IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Personal Restraint of:) No. 63935-8-I
Nestraint of.) DIVISION ONE
CHAD EVERETT EVANS,)) UNPUBLISHED OPINION
Petitioner.) FILED: December 21, 2009

PER CURIAM. Chad Evans challenges the sentence imposed after he was found guilty at a jury trial of delivery of methamphetamine, taking a motor vehicle without permission, possession of methamphetamine, and driving while license suspended in the first degree in King County No. 06-1-09850-8. His personal restraint petition was referred to a panel of this court for determination on the merits. RAP 16.11(b). We grant his petition and remand for clarification of the judgment and sentence in accordance with <u>In re Pers. Restraint of Brooks</u>, 166 Wn.2d 664, 211 P.3d 1023 (2009).

Evans asserts that this sentence was invalid because the combined term of confinement and community custody could exceed the applicable ten-year statutory maximum, in violation of RCW 9.94A.505(5).

In Brooks, our Supreme Court held that

when a defendant is sentenced to a term of confinement and community custody that has the potential to exceed the statutory maximum for the crime, the appropriate remedy is to remand to the trial court to amend the sentence and explicitly state that the combination of confinement and community custody shall not exceed the statutory maximum.

<u>Brooks</u>, 166 Wn.2d at 675. When clarified in this manner, a sentence does not exceed the statutory maximum and is not indeterminate or otherwise invalid. <u>Brooks</u>, 166

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Wn.2d at 673-74; see also State v. Sloan, 121 Wn. App. 220, 223, 87 P.3d 1214 (2004).

We therefore grant Evan's petition and remand this matter to the trial court solely for entry of an amended judgment and sentence in accordance with Brooks that expressly states the combination of confinement and community custody shall not exceed the statutory maximum.

Duyn, A.C.J.
Becker, J.
Cox, J.

Remanded.

For the court:

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