitigating circumstance. First, the court reasoned that Mx. Laursen's cognition met the bare minimum standard for competency. RP 88. This effectively resulted in a categorical refusal to consider this mitigating circumstance. Second, the trial court misapplied the mitigating circumstance by truncating it, which resulted in the trial court applying the wrong legal standard to deny Mx. Laursen's mitigation request. Both of these errors deprived Mx. Laursen of

the trial court's actual and meaningful consideration of their request for a mitigated sentence.

a. Requiring mitigating evidence to rise to the level of incompetency is an improper basis to deny mitigation because it amounts to a categorical denial of this mitigating circumstance

The trial court refused to find a mitigating circumstance because Mx. Laursen's mental condition met the bare minimum standard for competency. RP 88. But the law does not require defendants to show that their mental conditions rise to the level of insanity or diminished capacity in order for them to seek a mitigated sentence due to a significant impairment of their ability to appreciate the wrongfulness of their conduct. *See State v. Schloredt*, 97 Wn. App. 789, 802, 987 P.2d 647 (1999). This is because such an interpretation amounts to a categorical denial of the mitigating circumstance. A trial court's categorical

denial of a mitigating circumstance is the same as a refusal to exercise discretion and requires reversal.

Garcia-Martinez, 88 Wn. App. at 330.

Courts have rejected interpretations of mitigating circumstances which eliminate the ability of courts to ever depart from the standard range sentence. *State v. Alexander*, 125 Wn.2d 717, 728, 888 P.2d 1169 (1995) (“The State’s interpretation would eliminate the ability of courts to ever impose departure since the issue of departure from the standard sentence range by definition only arises once a defendant has committed a crime.”); *see also Eddings v. Oklahoma*, 455 U.S. 104, 113, 102 S. Ct. 869, 876, 71 L. Ed. 2d 1 (1982) (finding error when a sentencing court required evidence to “support a legal excuse from criminal liability” to merit a mitigated sentence).

If a defendant could claim a full legal defense or barrier to prosecution, there would be no sentencing for the crime. Therefore, requiring evidence in mitigation to rise to the level of a legal defense or barrier eliminates the possibility of mitigation at all. This is impermissible.

Here, the trial court found Mx. Laursen's mitigating evidence unpersuasive because it did not rise to the level of incompetency. When articulating its reasons for finding that Mx. Laursen had not established the mitigating factor, the trial court found that Mx. Laursen possessed "a cognitive functioning that understood decisionmaking [sic] and was able to make decisions and an appreciation for legal principles." RP 88.

The ability to make decisions and appreciate legal principles is the same standard as competency:

assisting in one's defense requires only basic decision making skills and an appreciation of basic legal principles. In order to be competent, defendants must be able to understand the proceedings against them and assist in their own defense. RCW 10.77.086(1)(a). Incompetency bars prosecution. RCW 10.77.084(1)(a), 10.77.050 ("No incompetent person shall be tried, convicted, or sentenced for the commission of an offense so long as such incapacity continues.").

The reasoning in *Eddings* and *Alexander* applies equally strongly here. By hinging its assessment of Mx. Laursen's eligibility for a mitigated sentence on Mx. Laursen's bare minimum ability to make decisions and appreciate legal principles, the trial court denied Mx. Laursen a mitigated sentence based on Mx. Laursen's competency. In other words, the trial court relied on the fact that Mx. Laursen's cognition met the bare

minimum required of a person for the State to be able to prosecute them to deny them a mitigated sentence. But equating the basic requirement of competency with the absence of a mitigating circumstance obliterates the possibility of mitigation in any case, since every person convicted of a crime must possess basic competency.

