

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

CYRUS NELSON PLUSH,

Appellant.

No. 42526-2-II

UNPUBLISHED OPINION

Johanson, A.C.J. — After a bench trial, the court convicted Cyrus Nelson Plush of failure to register as a sex offender. In its judgment and sentence, the court stated that Plush had pleaded guilty. The court sentenced Plush to 43 months of confinement to be followed by 36 months of community custody.

Plush appeals, arguing that the combination of his terms of confinement and community custody exceed the 60-month statutory maximum punishment for his crime, in violation of RCW 9.94A.701(9), and that he is entitled to be resentenced to reduce his term of community custody. *State v. Boyd*, 174 Wn.2d 470, 472-73, 275 P.3d 321 (2012). He also argues that his judgment and sentence should be corrected to state that he was convicted following a bench trial.

The State concedes Plush is entitled to be resentenced and to have his judgment and sentence corrected. We accept the State's concession and remand for resentencing under *Boyd*

No. 42526-2-II

and for correction of Plush's judgment and sentence.¹

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.

Johanson, A.C.J.

We concur:

Hunt, J.

Penoyar, J.

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