

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

LOUIS MARCEL PATTERSON,

Appellant.

No. 40873-2-II
(Consolidated with Nos. 40876-7-II,
40883-0-II, and 40886-4-II)

UNPUBLISHED OPINION

Armstrong, J. — A judge sentenced Louis Marcel Patterson to 90 days in jail for three misdemeanors after Patterson pleaded guilty to each count. Patterson challenges the probation conditions of his sentence. The State concedes the error. We accept the concession and remand for the trial court to strike Patterson’s probation obligations.

FACTS

In May 2010, Patterson negotiated a plea agreement involving four different felonies and three misdemeanors. The court sentenced Patterson for each of the felonies and 90 days for each of the misdemeanor charges. The trial court specifically stated that it was not suspending any part of the misdemeanor sentences or imposing probation terms.

Nonetheless, the misdemeanor sentencing document requires the following:

III. Judgment and Sentence

...

4. The defendant shall pay a monthly community supervision fee to the Department of Corrections.

...

7. When there is a reasonable cause to believe that the defendant has violated a condition or requirement of this sentence, the defendant shall allow, and the Department of Corrections can conduct, searches of the defendant’s person, residence, automobile or other personal property. Residence searches shall include access, for the purposes of visual inspection, all areas of the residence in which the

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defendant lives or has exclusive/joint control/access and automobiles owned and possessed by the defendant.

...

Special Conditions

...

26. [Patterson] shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections.

27. [Patterson] shall sign necessary release of information documents as required by the Department of Corrections.

...

30. [Same as 7.]

Clerk's Papers at 39-44.

Patterson challenges the probation conditions.

ANALYSIS

A trial court can grant probation by "suspend[ing] the imposition or the execution of the sentence." RCW 9.95.210(1). But if a trial court imposes a maximum sentence and suspends none of it, the court lacks the authority to impose probation on the offender. *State v. Gailus*, 136 Wn. App. 191, 201, 147 P.3d 1300 (2006).

A misdemeanor is punishable by imprisonment for a maximum term of not more than 90 days. RCW 9A.20.021(3). The sentencing court imposed the maximum sentence on Patterson for his misdemeanor charges, suspending none of it. Accordingly, the court lacked the authority to impose probation. Because the court had no authority to impose probation, it also lacked the authority to impose probation conditions.

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Accordingly, we remand Patterson's misdemeanor sentence to the trial court to strike sections 4 and 7, and special conditions 26, 27, and 30.

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.

Armstrong, J.

We concur:

Quinn-Brintnall, J.

Worswick, A.C.J.