

FILED

JANUARY 31, 2017

**In the Office of the Clerk of Court
WA State Court of Appeals, Division III**

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

STATE OF WASHINGTON,)	
)	No. 33551-8-III
Respondent,)	
)	
v.)	
)	
LOUIS HERNANDEZ-RIVERA,)	UNPUBLISHED OPINION
)	
Appellant.)	

FEARING, C.J. — After Louis Hernandez-Rivera pled guilty to one count of possession of a controlled substance, the trial court imposed a sentence of twelve months of community custody. Hernandez-Rivera appeals the imposition of community custody on the ground that the trial court relied on improper statements in violation of the real facts doctrine. After Hernandez-Rivera filed his appeal, the Department of Corrections determined that he was ineligible for community custody. We thus dismiss the appeal as moot.

PROCEDURE

The State charged Louis Hernandez-Rivera with possession of Vicodin, a controlled substance. Hernandez-Rivera pled guilty to the charge. The parties agreed on

a portion of a sentence, but not on community custody. The trial court sentenced Hernandez-Rivera to thirty-six days of jail, with credit for thirty-six days served. The trial court also imposed twelve months of community custody.

After Louis Hernandez-Rivera appealed, the Department of Corrections filed a special supervision closure form with the supervision ineligibility box checked. That section of the form read:

. . . The above cause has been screened and is not eligible for supervision by DOC. Therefore, DOC has closed supervision interest in this cause.

Clerk's Papers at 29.

LAW AND ANALYSIS

Louis Hernandez-Rivera only appeals that portion of his sentence that levies community custody. Nevertheless, the Department of Corrections, despite the trial court order, declines to impose community custody on Hernandez-Rivera. The Department of Corrections holds this prerogative.

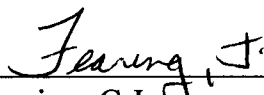
A case is moot if a court can no longer provide effective relief. *In re Cross*, 99 Wn.2d 373, 376-77, 662 P.2d 828 (1983). Since Louis Hernandez-Rivera will not suffer community custody, we may not provide Hernandez-Rivera any practical relief.

CONCLUSION

We dismiss Louis Hernandez-Rivera's appeal as moot.

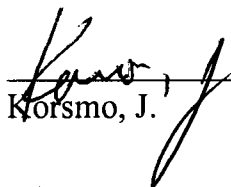
No. 33551-8-III
State v. Hernandez-Rivera

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

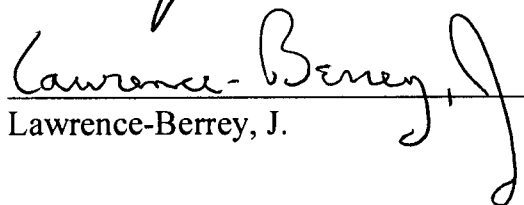


Fearing, C.J.

WE CONCUR:



Korsmo, J.



Lawrence-Berrey, J.