

December 1, 2015

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the Personal Restraint Petition
of

GEOFFREY ROBERT LAWSON,

Petitioner.

No. 47176-1-II

UNPUBLISHED OPINION

MAXA, J. — Geoffrey Lawson seeks relief from personal restraint imposed following his 2012 pleas of guilty to one count of voyeurism and one count of attempted voyeurism.¹ We grant Lawson’s petition in part and vacate a pornography community custody condition. We dismiss the remaining portions of his petition.

A. VALIDITY OF PLEA AGREEMENT

Lawson argues that his plea agreement is invalid on its face because it misstated the duration of his term of community custody and that the invalidity made his pleas involuntary. But while Lawson’s statement on plea of guilty misstated the term of community custody, his judgment and sentence correctly imposed concurrent terms of 12 months of community custody on the

¹ This court issued its mandate of Lawson’s direct appeal on February 18, 2014, making his January 30, 2015 petition timely filed. RCW 10.73.090(3)(b).

felony voyeurism conviction and 24 months on the gross misdemeanor attempted voyeurism conviction. And the error in the statement on plea of guilty does not establish that Lawson's pleas were involuntary, given that Lawson moved to withdraw his pleas on that basis but later withdrew that motion.

Lawson asserts that his pleas were involuntary because the trial court engaged in plea negotiations. However, he does not demonstrate why this fact makes his pleas involuntary.

Lawson asserts that he did not agree to the 24-month term of community custody on the attempted voyeurism, and the trial court erred in imposing that term because it was not part of his "package deal." Pet. at 5. But sentencing terms are not part of the "package" in a plea agreement, so Lawson's agreement to that term was not required.

Finally, Lawson claims that his pleas were involuntary because the State engaged in oppressive interference, deprivation, and denial of access to the courts. But he does not demonstrate that the State engaged in such activity.²

Lawson does not demonstrate that his guilty pleas were involuntary. Therefore, his petition on this basis must be dismissed.

B. INEFFECTIVE ASSISTANCE OF COUNSEL

Lawson argues that he received ineffective assistance of counsel from his standby trial counsel and his appellate counsel because they did not challenge the validity of his guilty plea. To

² Lawson also argues that the burglary statute is overbroad and unconstitutionally vague. But given that the State dismissed its allegation of burglary as part of the plea agreement, Lawson's argument is irrelevant.

prevail on an ineffective assistance of counsel claim, the defendant must show both that (1) defense counsel's representation was deficient and (2) the deficient representation prejudiced the defendant. *State v. Grier*, 171 Wn.2d 17, 32-33, 246 P.3d 1260 (2011). We presume that counsel's assistance was effective until the defendant shows in the record the absence of legitimate or tactical reasons supporting counsel's conduct. *Id.* at 33-34.

Lawson does not demonstrate any deficient performance by his standby counsel. Nor does he demonstrate that his appellate counsel performed deficiently by not challenging the validity of the plea given that he abandoned his motion to withdraw his plea.

Lawson does not establish ineffective assistance of counsel. Therefore, his petition on this basis must be dismissed.

C. PORNOGRAPHY COMMUNITY CUSTODY CONDITION


Lawson argues that the conditions of his community custody were unconstitutional. While he does not specify which of the conditions he believes to be unconstitutional, the State concedes that the condition prohibiting Lawson from possessing or accessing "pornography" is unconstitutionally vague and should be stricken. *State v. Bahl*, 164 Wn.2d 739, 758, 193 P.3d 678 (2008). We accept the State's concession and grant Lawson's petition on this basis.

Accordingly, we grant Lawson's petition in part and vacate the community custody condition prohibiting Lawson from possessing or accessing pornography. Lawson does not

No. 47176-1-II

demonstrate any other grounds for relief from restraint, and therefore we dismiss his petition regarding his remaining arguments.

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.




MAXA, J.

We concur:



WORSWICK, P.J.



LEE, J.