

December 15, 2020

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the Personal Restraint
Petition of

JAMES DEAN HASELWOOD,

Petitioner.

No. 54539-0-II

UNPUBLISHED OPINION

WORSWICK, J. — James Haselwood seeks relief from personal restraint imposed as a result of his 2019 pleas of guilty to two counts of residential burglary, three counts of attempted residential burglary (Pierce County cause number 19-1-00499-3), and to second degree theft (Pierce County cause number 19-1-00501-9). The State recommended an 84-month sentence, the high end of the standard range. Haselwood requested a sentence under the drug offender sentencing alternative (DOSA). The trial court declined to impose a DOSA sentence and imposed an 84-month sentence.

Haselwood now argues that he received ineffective assistance of counsel by being pressured into pleading guilty, by not investigating his claim of police brutality during his arrest by obtaining body camera footage, and by agreeing to a term of community supervision that made him ineligible for a DOSA sentence. To establish ineffective assistance of counsel, he

must demonstrate that his counsel's performance fell below an objective standard of reasonableness and that as a result of that deficient performance, the result of his case probably would have been different. *State v. McFarland*, 127 Wn.2d 322, 335-36, 899 P.2d 1251 (1995); *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). This court presumes strongly that trial counsel's performance was reasonable. *State v. Grier*, 171 Wn.2d 17, 42, 246 P.3d 1260 (2011). Haselwood does not show either deficient performance or resulting prejudice and, thus, does not present evidence that he received ineffective assistance of counsel. In his statement on plea of guilty, he stated that he had not been pressured into pleading guilty. He does not show that not conducting an investigation of his claim of police brutality was deficient performance because the police officers who arrested him do not wear body cameras. And he is mistaken that the term of community custody made him ineligible for a DOSA sentence. As addressed below, the trial court did not impose a DOSA sentence for a different reason. Haselwood does not show ineffective assistance of counsel.

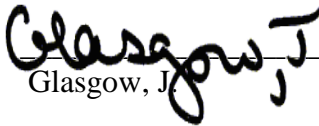
Haselwood next argues that the trial court abused its discretion by not imposing a DOSA sentence. So long as the trial court does not categorically refuse to impose a DOSA sentence, the defendant must show that the trial court abused its discretion by not imposing a DOSA. *State v. Grayson*, 154 Wn.2d 333, 341-43, 111 P.3d 1183 (2005). Haselwood does not show such an abuse of discretion. According to Haselwood's petition, the trial court declined to impose a DOSA sentence citing public safety considerations. Haselwood's lengthy criminal history supports that reason.

Haselwood does not show any grounds for relief from personal restraint. We therefore deny his petition and his request for appointment of counsel.


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.



Worswick, P.J.



Glasgow, J.



Cruser, J.