

January 26, 2021

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

In the Matter of the Post-Sentence Review of:

ADAM MICHAEL KELLY,

Respondent.

No. 54976-0-II

UNPUBLISHED OPINION

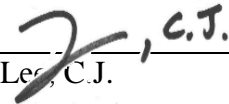
LEE, C.J. — The Department of Corrections (DOC) petitioned this court under RCW 9.94A.585(7), to review the sentence imposed by the trial court in *State v. Adam Michael Kelly*, Jefferson County Superior Court Cause No. 19-1-00054-16. We grant the DOC’s petition and remand to the trial court.

Adam Kelly pleaded guilty to controlled substances homicide. In its judgment and sentence, the trial court imposed 68 months of confinement, but struck out paragraph 4.2 pertaining to a term of community custody. The trial court did not check any of the boxes pertaining to an exceptional sentence.


DOC asserts that a one-year term of community custody is required for a conviction for controlled substances homicide under RCW 9.94A.701(3)(c). Kelly responds that the trial court intended to impose a downward exceptional term of community custody, as permitted by *State v. Hudnall*, 116 Wn. App. 190, 196, 64 P.3d 687 (2003). But Kelly acknowledges that a remand is required so that the trial court can enter written findings of fact and conclusions of law supporting the exceptional term of community custody. *State v. Friedlund*, 182 Wn.2d 388, 393, 341 P.3d 280 (2015).


We grant DOC's petition and remand Kelly's judgment and sentence to the trial court to either (1) impose a one-year term of community custody as required under RCW 9.94A.701(3) or (2) impose a downward exceptional term of community custody and enter written findings of fact and conclusions of law supporting the exceptional term of community custody.

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.

  
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Lenz, C.J.

We concur:

  
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Maxa, J.

  
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Cruser, J.