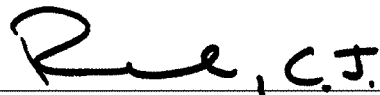


No. 36996-0-III
In re Pers. Restraint of Magana

Mr. Magana’s petition is timely, falling under an exception to the one-year time bar because *Houston-Sconiers* is retroactively applicable. See RCW 10.73.100(6); *In re Pers. Restraint of Ali*, 196 Wn.2d 220, 233, 474 P.3d 507 (2020), *cert. denied sub nom. Washington v. Ali*, 141 S. Ct. 1754 (2021). The State concedes that based on the trial court’s comments expressing its desire to impose a lower sentence had it the discretion to do so, Mr. Magana can establish both error and prejudice. See *Ali*, 196 Wn.2d at 243-44. Accordingly, the State agrees that Mr. Magana is entitled to resentencing consistent with *Houston-Sconiers*.

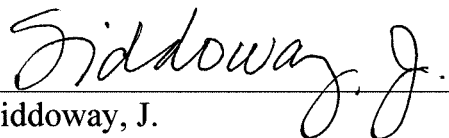
Based on our own review of Mr. Magana’s petition, and the State’s concessions, we grant the personal restrain petition and remand to the superior court for resentencing.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

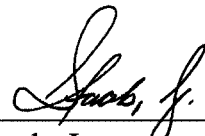


Pennell, C.J.

WE CONCUR:



Siddoway, J.



Staab, J.