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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 23-1-06023-3 SEA

VS.

MIGUEL RIVERA DOMINGUEZ,

Defendant.

STATE'S SENTENCING
MEMORANDUM AND RESPONSE
TO DEFENSE REQUEST FOR AN
EXCEPTIONAL SENTENCE
DOWNWARD

I. INTRODUCTION

The defendant pled guilty on July 3, 2025, to one count of Murder in the First Degree for the murder of Marcel Wagner.

The State respectfully requests the Court impose a total sentence of 252 months in prison followed by 36 months of community custody. The State believes a sentence one year above the low end of the standard range strikes the appropriate balance between taking into account the defendant's egregious conduct while also acknowledging his youth and the fact that he has chosen to take accountability for his crime. Apart from the period of incarceration, the sentence in this case is agreed.

II. OFFENDER SCORE

1 The State calculates the defendant's offender score and standard range as follows:

2 **Offender Score:** 0

3 **Standard Range:** Murder 1: 240-320 months
4 36 months community custody

5 **State's Recommendation:** 252 months imprisonment, followed by 36 months of community
6 custody

7 **III. FACTS RELEVANT TO SENTENCING**

8 On October 3, 2023, a little before 5pm, the defendant left his home wearing a puffy
9 jacket and full face ski mask, despite the warmth of the early fall evening. He boarded a King
10 County Metro bus along with his friend G.W., and sat down in the back of the bus. Seated near
11 him was the victim, Marcel Wagner, who had headphones on and appeared to be asleep. For
12 around twelve minutes, there was no interaction between the defendant and Mr. Wagner. From
13 the bus surveillance video, Mr. Wagner appeared to be asleep and the defendant appeared to be
14 engaged with his phone. As the bus neared the stop at 15th Ave SW and SW Roxbury St, the
15 defendant pulled the stop request cord. As the bus came within a block of the stop, the defendant
16 pulled out a handgun and shot the victim point blank in the head numerous times without uttering
17 a word. Mr. Wagner died instantly. Mr. Wagner never spoke to the defendant and offered no
18 provocation or threat whatsoever.

19 The defendant and his friend then moved toward the bus door, and the defendant shouted
20 to the bus driver to open the door. He fired two more rounds into the bus door before the bus
21 came to a stop and the door opened. The defendant fled the bus, making his way to the nearby
22 Boys and Girls Club where he changed into shorts and a t-shirt that he'd brought with him in a
23 backpack. Having changed his appearance substantially, the defendant then left the Boys and
24 Girls Club and disappeared into the evening.

1 **IV. BASIS FOR STATE’S RECOMMENDATION**

2 The sentencing guidelines are designed to ensure that offenders who commit similar
3 crimes and have similar criminal histories receive equivalent sentences. Washington State Adult
4 Sentencing Guidelines Manual, 2016. The fundamental purpose of the Act "is to make the
5 criminal justice system accountable to the public by developing a system for the sentencing of
6 felony offenders which structures, but does not eliminate, discretionary decisions affecting
7 sentences." RCW 9.94A.010. The guidelines structure discretion to promote more principled
8 decision-making. State v. Shove, 113 Wn.2d 83, 88-89, 776 P.2d 132 (1989). They apply
9 equally to all offenders in all parts of the state, without discrimination as to any element that does
10 not relate to the crime or the previous record of the defendant. RCW 9.94A.340. The purposes
11 of the SRA are enumerated as follows:

- 12 (1) Ensure that the punishment for a criminal offense is proportionate to the
13 seriousness of the offense and the offender's criminal history;
- 14 (2) Promote respect for the law by providing punishment which is just;
- 15 (3) Be commensurate with the punishment imposed on others committing similar
16 offenses;
- 17 (4) Protect the public;
- 18 (5) Offer the offender an opportunity to improve himself or herself;
- 19 (6) Make frugal use of the state's and local government's resources; and
- 20 (7) Reduce the risk of reoffending by offenders in the community.

21 A court may depart from the standard range and impose an exceptional sentence only if
22 it finds, *considering the purpose of the SRA*, that there are substantial and compelling reasons
23 justifying an exceptional sentence. RCW 9.94A.535 (italics added). A sentence below the
24 standard range may be reversed if the appellate court finds (1) that the sentencing judge's

1 reasons are not supported by the record, (2) those reasons do not justify a sentence below the
2 standard range, or (3) the sentence imposed is clearly too lenient. RCW 9.94A.585(4); State v.
3 Moore, 73 Wn. App. 789, 794, 871 P.2d 642 (1994). These standards of review ensure that
4 lower or higher sentences are imposed only in cases that are truly exceptional.

5 To impose an exceptional mitigated sentence, a court must make findings specific to the
6 crime and the individual. RCW 9.94A.535(1) provides that, "The court may impose an
7 exceptional sentence below the standard range if it finds that mitigating circumstances are
8 established by a preponderance of the evidence. One such mitigating circumstance is that ...
9 [t]he defendant's capacity to appreciate the wrongfulness of his ... conduct, or to conform his ...
10 conduct to the requirements of the law, was significantly impaired"). RCW 9.94A.535(l)(c).

