

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON,
Respondent,

v.

RANDY J. GLERUP,
Appellant.

No. 40356-1-II

UNPUBLISHED OPINION

Van Deren, J. — Randy Glerup appeals from the sentence imposed following his guilty plea to unlawful methamphetamine possession. He argues that the trial court erred when it imposed 400 hours community restitution. We agree and remand his sentence to reduce the community restitution to the statutory maximum of 240 hours.¹

Upon Glerup’s guilty plea, the trial court sentenced him to 30 days confinement in the county jail. Under former RCW 9.94A.680(2) (2002), the court converted those 30 days confinement to 240 hours community restitution. It then imposed “an add[itiona]l 160 hours” of community restitution. Clerk’s Papers at 27. Finally, it imposed 12 months community custody.

Glerup argues that the trial court lacked the authority to impose the additional hours of

¹ A commissioner of this court initially considered Glerup’s appeal on the State’s motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

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community restitution. We agree. Former RCW 9.94A.680(2) provided that for nonviolent offenses, a trial court may substitute 8 hours community restitution for each day of confinement, “with a maximum conversion limit of two hundred forty hours.” The State contends that former RCW 9.94A.715(2)(a) (2008) gave the trial court the authority to impose the additional 160 hours community restitution as a condition of Glerup’s community custody. Former RCW 9.94A.715(2)(a) provided that “the conditions of community custody shall include those provided for in RCW 9.94A.700(4).” And former RCW 9.94A.700(4)(b) (2003) provided that a condition of community custody was that “[t]he offender [would] work at department-approved education, employment, or community restitution, or any combination thereof.” While that term of community custody may have empowered the Department of Corrections to order Glerup to perform community restitution, it did not empower the trial court to order community restitution beyond the 240 hour statutory maximum contained in former RCW 9.94A.680(2). We remand Glerup’s sentence with instructions to vacate the additional 160 hours of community restitution imposed by the trial court.

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 pursuant to RCW 2.06.040, it is so ordered.

Van Deren, J.

We concur:

Armstrong, J.

Johanson, J.