

September 11, 2018

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the
Personal Restraint Petition of

MARVIS J. KNIGHT

No. 50369-7-II

UNPUBLISHED OPINION

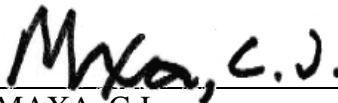
MAXA, C.J. — Marvis Knight seeks relief from personal restraint resulting from his 2000 convictions for two counts of second degree assault and two counts of felony harassment (Thurston County cause number 99-1-00929-4) for which he received a life sentence as a persistent offender.¹ He argues that one of his prior convictions used in finding him a persistent offender, a 1995 plea of guilty to attempted first degree manslaughter (Thurston County cause number 95-1-00199-1), is invalid and therefore his persistent offender sentence is invalid.

¹ Because Knight's judgment and sentence is facially invalid, it is not subject to RCW 10.73.090's time bar. We stayed review of this petition pending a decision in Knight's other petition, No. 49521-0-II, discussed below. A certificate of finality in that petition issued on August 21, 2018, therefore the stay in this matter is hereby lifted.

In Knight's prior petition challenging his conviction in Thurston County cause number 95-1-00199-1, we recently held that the conviction must be vacated because attempted manslaughter is a nonexistent crime. *In re Pers. Restraint of Knight*, ___ Wn. App. 2d ___, 421 P.3d 514, 517 (2018). The State concedes that in light of this decision, Knight's judgment and sentence in Thurston County cause number 99-1-00929-4 must be remanded for resentencing.²

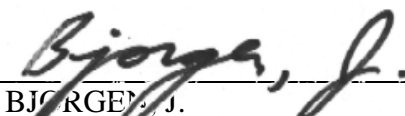
We accept the State's concession and remand Knight's judgment and sentence in Thurston County cause number 99-1-00929-4 for resentencing.

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.

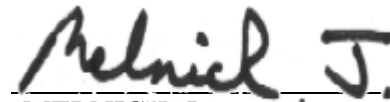


MAXA, C.J.

We concur:



BJORGE, J.



MELNICK, J.

² In light of the State's concession, Knight's motion to withdraw his petition is denied.