IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	No. 63566-2-I
Respondent,	)	
	)	DIVISION ONE
v.	)	
	)	
MICHAEL E. TURNER,	)	UNPUBLISHED OPINION
	)	
Appellant.	)	FILED: August 9, 2010

Spearman, J.—Michael E. Turner challenges his conviction for felony violation of a no-contact order, arguing that admission of the no-contact order was error because the warnings required by RCW 10.99.040(4)(b) were printed on the back of the order. We reject this argument and affirm the conviction. Turner's claim of sentencing error, however, is well taken, and we remand to the trial court to amend Turner's sentence to explicitly state that the combination of confinement and community custody shall not exceed the statutory maximum.

FACTS

The State charged Michael E. Turner with felony violation of a domestic violence no-contact order and second degree malicious mischief. Turner moved

in limine to exclude the no-contact order because the mandatory no-contact warnings specified in RCW 10.99.040(4)(b) were not printed on the front of the order, but instead appeared on the back. The court denied the motion. The jury acquitted Turner of the malicious mischief charge, but convicted him of violating the no-contact order. The trial court imposed a statutory maximum sentence of 60 months, then added a 9 to 18 month community custody term. Turner appeals.

DISCUSSION

Applicability of No-Contact Order

A charge of violation of a no-contact order must be based on an "applicable" order. State v. Miller, 156 Wn.2d 23, 31-32, 123 P.3d 827 (2005). "An order is not applicable to the charged crime if it is not issued by a competent court, is not statutorily sufficient, is vague or inadequate on its face, or otherwise will not support a conviction of violating the order." Id. at 31. No-contact orders that are not applicable to the crime are not admissible. Id. We "will not disturb a trial court's rulings on a motion in limine or the admissibility of evidence absent an abuse of the court's discretion." State v. Powell, 126 Wn.2d 244, 258, 893 P.2d 615 (1995).

Turner argues that because General Rule (GR) 14 generally forbids putting information on the back of a document the no contact order at issue in this case is not "applicable" and should not have been admitted into evidence at his

trial. In another appeal from this appellant we recently considered whether placing the mandatory warning specified in RCW 10.99.040(4)(b) on the back of the order rendered it not "applicable." In that case we stated:

> First, … the relevant inquiry is whether the legislature intended that the statutory legend appear in any particular place on the no-contact order. As we have explained, the statute [RCW 10.99.040(4)(b)] states that the order "shall bear the legend." While a no-contact order must meet this requirement to be valid, there is nothing in the language of the statute requiring any specific placement of the legend. …
>
> Second, nothing in this statute refers, either expressly or impliedly, to the provisions of GR 14. Turner fails to persuade us that we should read into the statute, which expresses legislative intent, the words of GR 14, a court rule regarding formatting of documents. We decline to do so.

State v. Turner, No. 63147-1, slip op. at 5 (Wash. Ct. App. July 6, 2010). We remain unpersuaded.

Because nothing in GR 14 requires placement of the legend on the front of a no-contact order, the order at issue in this case was "applicable," and was properly admitted into evidence by the trial court. Turner's appeal on this ground is denied.

Statutory Maximum Sentence

Turner also argues the trial court erred in imposing a statutory maximum 60-month prison sentence, plus a 9 to 18 month term of community custody. According to Turner, this combination of imprisonment and community custody could potentially exceed the statutory maximum, and as such, we should remand to the trial court for an order limiting confinement plus community custody to the

statutory maximum. The State concedes that, under In re Personal Restraint Petition of Brooks, 166 Wn.2d 664, 211 P.3d 1023 (2009), remand is warranted.

The State's concession is well-taken. We remand to the trial court to amend the sentence to explicitly state that the combination of confinement and community custody shall not exceed the statutory maximum.

Affirmed in part, and remanded for further proceedings consistent with this opinion.

Spearman, J.

WE CONCUR: