IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. JEREMY ALLAN EVANSON, Appellant.	No. 40442-7-II UNPUBLISHED OPINION

Hunt, J. — Jeremy Allan Evanson appeals the trial court's denial of his request to be sentenced under the Drug Offender Sentencing Alternative (DOSA), RCW 9.94A.660, before imposing a standard range sentence. Holding that the trial court meaningfully considered his request before denying it, we affirm.

FACTS

Jeremy Allan Evanson was convicted by a jury of unlawful possession of a stolen vehicle. His offender score was 24. The State asked for a sentence at the high end of the standard range, which was 57 months of confinement. Contending that his crime was the result of an addiction to prescription drugs, Evanson asked the trial court to impose a DOSA sentence. He acknowledged that he had previously been given a DOSA sentence, had completed treatment, but had later relapsed. He claimed that, with the "strict scrutiny and the hammer over my head" that a DOSA sentence would provide, he would not relapse. V Verbatim Report of Proceedings (VRP) at 345.

The trial court denied Evanson's request, noting that (1) he had "what tools you need to stay clean and sober" and "just chose not to exercise those skills," V VRP at 348; and (2) "unless [your happiness] is not enough for you to stay clean and sober, a DOSA's not going to do it." V VRP at 349. The trial court imposed a standard range sentence. Evanson appeals.[1]

analysis

Evanson argues that the trial court erred in imposing a standard range sentence after it failed meaningfully to consider his request for a DOSA sentence. The record does not support this contention.

Ordinarily we do not review on appeal standard range sentences, RCW 9.94A.585(1); *State v. Mail*, 121 Wn.2d 707, 710-11, 854 P.2d 1042 (1993), or a trial court's decision to grant or to deny a DOSA sentence. *State v. Grayson*, 154 Wn.2d 333, 338, 111 P.3d 1183 (2005); RCW 9.94A.660. Instead, review of such a decision is limited to circumstances where the trial court categorically refused to exercise its discretion to impose a DOSA, *Grayson*, 154 Wn.2d at 342, or relied on an impermissible basis for refusing to impose a DOSA, such as religion, race, or gender. *State v. Garcia-Martinez*, 88 Wn. App. 322, 330, 944 P.2d 1104 (1997). Such was not the case here.

After hearing from the State, Evanson's attorney, Evanson's mother, and Evanson himself, the trial court articulated its reason for denying Evanson's request for a DOSA sentence. Contrary to Evanson's assertion, (1) the trial court did not categorically refuse the request without first considering the facts; (2) the trial court's reference to DOSA's being a "temporary

[1] A commissioner of this court initially considered Evanson's appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

fix," RP at 349, was not a categorical refusal to consider a DOSA sentence; and (3) the record shows that the trial court believed Evanson was being overly reliant on a DOSA sentence's being enough to keep him clean and sober. Moreover, in denying Evanson's DOSA request, the trial court did not rely on an impermissible reason, such as race, gender or religion.

We affirm.

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 pursuant to RCW 2.06.040, it is so ordered.

Hunt, J.

We concur:

Penoyar, C.J.

Armstrong, J.