Mx. Laursen's minimal competency was thus an impermissible basis to deny a mitigated sentence. Because the trial court relied on reasoning that categorically denies application of this mitigating circumstance, Mx. Laursen is entitled to a new sentencing hearing where the trial court understands the proper bases upon which it can depart from the standard range. This Court should accept review to clarify this issue and provide relief for Mx. Laursen. RAP 13.4(b)(4).

b. *The trial court abused its discretion by truncating and misconstruing the mitigating circumstance*

The trial court denied Mx. Laursen meaningful consideration of their mitigation evidence because the court misapplied the correct legal standard by truncating and misconstruing the mitigating circumstance. *Blair*, 191 Wn.2d at 159.

Mx. Laursen requested a mitigated sentence based on a significant impairment in their capacity to appreciate the wrongfulness *of their conduct*, or to conform *their conduct* to the requirements of the law. RCW 9.94A.535(1)(e).

Although the court appeared to cite the correct standard at the beginning of its oral ruling, the court thereafter consistently misstated the standard as the ability to appreciate wrongfulness in general rather than the ability to appreciate the wrongfulness *of one's*

own conduct. RP 86-90. After the first reference, every subsequent reference to the mitigating circumstance is incorrect (emphases added):

- “The court finds that the standard of capacity to *appreciate wrongfulness* being significantly impaired is not established by the preponderance of the evidence.” RP 86.
- “The court considers whether the preponderance of the evidence establishes a mitigating factor or factors, and in this case the emphasis is on capacity to *appreciate the wrongfulness of the facts* being significantly impaired.” RP 87.
- “However, that does not establish by a preponderance of the evidence that his capacity -- that their capacity to *appreciate the wrongfulness* was significantly impaired.” RP 87.
- “However, some of the evidence from a [CrR] 3.5 hearing that the court had the opportunity to consider informs the court’s assessment of Mx Laursen’s capacity to *appreciate wrongfulness*.” RP 88.
- “There is not substantial and compelling circumstances supported by a preponderance that Mx Laursen’s capacity to *appreciate wrongfulness of the crimes* was significantly impaired.” RP 90.
- “However, they do not establish that their capacity to *appreciate the wrongfulness* was significantly impaired. The weight of the information and evidence before the court

supports the conclusion that Mx Laursen had the ability and capacity to *appreciate the wrongfulness*.” RP 90.

The difference between understanding wrongfulness in general versus the wrongfulness of one’s own conduct is not trivial here. This case involved the conduct of multiple individuals that, in incremental measure over a period of time, contributed to the death of another human being. CP 2-4. To properly apply this mitigating circumstance, the court needed to distinguish between Mx. Laursen’s ability to understand the wrongfulness of their actions in the context of a case where these actions aggregated to cause a major crime—the death of another human being.

The trial court’s improper formulation of the mitigating standard caused it to misunderstand the importance and relevance of Mx. Laursen’s mitigating

evidence as related to their own conduct in this case.

The specific acts that Mx. Laursen was accused of and admitted to included assaulting Mr. Moore, forcing Mr. Moore to stand against the wall, restricting or preventing Mr. Moore from receiving food or water for many weeks, and hiding Mr. Moore in the bathroom when the police came to the apartment. RP 89.

Although culpable in their own right, each of these individual acts do not commonly lead to death. No evidence suggested that Mx. Laursen intended to kill Mr. Moore with their actions.² However, the trial court never considered how Mx. Laursen's history of trauma and cognitive limitations impaired their capacity to understand that *their* individual acts could and would aggregate with the acts of others and

² In fact, the other residents reported that Mx. Laursen once intervened to stop a co-defendant from choking Mr. Moore to death. CP 325.

contribute to the *death* of another human being. The trial court thus ~~did~~ not appropriately ~~understand~~ the ~~q~~uestion presented by the mitigating circumstance requested because of its ~~misunderstanding~~ of the law.

Finally, the court's citation to the fact that Mx. Laursen could recognize wrongs committed against them as a child illustrates the court's application of the wrong standard. RP 88. It is not enough to appreciate wrongfulness in general, but instead the wrongfulness of one's own conduct, that is required for this mitigating circumstance. RCW 9.94A.535(1)(e).

