

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

IN THE MATTER OF THE)
PERSONAL RESTRAINT OF:)
ERIC LAMAR JACKSON,)
Petitioner.)

No. 70186-0-I
DIVISION ONE
UNPUBLISHED OPINION
FILED: SEP 16 2013

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COURT OF APPEALS DIV I
STATE OF WASHINGTON

PER CURIAM. Eric Jackson has filed a personal restraint petition challenging the sentence imposed upon his guilty plea to domestic violence felony violation of a court order and first degree theft. We accept the State's concession that the trial court exceeded its authority in sentencing Jackson on the felony violation of a court order count to a term of community custody of 12 months in addition to a standard-range term of confinement of 60 months, the statutory maximum for the offense.¹ See RCW 9.94A.701(9). Because Jackson was sentenced in August 2010, the trial court, not Department of Corrections, has the obligation to reduce the term of community custody to avoid a sentence in excess of the statutory maximum. 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).

Accordingly, we remand to the trial court to amend the community custody term consistent with RCW 9.94A.701(9). See Boyd, 174 Wn.2d at 473.

¹ First degree theft is not a "crime against a person" and therefore, does not qualify for the imposition of community custody. RCW 9.94A.411.

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Remanded.

For the court:

Spears, A. C.
Schindler J.
Appelwick J.