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19-1-01905-31
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Courts Decision
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SNOHOMISH

STATE OF WASHINGTON,

Plaintiff.

vs.

MIRAMONTES-VILLAGRANA, ERIC,

Defendant.

No. 19-1-01905-31

MEMORANDUM DECISION ON
SANCTIONS

1. Introduction and Summary of Findings

The State has conceded that discovery errors occurred. The errors that occurred were not identified by or brought to anyone's attention by the State. This Court clearly has the authority to impose monetary sanctions for discovery violations under CrR 4.7. The key and ultimate question though is to what end would be achieved by doing so. As further explained below after a thorough review of the materials submitted this Court is not imposing monetary sanctions. This Court is also not ordering additional sanctions over those that were imposed at trial.

This matter, having come on regularly for a hearing regarding the imposition of sanctions pursuant to CrR 4.7 which followed the trial in this case. Mr. Miramontes-Villagrana is currently represented by Jeff Kradel¹ and the State by the Snohomish County Prosecuting Attorneys Office (SCPAO)². The Court having had an opportunity to review the materials submitted, specifically:

1. Defendant's Memorandum Regarding Imposition of Sanctions for Discovery Violations and Misconduct;
2. Defendant's Reply Regarding Imposition of Sanctions for Discovery Violations and Misconduct;
3. State's Response to Defense Motion for Sanctions;
4. State's Memorandum Re Imposition of Sanctions;
5. The transcripts from the various hearings related to the discovery issues;
6. The Court file;
7. Oral argument on October 4th, 2021.³

2. General Factual, Procedural Background, and Brief Explanation

This Court for purposes of this memorandum will not go into extensive detail as to the various hearings, prior legal conclusions, or factual and procedural history. This case came on for trial in June of 2021. Shortly after trial began the Defense moved for dismissal under CrR 8.3 (b) for asserted prosecutorial misconduct as well as moved for relief under CrR 4.7 for discovery violations. The key issue at the various hearings the

¹ Mr. Kradel is the second defense attorney on this case as prior counsel was unable to continue representation.

² The SCPAO appeared at the hearing through representatives from both the Civil and Criminal divisions.

³ It was this Court's intent to issue a ruling shortly after the hearing. Unfortunately based on this Court's schedule that did not happen.

first week was the existence, and potential existence, of material that had not been disclosed to the defense prior to trial beginning.

Ultimately the State conceded that discovery had not been provided and asked that a remedy short of dismissal be ordered. At the conclusion of the hearing the first week this Court ordered the disclosure of the entire law enforcement investigative file to the defense. The Court also ordered other remedies that addressed the motions that had been brought.

At the start of the second week of trial a renewed motion to dismiss was brought related to additional information that had been **located by Mr. Kradel** during a review of the now disclosed investigative file. The trial was set at that time to restart and the jury was present in the courthouse. After hearing from both sides and a renewed offer of proof from the State this Court took a recess in order to prepare findings and conclusion related to the second motion to dismiss.⁴

This Court did not rule on the second renewed motion to dismiss.⁵ The parties agreed to a resolution whereby the charge the Defendant was reduced to Manslaughter 1st Degree and an agreed sentencing recommendation was reached. The plea to the reduced charge was entered and the Court ultimately followed the agreed sentencing recommendation at a separate hearing. A sanctions hearing was set to address the conceded discovery issues. The sanctions hearings was then continued a number of times based generally on the availability of the parties.

⁴ The discovery error in this case was not simply misplacing something. The extent of the error required extensive hearings with two testimonial offers of proof to further explain how the discovery error had occurred.

⁵ This fact drives much of the Court's ultimate conclusions as it relates to the sanctions. The case was resolved between the parties. It was not dismissed upon a request from the State or by this Court. Additionally, as repeatedly asserted in the State's briefing absent the discovery issue the State would not of sought resolution of the case in the manner that it did. These facts taken together set this case apart from other cases that the Court has been pointed to.

While this Court has been pointed to other cases that were heard by other Judges of the Snohomish County Superior Court this Court can only rule on what is in front of it and what has been presented in this case. This Court in a criminal matter with one defendant cannot order remedies outside of this case. Additionally, this Court can only decide cases on the law and the actual case before it.

It is not lost on this Court how the initial issue came to light. Due-process requires more. More is also required for the community to have faith in the legal system. The issue though is the remedy for **this Court in this case**. The SCPAO has taken steps to address what occurred *in this case* as it relates to some of the specific requested sanctions and this Court as explained below is satisfied at this time with the remedial measures that have occurred.

3. Sanctions

The Court has previously found that it was not making the Snohomish County Sheriff's Office a Party as requested. Based on the ruling that specific issue will not be further addressed. All additional requested or contemplated sanctions are not being ordered.⁶ This Court will refer the request for a new local rule to the appropriate committee.⁷ This Court has been presented with information related to on-going and new efforts by the SCPAO to identify and resolve the issues that occurred in this case. Based on that information additional sanctions are not being ordered.⁸

⁶ Again, much of the Court's conclusion on the sanctions issue is based on the fact that the case resolved. The Court is not taking into account any asserted negotiations between the parties prior to trial but only focused on the fact that the case ultimately resolved at trial.

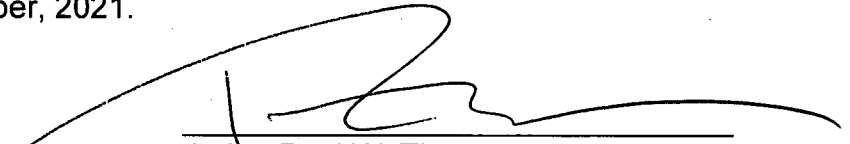
⁷ Of which this Judicial Officer is a member.

⁸ It is also noted that in all likelihood in 2022 that the Snohomish County Superior Court will be implementing a new Omnibus Order and requiring that it be used in all cases.

4. Conclusion

The State has rightly conceded both that discovery mistakes happened and that misconduct as defined by law occurred.⁹ As stated above this Court is not un-mindful as to how the discovery issues came to light. Clearly something more was required. Subsequent to the trial in this case remedial steps have been undertaken by the SCPAO and the involved DPAs which address some of the requested sanctions. Based on that this Court is not ordering additional sanctions over what was ordered at trial.

Dated this 18th day of December, 2021.



Judge Paul W. Thompson

⁹ As conceded in the State's Response to Defense Motion for Sanctions the result of the issues around discovery led to and resulted in the resolution of the case.