This ~~d~~istinction is apparent to any parent of a child (or someone who has simply visited a playground). Even toddlers can recognize a wrong against themselves, but this ~~understanding~~ does not translate to the child's ability to recognize a wrong against another—including their own wrongs against

another. A child must properly develop empathy in order to begin to recognize their own wrongs. This is why evidence regarding the trauma Mx. Laursen suffered as a child and their borderline intellectual functioning is relevant to the analysis here. Mx. Laursen's development of critical empathy was hindered because they were the victim of horrible trauma and abuse. CP 354-58.

The combination of the trial court's truncation of the proper standard and failure to understand the nature of the mitigating circumstance in the context of this crime resulted in the court considering improper bases for denying Mx. Laursen a mitigated sentence, and the case must be remanded for resentencing. This Court should accept review to clarify this little understood mitigating factor. RAP 13.4(b)(4).

F. CONCLUSION

For all of the foregoing reasons, Mx. Laursen requests that this Court grant review.

Counsel certifies this brief contains approximately 3,519 words and complies with RAP 18.17.

DATED this 20th day of March, 2025.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ariana Downing", is written over a horizontal line.

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APPENDIX A

January 14, 2025

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

JOSEPH REGINALD LAURSEN,

Appellant.

No. 59200-2-II

UNPUBLISHED OPINION

CRUSER, C.J.—In November 2019, Shaun Moore moved into a studio apartment with Jade Laursen¹ and 5 other individuals. Moore and Laursen began a romantic relationship. However, Moore also engaged in sexual intercourse with another member of the household and this behavior upset the rest of the group living in the apartment. As a result, Laursen and the other household members assaulted, falsely imprisoned, and deprived Moore of food over the course of the next 10 months until his death in August 2020. After Moore's death, Laursen concealed Moore's body in the apartment bathroom for 2 weeks before disposing the body near railroad tracks. In September 2020, police found Moore's body and arrested Laursen and the 5 other people residing in the apartment at the time. Laursen pleaded guilty to second degree murder, first degree criminal mistreatment, second degree assault, and unlawful imprisonment. The State recommended a

¹ Mx. Laursen is gender non-binary and uses gender-neutral plural pronouns (they/them). Their chosen name is "Jade." This opinion will refer to them by their chosen name and pronouns, and using the gender-neutral honorific "Mx."

sentence of 200 months and Laursen requested an exceptional sentence of 120 months under RCW 9.94A.535(1)(e), arguing that their cognition, mental illness, and experience of childhood abuse significantly impaired their capacity to appreciate the wrongfulness of their conduct. The court imposed a high-end standard sentence of 265 months of confinement.

Laursen appeals to this court, arguing that the trial court erred in concluding that Laursen failed to demonstrate, by a preponderance of the evidence, that their capacity to appreciate the wrongfulness of their conduct was significantly impaired. Laursen argues that the trial court did not properly consider the evidence because it did not assign enough weight to evidence of Laursen's cognition, mental health, and experience of childhood abuse. Further, Laursen argues that the court erred in relying on evidence of Laursen's attempts to negotiate with law enforcement during an interview, Laursen's ability to seek "help when they were the victim of assault" as a child, and Laursen's significant role in the crimes. Verbatim Rep. of Proc. (VRP) (July 19, 2023) at 88. In response, the State maintains that the trial court did not abuse its discretion in sentencing Laursen to 265 months of confinement. The State argues that the trial court properly considered Laursen's request and that this court should not reweigh the evidence on review. We agree with the State and affirm Laursen's sentence.

FACTS

I. BACKGROUND

In November 2019, Shaun Moore was released from a drug and alcohol rehabilitation center and seeking a place to live. At the time, Jade Laursen was 26 years old and living in a studio apartment with five other individuals: BillyJo Richardson and her daughter, Helen Richardson,²

² We refer to BillyJo Richardson and Helen Richardson by their first names to avoid confusion.