11 In State v. O'Dell, 183 Wn.2d 680, 358 P.3d 359 (2015), the Washington Supreme Court
12 reaffirmed that youth can affect the capacity to appreciate wrongfulness and conform one's
13 conduct to the law, but it also held that age alone does not establish that mitigating factor,
14 there must be evidence from the circumstances of the crime that shows that "youth diminished
15 [the defendant's] capacity to appreciate the wrongfulness of his conduct or conform that conduct
16 to the requirements of the law." O'Dell, 183 Wn.2d at 695-96. See also State v. Ha'mim, 82
17 Wn. App. 139, 916 P.2d 971 (1996), aff d, 132 Wn.2d 834, 940 P.2d 633 (1997). In other
18 words, there is no presumption that a mitigated sentence is warranted simply because the
19 offender was young. State v. Gregg, 9 Wn. App. 2d 569, 444 P.3d 1219, review granted, 194
20 Wn.2d 1002 (2019). Youth is relevant only insofar as it relates to a defendant's ability to
21 conform his conduct to the law. State v. Scott, 72 Wn. App. 207, 866 P.2d 1258 (1993). A
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1 juvenile carries the burden to show that an exceptional sentence¹ below the range is justified.
2 State v. Ramos, 187 Wn.2d 420, 445, 387 P.3d 650 (2017). In order to be a valid mitigating
3 circumstance, the juvenile's youthfulness and attendant circumstances must directly bear on the
4 offender's culpability for the crime. Ramos, 187 Wn.2d at 448.

5 The State acknowledges that the courts have recognized that youth in general are less
6 mature and have an underdeveloped sense of responsibility and are therefore more prone to act
7 recklessly, impulsively and engage in heedless risk taking. Youth, very generally speaking, can
8 be immature, susceptible to negative peer influence, unable to extricate themselves from crime-
9 producing settings and are less likely to appreciate the consequences of their actions than adult
10 offenders. Their character is generally not as well-formed and their traits are less fixed than
11 adults. These general attributes of youth make them less culpable and more capable of reform.
12 Miller v. Alabama, 567 U.S. 460, 132 S. Ct. 2455 (2012) citing Roper v. Simmons, 543 U.S.
13 551, 125 S. Ct 1183 (2005), Graham v Florida, 560 W.U. 48, 130 S. Ct. 2011, 176 L.Ed.2d 825
14 (2010).

15 A more informed understanding of these general characteristics of youth have led the
16 courts to prohibit the death penalty for juveniles (Roper v. Simmons, 543 U.S. 551, 125 S. Ct
17 1183 (2005)), life without parole for juveniles convicted of crimes other than murder (Graham v
18 Florida, 560 W.U. 48, 130 S. Ct. 2011, 176 L.Ed.2d 825 (2010)), and mandatory life-without-
19 parole sentences for juveniles convicted of murder (Miller v. Alabama, 567 U.S. 460, 132 S. Ct.
20 2455 (2012)). The Washington State Supreme Court has extended Miller to juveniles facing the

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22 ¹ In reviewing a challenge to an exceptional sentence imposed under RCW 9.94A.535, courts apply a three-prong
23 test. State v. Alexander, 125 Wn.2d 717, 723 (1995). First, the court must examine whether the record supports the
24 findings of fact used to justify the exceptional sentence. Second, the court examines whether each factual finding
constitutes a "substantial and compelling" reason for departing from the standard range as a matter of law. And
third, the court examines whether the resulting exceptional sentence is "clearly too lenient." Id., citing State v.
Allert, 117 Wn.2d 156, 168 (1991).

1 possibility of a de facto life-without-parole sentence as well. State v. Ramos, 187 Wn.2d 420,
2 445, 387 P.3d 650 (2017).

3 The above cases and others addressing the propriety of the length of a juvenile sentence,
4 as noted, have addressed juvenile sentences of death, life without possibility of parole, and de
5 facto life-without-parole. None of these situations are applicable here. Furthermore, this crime
6 bears few of the hallmarks of a crime triggered by incomplete juvenile brain development: it was
7 premeditated, carefully planned and carried out, and the defendant's choice to hide his face and
8 carry a change of clothing indicate that he was aware of both the wrongfulness and the potential
9 consequences of his planned course of action.

10 If the Court adopts the State's recommendation, the defendant will be released from
11 custody when he is in his mid-thirties. He will then be subject to DOC supervision in the
12 community for a period of 3 years. Presuming he follows the conditions of his supervision, he
13 will have completed his sentence before his 40th birthday. This is a reasonable sentence given the
14 conduct in this case. In recognition of his youth and his willingness to take accountability, the
15 State is recommending a sentence just above the low end of the standard range. No appellate
16 case, to the State's knowledge, has found a sentence like the sentence proposed here by the State
17 be unlawful, inappropriate, or too harsh.

18 The State believes that a sentence above the low end of the standard range is both
19 necessary and appropriate to reflect the completely unprovoked nature of this violent attack.
20 While the State acknowledges that the defendant was very young at the time of this offense, the
21 premeditated nature of the offense and the planning involved in executing the crime both indicate
22 that this was not a crime of youthful impulsiveness. However, the defendant has taken
23 responsibility for this crime by pleading guilty, and in doing so spared the victim's family a
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1 prolonged and painful trial. Taking all these factors into account, a sentence one year above the
2 low end of the standard range is both necessary and appropriate in this case.

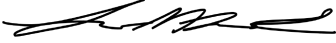
3 **V. CONCLUSION**

4 For the reasons stated above, the State respectfully requests this Court impose a sentence
5 of 252 months.

6 DATED THIS 25th day of August, 2025

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8 Respectfully submitted,

9 LEESA MANION
10 King County Prosecuting Attorney

11 By: 
12 Lauren Burke, #51374
13 Senior Deputy Prosecuting Attorney
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