

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

IN THE MATTER OF THE	)	No. 73782-1-I
PERSONAL RESTRAINT OF:	)	
	)	DIVISION ONE
GEORGE VILLALUZ, JR.,	)	UNPUBLISHED OPINION
	)	
Petitioner.	)	FILED: June 13, 2016
_____	)	

PER CURIAM. George Villaluz pleaded guilty to three counts of delivery of heroin in Whatcom County Superior Court Cause No. 11-1-01164-2. He filed a personal restraint petition, contending that the court imposed a sentence that exceeds the ten-year statutory maximum on his convictions. See RCW 69.50.401; RCW 9A.20.021(b). The State concedes error.

We accept the State's concession that the trial court exceeded its authority in sentencing Villaluz to a twelve-month term of community custody in addition to a 120-month term of confinement. Because the trial court sentenced Villaluz to a term of confinement that is equal to the statutory maximum for the offense, the court was required under RCW 9.94A.701(9) to reduce his term of community custody to zero. See State v. Boyd, 174 Wn.2d 470, 275 P.3d 321 (2012); see also State v. Winborne, 167 Wn. App. 320, 329, 273 P.3d 454, review denied, 174 Wn.2d 1019 (2012).

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Accordingly, we grant Villaluz's petition and remand to the trial court to amend the community custody term consistent with RCW 9.94A.701(9).¹

For the court:

D. J. J.

Jan, J.

Trickey, ACT

¹ To the extent that Villaluz objects in his reply brief to the superior court's transfer of his motion under CrR 7.8(c)(2), because we remand to superior court for amendment of the judgment and sentence, any objection to the initial transfer is moot.