Ashleigh Butsch, Kyle Jarstad, and Jon Carroway. Laursen referred to this group as their “ ‘chosen family.’ ” Clerk’s Papers (CP) at 169. The residents of the apartment agreed by vote to let Moore move into the apartment with them. Butsch knew Moore from Moore’s time at the drug and alcohol rehabilitation center. Moore was Helen’s ex-boyfriend and the father of her child. However, neither Helen, nor Helen’s mother, BillyJo, were happy with the group’s decision to let Moore move in.

While living together, Moore and Laursen began a romantic relationship, but Moore also engaged in sexual intercourse with Helen. Over time, the residents of the apartment grew increasingly upset with Moore for various reasons. For example, Helen became upset after Moore told her that he never loved her, despite their past relationship. Butsch, and her boyfriend Jarstad, grew upset because Moore “ ‘oogled’ ” at Butsch. *Id.* at 324. Finally, Carroway, who was Helen’s boyfriend at the time, disliked Moore because of his past relationship with Helen. As a result of the increasing agitation and tension between Moore and the other members of the household, the residents began abusing Moore and continued to do so over the course of several months until his death.

All residents of the apartment admitted to assaulting Moore, but the other residents considered Laursen to be the “head honcho” and “de facto leader of the whole family.” *Id.* at 441, 793. According to the other residents, Laursen played a significant role in Moore’s abuse and death. According to Helen and Butsch, Laursen commanded others to hit Moore. Jarstad said that Laursen was the one who initiated hitting Moore and it was always Laursen who “prompted [Jarstad to get] involved.” *Id.* at 844. On multiple occasions, the group forced Moore to stand facing the wall for hours at a time. According to Jarstad, “[Laursen’s] idea of telling [Moore] to

stand at the wall” led all residents in the apartment to tell Moore to stand at the wall while they used the restroom. *Id.* at 832.

According to other members of the group, Laursen controlled Moore’s behavior in a number of ways. Butsch stated that Moore needed permission from Laursen to “smoke weed” or “have cigarettes.” *Id.* at 715. Laursen also controlled when Moore left the apartment. According to Butsch, “[Laursen] wouldn’t let [Moore] out of [their] sight” and would put someone in charge of watching Moore whenever they used the bathroom. *Id.* at 731. Helen described an occasion where Moore tried to escape the apartment but Helen closed the door before he could get out and then Laursen came in and “started beating him up.” *Id.* at 489. Laursen also withheld food from Moore, causing Moore to lose a significant amount of weight. For example, Jarstad said that Laursen “would not allow [Moore] to have any sort of food unless [Laursen] approved it.” *Id.* at 855. BillyJo said that she overheard Laursen tell Moore that he could not have food. Butsch testified that Laursen said to the group “ ‘If I catch you feeding [Moore], you have to answer to me.’ ” *Id.* at 753.

Months of abuse and control left Moore dangerously weak. Moore lost so much weight that he needed to use a drawstring to keep his sweatpants up. Residents of the apartment described Moore as “ ‘skeletal,’ ” “malnourished,” and “looking like one of those emaciated dogs you see off of those animal cruelty TV shows.” *Id.* at 12, 749, 872. According to Butsch, Laursen told Moore to keep his head from resting on his shoulder, but Moore did not have the strength to comply. Butsch stated that Moore’s failure to comply angered Jarstad, leading him to punch Moore in the head. Jarstad’s punch knocked Moore unconscious, and Moore died shortly after. The

medical examiner determined that Moore died of homicide, as a result of multiple blunt force injuries of the head and torso.

