

August 21, 2018

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

vs.

ELLIOT LLOYD CRAM,

Appellant.

No. 50226-7-II

UNPUBLISHED OPINION

MAXA, C.J. – Elliot Cram appeals the trial court’s imposition of a community custody condition requiring him to participate in a domestic violence perpetrator’s treatment program. The court imposed the condition as part of his sentence for convictions of second degree assault, unlawful imprisonment, and felony harassment of his former girlfriend.

We hold that the trial court had authority under RCW 9.94A.703(3)¹ to impose a community custody condition requiring him to participate in a domestic violence perpetrator’s treatment program. Accordingly, we affirm Cram’s sentence.

FACTS

A jury found Cram guilty of second degree assault, unlawful imprisonment, and felony harassment. The victim of all three crimes was his former girlfriend. The jury returned a special verdict on each of the convictions finding that Cram and the victim were members of the same family or household.

¹ RCW 9.94A.703 was amended in 2018. However, these amendments do not materially affect the statutory language relied on by this court. Accordingly, we refrain from including the word “former” before RCW 9.94A.703.

At sentencing, the State requested that the trial court impose a community custody provision requiring Cram to complete domestic violence treatment. Cram objected, arguing that under RCW 9.94A.703(4)(a) the court was authorized to require such treatment only if the offender or the victim had a minor child. The court ruled that it had authority to require domestic violence treatment under RCW 9.94A.703(3).

The court entered a judgment and sentence that contained the following community custody condition: “Complete a Washington State certified and WAC compliant domestic violence perpetrator’s treatment program.” Clerk’s Papers at 212.

Cram appeals his sentence – specifically, the imposition of the domestic violence treatment community custody condition.

ANALYSIS

A. LEGAL PRINCIPLES

The trial court may only impose conditions of sentence that the legislature has authorized. *State v. Warnock*, 174 Wn. App. 608, 611, 299 P.3d 1173 (2013). We review de novo whether a trial court acted with statutory authority. *State v. Johnson*, 180 Wn. App. 318, 325, 327 P.3d 704 (2014).

RCW 9.94A.703(3) authorizes the trial court to impose certain specific conditions as part of any term of community custody, including:

(c) Participate in *crime-related treatment* or counseling services; [and]

(d) Participate in *rehabilitative programs* or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender’s risk of reoffending, or the safety of the community.

(Emphasis added).

In addition, RCW 9.94A.703(4) authorizes the trial court to impose enumerated “special conditions” where certain circumstances are present. RCW 9.94A.703(4)(a) provides:

In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may order the offender to participate in a *domestic violence perpetrator program* approved under RCW 26.50.150.

(Emphasis added.) RCW 10.99.020(5) defines “domestic violence” very broadly to include a wide variety of crimes committed by one family or household member against another.

B. RELATIONSHIP BETWEEN RCW 9.94A.703(3) AND RCW 9.94A.703(4)(a)

Cram argues that because RCW 9.94A.703(4)(a) expressly addresses domestic violence perpetrator treatment, a trial court may impose such treatment as a community custody condition only if the requirements in that subsection are satisfied. As a result, he claims that a trial court does not have authority to require domestic violence perpetrator treatment under RCW 9.94A.703(3). We disagree.

Analyzing the relationship between RCW 9.94A.703(3) and RCW 9.94A.703(4)(a) requires us to engage in statutory interpretation. Statutory interpretation is a question of law that we review de novo. *State v. Van Noy*, 3 Wn. App. 2d 494, 497, 416 P.3d 751 (2018). The primary goal of statutory interpretation is to determine and give effect to the legislature’s intent. *Id.* at 498. To determine the legislature’s intent, we first look to the plain language of the statute, considering the language of the provisions in question, how the provisions fit within the context of the statute, and the statutory scheme as a whole. *Id.* We attempt to harmonize the provisions within a statute so that no portion is rendered superfluous or meaningless. *State v. LaPointe*, 1 Wn. App. 2d 261, 269, 404 P.3d 610 (2017).

RCW 9.94A.703(3) expressly states that the court may order discretionary conditions, including crime-related treatment and rehabilitation programs, “[a]s part of *any* term of community custody.” (Emphasis added.) That provision contains no limiting or qualifying language. And nothing in the special conditions addressed in subsection (4) states or even suggests that those conditions somehow limit the trial court’s authority under subsection (3). The broad authority in RCW 9.94A.703(3) and the absence of any limitation on that authority in RCW 9.94A.703(4) shows that a trial court may order a domestic violence perpetrator’s treatment program regardless of whether the case meets the criteria of RCW 9.94A.703(4)(a). Whether the trial court also may impose such a program under RCW 9.94A.703(4)(a) is immaterial.

Cram argues that if the court has authority to impose domestic violence perpetrator treatment under RCW 9.94A.703(3), the specific requirements of RCW 9.94A.703(4)(a) for imposing such treatment would be superfluous. But these two provisions can be harmonized. Under subsection (3)(c) and (d), a trial court can impose a domestic violence perpetrator’s treatment program only if it constitutes crime-related treatment or relates to the circumstances of the offense, the risk of reoffending, or community safety. But a domestic violence perpetrator’s treatment program may not meet these requirements for all of the many crimes listed in RCW 10.99.020. Under subsection (4), a trial court can impose a domestic violence perpetrator’s treatment program when the offender or the victim has a minor child without a finding that the requirements of RCW 9.94A.703(3) are present.

Further, even though the trial court has authority under RCW 9.94A.703(3) to impose a domestic violence perpetrator’s treatment program, the legislature in RCW 9.94A.703(4)(a) may

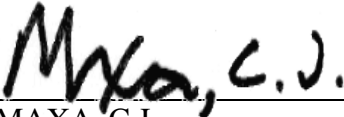
simply have wanted to emphasize for trial courts that participation in a domestic violence perpetrator's treatment program may be imposed in certain domestic violence cases.

We hold that the trial court had authority to impose participation in a domestic violence perpetrator's treatment program as a community custody condition under RCW 9.94A.703(3), even though the specific requirements for imposing such a condition in RCW 9.94A.703(4)(a) were not met.

CONCLUSION

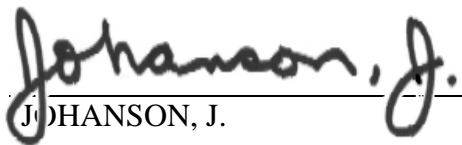
We affirm the trial court's sentence, including imposing a community custody condition requiring Cram to participate in a domestic violence perpetrator's treatment program.

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.




MAXA, C.J.

We concur:



JOHANSON, J.



SUTTON, J.