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Court of Appeals No. 71801-1-I

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

STATE OF WASHINGTON

Plaintiff/Respondent,

v.

CASEY PORTER,

Defendant/Appellant.

REPLY BRIEF OF APPELLANT

Appeal from the Superior Court of Snohomish County,
Cause No. 06-1-01859-6
The Honorable George Bowden, Presiding Judge

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COURT OF APPEALS
STATE OF WASHINGTON
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ORIGINAL

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I. ARGUMENT

A. The State misrepresents Mr. Porter's argument.

The State claims that Mr. Porter argues that RCW 9.94A.637(2)(a) and (b) should be read separately in situations like Mr. Porter's where a defendant had a no-contact order as part of his judgment and sentence but waited to seek a certificate of discharge until after the term of the no-contact order had expired. State's Response, p. 6. This is a misrepresentation of Mr. Porter's argument on appeal.

Mr. Porter's argument is that RCW 9.94A.637(1), RCW 9.94A.637(2)(a), and RCW 9.94A.637(2)(b) must be read together and harmonized for purposes of interpreting RCW 9.94A.637. Appellant's Opening Brief, p. 4-8.

B. The State's interpretation of RCW 9.94A.637 is contrary to the rules of statutory interpretation.

The State argues that RCW 9.94A.637(1) must be read separately and independently from RCW 9.94A.637(2) and argues that RCW 9.94A.637(1) governs Mr. Porter's case. State's Response, p. 5-6. This argument is contrary to the rules of statutory interpretation.

When construing a rule or a statute, a reviewing court reads it in its entirety, giving effect to all language so that no portion is rendered meaningless or superfluous. *State v. Keller*, 143 Wn.2d 267, 277, 19 P.3d

1030 (2001). Courts should avoid construing a statute in a manner which results in unlikely, strange, or absurd consequences. *State v. Contreras*, 124 Wn.2d 741, 747, 880 P.2d 1000 (1994).

RCW 9.94A.637(1) establishes the basic process by which an offender may obtain a certificate of discharge. RCW 9.94A.637(2) applies “In the case of an eligible offender who has a no-contact order as part of the judgment and sentence.” RCW 9.94A.637(2)(b). Because RCW 9.94A.637 must be read in its entirety in interpreting its meaning, sections (1) and (2) must be read together in such a manner as to avoid rendering any section meaningless or superfluous.

RCW 9.94A.637(1) governs how offenders obtain certificates of discharge generally. By its plain language, RCW 9.94A.637(2)(b) governs how an offender may obtain a certificate of discharge when the offender “has a no-contact order as part of the judgment and sentence.” For purposes of section (2), section (2)(a) mandates that “a no-contact order is not a requirement of the offender's sentence.” When sections (1) and (2) are read together in a manner that will render neither section meaningless or superfluous, the most logical interpretation of the statute is that the procedural requirements of RCW 9.94A.637(1) apply to all offenders seeking a certificate of discharge but the more specific requirements of RCW 9.94A.637(2) also apply when the sentence of the

offender seeking a certificate of discharge includes a no-contact order.

This is the argument Mr. Porter is making in his appeal.

The State argues that because the term of Mr. Porter's no-contact order had expired by the time he applied for a certificate of discharge, RCW 9.94A.637(2) is inapplicable to his case and only subsection (1) applies. Response Brief, p. 5-6. The State's interpretation of RCW 9.94A.637 renders sections (2)(a) and (b) of that statute meaningless and superfluous. The State asks this court to ignore RCW 9.94A.237(2)(b)'s mandate that it governs when an offender's sentence includes a no-contact order.

RCW 9.94A.637 is silent about what process applies when an offender's sentence includes a no-contact order but the offender waits until the no-contact order has expired to apply for a certificate of discharge. Mr. Porter's case presents a fact pattern apparently not contemplated by the legislature when it enacted RCW 9.94A.637(2). However, the plain language of RCW 9.94A.637(2)(b) clearly indicates it applies in all situations where the sentence of an offender seeking a certificate of discharge includes a no-contact order.

Mr. Porter's sentence included a no-contact order, therefore RCW 9.94A.637(2)(b) controls how Mr. Porter may obtain a certificate of

discharge. The State's interpretation is contrary to the rules of statutory construction and is incorrect.

II. CONCLUSION

Because RCW 9.94A.637(2) governs Mr. Porter's motion for a certificate of discharge, and because sections (2)(a) and (2)(b) must be read together when interpreting the statute, Mr. Porter completed the terms of his sentence for purposes of the certificate of discharge in December of 2008. Under RCW 9.94A.637(2)(a), for purposes of obtaining a certificate of discharge Mr. Porter completed the terms of his sentence in December of 2008. Had Mr. Porter applied for a certificate of discharge between December 2008 and January of 2012, under RCW 9.94A.637(2)(b) he would have had to apply to have the no contact order changed to a civil no-contact order.

The fact that Mr. Porter waited until the certificate of discharge had expired does not render RCW 9.94A.637(2) inapplicable to Mr. Porter. Mr. Porter still completed the terms of his sentence in December of 2008. The only effect Mr. Porter's delay in seeking the certificate of discharge has is to remove the requirement that he petition for a civil no-contact order to be issued since the period of the no-contact order had expired. Mr. Porter's delay in seeking a certificate of discharge did not render section (2) inapplicable to his case.

For the above stated reasons, this Court should remand this case for the trial court to enter a certificate of discharge retroactive to the date in December of 2008 when the trial court received notice that Mr. Porter had completed all terms of his sentence.

DATED this 25th day of February, 2015.

Respectfully submitted,



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4 IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
5 DIVISION I

STATE OF WASHINGTON
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6 STATE OF WASHINGTON,

Case No.: 71801-1-1

7 Respondent,

DECLARATION OF MAILING

8 vs.

9 CASEY PORTER,

10 Appellant.
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13 I Steve Karimi do hereby certify or declare under penalty of perjury of the laws of the
14 State of Washington that the following information is true and correct:

15 On February 25, 2015, I placed a copy of the Reply Brief of Appellant in the U.S. mail with
16 the correct postage affixed and addressed to:

17 Mr. Seth Aaron Fine, Attorney at Law, Snohomish Prosecutor's Office, 3000
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