After Moore died, Laursen and Carroway moved Moore's body into the shower in the apartment, where the body remained for approximately two weeks. When Moore's foster parent messaged Helen asking where Moore was, Helen said that Laursen "came up with the plan to say that [Moore] went out traveling and we hadn't heard from him." *Id.* at 565. While the body was still in the apartment, neighbors complained about a smell emanating from the unit. Finally, after receiving notice for an apartment inspection, Carroway and Laursen moved Moore's body from the apartment to the nearby railroad tracks.

In September 2020, police found Moore's remains near the railroad tracks. By mid-December, police identified the apartment as Moore's last known address and obtained a search warrant to enter the apartment. According to BillyJo, after detectives questioned the group, Laursen said to the group, "You should have expected this to happen[.]" as if Moore's death was planned. *Id.* at 620.

II. PROCEDURAL HISTORY

The State amended the charges against Laursen multiple times, ultimately charging Laursen with second degree murder, first degree criminal mistreatment, second degree assault, and unlawful imprisonment. Before the State filed the final charges, the trial court held a CrR 3.5 hearing to determine whether Laursen's statements during interviews with police were made involuntarily in violation of Laursen's Fifth Amendment rights. After the hearing, the court excluded all of Laursen's statements during interviews with police from trial because the police obtained those statements in violation of Laursen's Fifth Amendment rights.

In June 2023, Laursen negotiated a plea agreement with the State in which they pleaded guilty to second degree murder, first degree criminal mistreatment, second degree assault, and unlawful imprisonment. In the plea bargain, Laursen made the following statements:

Between November 1, 2019 through September 15th, 2020, I lived with Shaun Moore and others in an apartment. I, and others, intentionally assaulted Shaun and recklessly inflicted substantial bodily harm by hitting him with our hands and other objects (Assault 2). These felony assaults caused Shaun Moore's death (Murder 2). I, and others, also recklessly caused great bodily harm to Shaun Moore by withholding the basic necessities of life such by not giving Shaun food (Criminal Mistreatment 1). I, and others, also knowingly restricted Shaun Moore's movements without consent or legal authority in a manner that interfered with Shaun's liberty by not letting him leave the apartment (Unlawful Imprisonment).

Id. at 301.

At sentencing, the trial court determined that the standard range sentence on Laursen's most serious offense (second degree murder) was 165 to 265 months. Pursuant to its agreement with Laursen, the State recommended a sentence of 200 months.

Due to Laursen's history of abuse and mental illness, Laursen asked the court to impose a sentence of 120 months as an exceptional sentence below the standard range under RCW 9.94A.535(1)(e). Laursen argued that they were unable to appreciate the wrongfulness of their conduct or conform their conduct to the requirements of the law. In support of this argument, Laursen presented a psychological evaluation to the trial court, which identified their history of abuse, mildly impaired intellectual ability, and mental illness. The psychological evaluation indicated that as a child, they experienced an unstable living arrangement and abuse. Laursen's father was rarely present during their upbringing and Laursen was frequently in foster care due to their mother's use of methamphetamine and alcohol, and physical abuse. Laursen's brother also physically abused Laursen on occasion. At times, Laursen lived with their grandmother, who was

physically and sexually abusive. On multiple occasions, after experiencing assault, Laursen sought help from a neighbor or police officer.

The psychological evaluation also indicated that Laursen's overall intellectual ability was "borderline with mildly impaired functioning." *Id.* at 350. The evaluation also showed that Laursen suffered from mental health conditions, including "depression, anxiety, and post-traumatic stress disorder [PTSD]." *Id.* at 349. The evaluation stated that Laursen heard "about six voices that talk to one another," engaged in self-harm, attempted suicide multiple times, and reported having a seizure in 2014. *Id.*

The trial court imposed a sentence of 265 months of confinement, which is at the high end of the standard range. In doing so, the trial court considered whether Laursen's history of childhood abuse, cognitive abilities, and mental health conditions qualified Laursen for an exceptional downward sentence. The trial court stated that Laursen's argument for an exceptional sentence was based on their low IQ score, childhood trauma, adverse childhood experiences, substance abuse, and mental health problems, including PTSD and poor executive functioning. The trial court stated:

