

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	No. 67063-8-I
Appellant,)	
)	DIVISION ONE
v.)	
)	UNPUBLISHED OPINION
FRANCK OYENGA,)	
Respondent.)	FILED: January 30, 2012
)	
)	
)	

Per Curiam — Franck Oyenga appeals from his conviction for one count of delivering cocaine. He contends – and the State concedes – that the trial court erred in imposing mental health treatment as a condition of community custody. A trial court may order a mental health evaluation and recommended treatment as a condition of community custody only if “the court finds, based on a presentence report and any applicable mental status evaluations, that the offender suffers from a mental illness which influenced the crime.” State v. Jones, 118 Wn.App. 199, 202, 76 P.3d 258 (2003). The State concedes “there was no presentence report for the trial court to consider and the court did not make the requisite findings.” We accept the concession and remand with directions to strike the mental health

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evaluation/treatment condition from Oyenga's sentence. State v. Lopez, 142 Wn. App. 341, 353-54, 174 P.3d 1216 (2007).

Remanded.

FOR THE COURT:

Appelwick, J.

Becker, J.

Leach, A.C. J.