

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

ROBERT C. WARMAN,

Appellant.

No. 41914-9-II

UNPUBLISHED OPINION

Quinn-Brintnall, J. — Robert Warman appeals from one of the sentencing conditions imposed by the trial court following his convictions for felony driving under the influence of intoxicants (DUI) and for first degree driving while license suspended. Pro se, Warman claims that his license had been reinstated and that he was denied his right to counsel during interrogation. Finding no error, we affirm.¹

On November 10, 2010, Washington State Patrol Trooper Toby Haapala stopped a truck that was swerving in and out of its lane of travel. He noticed that the truck's driver, Warman, smelled of alcohol, had a flushed face and watery eyes. He arrested Warman for DUI. He advised Warman of his constitutional rights, but Warman did not respond. Warman refused to

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

submit to a breath test, so Haapala obtained a search warrant for a blood sample, took Warman to the hospital, and had a technician draw Warman's blood. That blood sample contained 0.31 grams of alcohol per 100 milliliters. Haapala checked Warman's driver's license status and learned that Warman's license was suspended and that Warman had four prior DUI convictions.

The State charged Warman with felony DUI, because of his four prior convictions, and with first degree driving while license suspended. RCW 46.61.502(1); RCW 46.20.3426(1)(a). The jury found him guilty as charged. The court sentenced him to 43 months of confinement, to be followed by 12 months of community custody. Among the conditions of community custody imposed was the following:

The defendant shall participate in the GIR +/-or MRT +/-or Victim Awareness Education Program.

Clerk's Papers at 18.²

Warman appeals this condition, arguing that it does not relate to the circumstances of his crime and so cannot be imposed as a crime-related prohibition under RCW 9.94A.703(3)(f). *State v. Jones*, 118 Wn. App. 199, 207-08, 76 P.3d 258 (2003). We review whether a community custody condition is crime-related for an abuse of discretion. *State v. Autrey*, 136 Wn. App. 460, 466-67, 150 P.3d 580 (2006). Warman suggests that because his crimes did not have an identifiable victim, the requirement that he participate in one of the named programs was not crime-related. But the fact that Warman's crimes had no identifiable victim does not mean that they had no victim at all. All lawful motorists, and others on or near the road, are victims of those who drive while under the influence of intoxicants. The trial court did not abuse its discretion in

² Neither Warman nor the State provides any details as to these programs. We assume that MRT means moral recognition therapy, but have no idea what GIR stands for.

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imposing the community custody condition.

In his statement of additional grounds,³ Warman asserts that his driver's license had been reinstated on October 2, 2010, so he could not have been guilty of driving while license suspended on November 10, 2010. But he presents no evidence to support his assertion, and his assertion is contrary to the evidence presented at trial. He also asserts that he was denied his right to consult an attorney before the blood sample was drawn. But he has no such right. *State v. Schulze*, 116 Wn.2d 154, 160-61, 804 P.2d 566 (1991).

Accordingly, we affirm Warman's judgment and sentence in all respects.

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.

QUINN-BRINTNALL, J.

We concur:

ARMSTRONG, J.

PENOYAR, C.J.

³ RAP 10.10.