Mx Laursen argues that the capacity to appreciate the wrongfulness of the crimes are attributed to a number of things including limited cognition represented by a low IQ with Dr. Patterson indicating in an earlier hearing that it was borderline. Mx Laursen describes and Dr. Milner describes childhood trauma and that Mx Laursen experienced seven of ten adverse childhood experiences and that the literature suggests that even with lower numbers of what are referred to as ACEs, the adverse childhood experiences, that toxic stress throughout a person's childhood can impact their decision[-]making or the development of their decision[-]making skills.

Mx Laursen points to mental health diagnoses including PTSD diagnosis, long history of drug abuse, arguing that that impacts brain development.

VRP (July 19, 2023) at 82-83.

The trial court was not persuaded, however, that Laursen's childhood abuse, cognitive inability, and mental health conditions demonstrated that Laursen was unable to appreciate the wrongfulness of their conduct. The trial court said:

There is no doubt in this court's mind that the information presented by the defense regarding childhood trauma and the adverse childhood experiences occurred, that this was tragic and that they clearly impacted Mx Laursen's development and . . . that did not result in having a strong sense of morals and law-abiding behaviors. Mx Laursen's IQ, age, mental health diagnosis and substance abuse also likely contributed to their ability to fully appreciate the gravity of the crimes and the actions and likely consequences of the individual events at the apartment. However, that does not establish by a preponderance of the evidence that . . . their capacity to appreciate the wrongfulness was significantly impaired.

Id. at 87.

In addition, the court noted that Laursen understood the wrongfulness of their actions because they attempted to negotiate with law enforcement during an interview, sought "help when they were the victim of assault" as a child, and played a significant role in the crimes. *Id.* at 88.

The court explained:

[S]ome of the evidence from a 3.5 hearing that the court had the opportunity to consider informs the court's assessment of Mx Laursen's capacity to appreciate wrongfulness. I observed audio/video from December of 2020 a few months after the events described culminated in Shaun's death. I heard the opinion of Dr. Patterson regarding Mx Laursen's cognitive abilities, and I observed Mx Laursen's actions and words and demeanor including attempts at negotiations throughout the interview. Those observations and that evidence suggests a cognitive functioning that understood decision[-]making and was able to make decisions and an appreciation for legal principles. In addition, the record that was provided both by Mx Laursen and by the state does show that amidst the tragic history of their youth that Mx Laursen appreciated and acted upon reaching out and seeking help when they were the victim of assault as a young person.

Ultimately, the nature of the crimes that were pled to and the statement of facts from Mx Laursen, elaborated on by multiple statements by the other five individuals who were present over ten months in an apartment where torture of Shaun Moore occurred, described that over ten months there were assaults on Shaun, there was withholding of food and water, Shaun was prevented from

leaving, and ultimately Shaun lost a substantial amount of weight and died. This occurred in a very small studio apartment.

Id. at 88-89.

Finally, the trial court indicated that it exercised discretion in imposing Laursen's sentence. After considering the arguments and reviewing the evidence and relevant law, the court stated, "I am exercising discretion, but I'm declining to impose an exceptional downward sentence." *Id.* at 89. According to the court, "[t]here [was] not substantial and compelling circumstances supported by a preponderance that Mx[.] Laursen's capacity to appreciate wrongfulness of the crimes was significantly impaired." *Id.* at 90.

ANALYSIS

Laursen argues that the trial court erred in concluding that Laursen failed to establish by a preponderance of the evidence that they lacked the capacity to appreciate the wrongfulness of their conduct. Laursen argues that they "presented ample evidence that their troubled childhood, long history of abuse, and cognitive abilities left them unable to appreciate the wrongfulness of their conduct, . . . but the court misunderstood the law and did not properly consider this evidence." Br. of Appellant at 14 (emphasis omitted). Laursen also argues that the trial court erred in relying on evidence of Laursen's attempts to negotiate with law enforcement during an interview, Laursen's ability to seek "help when they were the victim of assault" as a child, and Laursen's significant role in the crimes. VRP (July 19, 2023) at 88.

