

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

IN THE MATTER OF THE PERSONAL)	
RESTRAINT OF)	
)	No. 62887-9-I
)	
)	DIVISION ONE
)	
NATHANIEL CRAVEN,	UNPUBLISHED OPINION
)	
Petitioner.	FILED: December 21, 2009

PER CURIAM. Nathaniel Craven filed a personal restraint petition asserting, among other claims, that his amended sentence for unlawful possession of a firearm violated due process because it was imposed in his absence without a hearing. After dismissing Craven's other claims, the Acting Chief Judge referred his due process claim for determination on the merits.¹ The State concedes that because the sentencing court exercised discretion in amending Craven's sentence, due process entitled Craven to be present at the sentencing with counsel. See State v. Davenport, 140 Wn. App. 925, 932, 167 P.3d 1221 (2007). We accept the State's concession, grant the petition, and remand for resentencing.

For the court:

Dwyer, A.C.J.
Becker, J.
Cox, J.

¹ Order Appointing Counsel, Dismissing Petition in Part And Referring Remainder to a Panel of Judges, filed May 26, 2009.