In response, the State maintains that the trial court did not abuse its discretion in sentencing Laursen to 265 months of confinement. The State argues that the trial court properly considered Laursen's request and we should not reweigh evidence on review. We agree with the State.

I. LEGAL PRINCIPLES

We review a trial court's decision to impose an exceptional sentence for abuse of discretion. *State v. Grayson*, 154 Wn.2d 333, 342, 111 P.3d 1183 (2005). "A trial court abuses its discretion when its decision is 'manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.' " *State v. Martinez*, 2 Wn.3d 675, 681, 541 P.3d 970 (2024) (internal quotation marks omitted) (quoting *State v. Barry*, 184 Wn. App. 790, 802, 339 P.3d 200 (2014)). In addition, "[a] trial court abuses its discretion if it 'relies on unsupported facts, takes a view that no reasonable person would take, applies the wrong legal standard, or bases its ruling on an erroneous view of the law.' " *Id.* at 687 (quoting *Gildon v. Simon Prop. Grp., Inc.*, 158 Wn.2d 483, 494, 145 P.3d 1196 (2006)). An appellate court cannot reweigh the evidence on appeal. *State v. Backstrom*, 15 Wn. App. 2d 103, 106, 476 P.3d 201 (2020); *Ramos*, 187 Wn.2d 420, 453, 387 P.3d 650 (2017).

The trial court "may impose an exceptional sentence below the standard range" if the defendant establishes, by a preponderance of the evidence, that mitigating circumstances exist. RCW 9.94A.535(1); see *Ramos*, 187 Wn.2d at 434. One of the mitigating circumstances for courts to consider is whether "[t]he defendant's capacity to appreciate the wrongfulness of [their] conduct, or to conform [their] conduct to the requirements of the law, was significantly impaired." RCW 9.94A.535(1)(e). Courts in Washington rarely grant an exceptional sentence under RCW 9.94A.535(1)(e). See, e.g., *State v. Allert*, 117 Wn.2d 156, 170, 815 P.2d 752 (1991) (determining the defendant's alcoholism did not require an exceptional sentence); *State v. Rogers*, 112 Wn.2d 180, 185, 770 P.2d 180 (1989) (holding that impaired judgment and irrational thinking did not warrant an exceptional sentence); *State v. Schloredt*, 97 Wn. App. 789, 803, 987 P.2d 647 (1999) (concluding that depressive disorder with psychotic features did not warrant an exceptional

sentence). *But see, e.g., State v. Pascal*, 108 Wn.2d 125, 136, 736 P.2d 1065 (1987) (holding trial court was justified in relying in part on RCW 9.94A.535(1)(e) to impose an exceptional sentence when the victim physically and emotionally abused the defendant the day of the incident).

II. APPLICATION

Laursen argues that the trial court erred in not finding the evidence presented by Laursen to be persuasive and by improperly weighing the evidence. Laursen argues that while extensive evidence warranted a mitigated sentence, the trial court did not properly consider the evidence.

As the State correctly observes, Laursen's arguments would require us to reweigh evidence, which we cannot do. *Backstrom*, 15 Wn. App. 2d at 106. The trial court's review of the evidence in Laursen's case is similar to the trial court's careful review of the record in *Backstrom*. In *Backstrom*, the court held that the trial court did not abuse its discretion because it "carefully reviewed and weighed the mitigating evidence." *Id.* at 109. In *Backstrom*, the *Miller-fix* statute required the trial court to weigh the defendant's youth, life experiences prior to the crime, capacity for exercising responsibility, and evidence of rehabilitation after the crime. *Id.* at 108-09. Accordingly, the trial court in *Backstrom* discussed the defendant's youth, a lifestyle that " 'clearly illustrated that he had very poor decision-making abilities and very poor judgment,' " " 'environmental and family circumstances,' " and rehabilitation considering his " 'success in prison.' " *Id.* at 108.

Similar to the court in *Backstrom*, the trial court here weighed the evidence related to the relevant mitigating circumstances. To determine whether Laursen established that their "capacity to appreciate the wrongfulness of [their] conduct . . . was significantly impaired," the trial court weighed evidence of Laursen's childhood abuse, cognitive inability, mental health conditions,

negotiations with law enforcement, and role in the crime. RCW 9A.535(1)(e). The trial court stated its belief that Laursen's childhood trauma, adverse childhood experiences, IQ, age, mental health diagnosis, and substance abuse affected "their ability to fully appreciate the gravity of the crimes." VRP (July 19, 2023) at 87. The court also weighed evidence of Laursen's attempts to negotiate with law enforcement during police interviews, aims to seek "help when they were the victim of assault" as a child, and significant role in Moore's abuse. *Id.* at 88. Weighing all of these case-specific facts, the trial court concluded that the evidence did "not establish by a preponderance of the evidence that . . . [Laursen's] capacity to appreciate the wrongfulness was significantly impaired." *Id.* at 87. Therefore, the trial court properly weighed the evidence and we cannot reweigh the evidence on review.

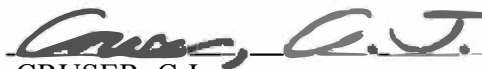
Likewise, the trial court did not err in considering evidence that Laursen was capable of appreciating the wrongfulness of assault based on their own history of reporting assaults against them to law enforcement in their childhood, nor did the trial court err in considering evidence of Laursen's attempt at negotiating their case with law enforcement. Here again, Laursen's argument boils down to their disagreement with the decision the trial court reached after considering all of the evidence presented. We do not reweigh evidence, and we do not substitute our judgment for that of the trial court. Laursen's attempt to frame this as a *legal error* by the trial court in failing to properly weigh the evidence is unavailing. Laursen bore the burden, not just of production, but

of persuasion. *See* RCW 9.94A.535; *see also Ramos*, 187 Wn.2d at 434. As to the latter, Laursen failed to persuade the trial court that an exceptional sentence was warranted. We find no error.³


CONCLUSION

The trial court's reasoning and discussions at sentencing demonstrate that the court properly weighed the evidence of Laursen's childhood abuse, cognitive inability, mental health conditions, negotiations with law enforcement, and role in the crime. Therefore, the trial court did not abuse its discretion. Accordingly, we hold that the trial court did not abuse its discretion in refusing to grant Laursen's request and in imposing a sentence of 265 months of confinement. We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.


CRUSER, C.J.

We concur:


VELJACIC, J.


PRICE, J.

³ To the extent Laursen suggests it was error for the trial court to consider their attempts at negotiation with law enforcement during their police interview, Laursen simply argues that doing so was "illogical," and points us to no authority suggesting this is error. Br. of Appellant at 20. *State v. Johnson*, 119 Wn.2d 167, 171, 829 P.2d 1082 (1992) (the appellate court will not review an issue raised in passing or unsupported by authority or persuasive argument).

APPENDIX B

February 19, 2025

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

JOSEPH REGINALD LAURSEN,

Appellant.

No. 59200-2-II

**ORDER DENYING MOTION FOR
RECONSIDERATION**

Appellant Joseph Laursen moves for reconsideration of the court's unpublished opinion filed on January 14, 2025. Upon consideration, the court denies the motion. Accordingly, it is

SO ORDERED.

PANEL: Jj. Cruser, Veljacic, Price

FOR THE COURT:


CHIEF JUDGE

WASHINGTON APPELLATE PROJECT

March 20, 2025 - 4:15 PM

Transmittal Information

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