

FILED
SUPREME COURT
STATE OF WASHINGTON
9/22/2022
BY ERIN L. LENNON
CLERK

101311-6

NO. 83044-9-1

COURT OF APPEALS OF THE
STATE OF WASHINGTON
DIVISION I

STATE OF WASHINGTON
Respondent

v.

TYRESE B. HARRISON
Petitioner

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON
2022 SEP 21 PM 12:08

PETITION FOR REVIEW OF THE DIVISION ONE
COURT OF APPEALS ORDER DENYING MOTION
FOR RECONSIDERATION FILED 9/7/2022 ;
OF THE UNPUBLISHED OPINION FILED ON
JUNE 13, 2022 (STATEMENT FOR ADDITIONAL GROUNDS)

TABLE OF CONTENT

PAGE

A. ISSUES PRESENTED

1

B. STATEMENT OF THE CASE

1

C. ARGUMENT

3

I. The decision of the COURT OF APPEALS IS IN

CONFLICT WITH A DECISION OF THE SUPREME

COURT VIOLATING THE PETITIONER'S UNITED STATES

CONSTITUTION AND WASHINGTON STATE CONSTITUTIONAL

RIGHT(S): 6th AMENDMENT: SPEEDY TRIAL, EFFECTIVE

REPRESENTATION, AND DUE PROCESS, ARTICLE 1, SECTION 22,

14th AMENDMENT: DUE PROCESS OF LAW AND EQUAL

PROTECTION OF THE LAWS, ARTICLE 1, SECTION 3. 3

CONCLUSION

7

APPENDIX

UNPUBLISHED OPINION 6/13/2022

ORDER DENYING MOTION FOR RECONSIDERATION

WSP LABORATORY CRIME REPORT

TABLE OF AUTHORITIES

PAGE

Table of cases

Washington State:

- In re Personal Restraint of Mathew Wilson MOI
NO. 897069 Decided: OCT 29, 2015 6
- Iniguez, 167 Wash.2d at 282, 217 P.3d 768 41
- State v. Iniguez, 167 Wash.2d 273, 281-82, 217 P.3d
768 (2009) 3

Federal

- BARKER V. WINGO, 407 U.S. 514, 529, 92 S. Ct. 2182,
33 L. Ed. 2d 101 (1972)
- CARTER V. HOIT, 817 F.2d 699, 701 (11th CIR 1987) 5
- HOLSCLAW V. SMITH, 822 F.2d 1041 (11th CIR 1987) 5, 7
- IN RE WINSHIP, 397 U.S. 358, 364 (1970) 5
- JACKSON V. VIRGINIA, 443 U.S. 307, 319 (1979) .. 6
- KLOPFER V. NORTH CAROLINA, 386 U.S. 213, 18 L. Ed. 2d
1, 87 S. Ct. 988 (1967) 4
- STRICKLAND V. WASHINGTON, 466 U.S. 668, 104 S. Ct. 2052,
80 L. Ed. 2d 674 (1984) 5

- STRUNK V. UNITED STATES, 412 U.S. 434, 440, 93 S. Ct. 2260, 37 L. Ed. 2d 56 (1973) (quoting Barker, 407 U.S. at 522, 92 S. Ct. 2182) 4

UNITED STATES V. VILLARREAL, 613 F.3d 1344 (11th Cir. 2010) . . . 4

OTHER AUTHORITIES CITED

CONSTITUTIONAL PROVISIONS

6th AMENDMENT U.S. CONSTITUTION 3, 6
ARTICLE 1, SECTION 22 WASH. CONST.

14th AMENDMENT U.S. CONSTITUTION 3, 6
ARTICLE 1, SECTION 3

RULES AND REGULATIONS

CrR 3.3 4, 5
CrR 4.1 4, 5

A. ISSUES PRESENTED

I. Does the lower court not have to conform to the decisions of the Supreme Court to respect and maintain uniformity of the courts decisions?

B. STATEMENT OF THE CASE

IN 2011, TYRESE HARRISON PLEADED GUILTY TO ONE COUNT EACH OF SECOND DEGREE MURDER AND UNLAWFUL POSSESSION OF A FIREARM. AUGUST 13, 2021, PURSUANT TO A BLAKE RESENTENCING HEARING, HARRISON'S UNLAWFUL POSSESSION OF A FIREARM CONVICTION WAS DISMISSED ALONG WITH THE RECALCULATION OF HIS OFFENDER SCORE AND IMPOSITION OF A STANDARD RANGE SENTENCE. WHICH HARRISON APPEALED.

SIMULTANEOUSLY IN 2021, HARRISON FILED A MULTITUDE OF POST CONVICTION MOTIONS IN THE SUPERIOR COURT. WHICH WERE TRANSFERRED AND TREATED AS PERSONAL RESTRAINT PETITIONS TO THE COURT OF APPEALS DIVISION ONE.

IN AN UNPUBLISHED OPINION FILED ON 6/13/2022, THE COURT OF APPEALS DENIED THE PETITIONER'S STATEMENT OF ADDITIONAL GROUNDS CONTENDING: 1. BECAUSE HARRISON PLEADED GUILTY AND DID NOT MOVE TO WITHDRAW HIS GUILTY PLEA, CHALLENGES RELATED TO THE ORIGINAL PLEA AGREEMENT ARE NOT PROPERLY BEFORE US FOR REVIEW. 2. THE FACT THAT THE COURT DID NOT ADDRESS THE OTHER MOTIONS IS NOT A REFLECTION ON THE MERIT OF ANY OF THESE MOTIONS; RATHER, THEY WERE NOT BEFORE THE TRIAL COURT AT THAT PARTICULAR PROCEEDING. AS A RESULT, THEY ARE ALSO NOT BEFORE US ON APPEAL, SO WE CANNOT PROVIDE A REMEDY FOR HIS CLAIMS IN THOSE MOTIONS.

HARRISON THEN FILES A PETITION FOR REHEARING EN BANC WHICH ULTIMATELY WAS TREATED AS MOTION FOR RECONSIDERATION. ON 9/7/2022, A MAJORITY OF THE PANEL HAS DETERMINED THAT THE MOTION SHOULD BE DENIED.

C. ARGUMENT

I. The decision of the Court of Appeals is in conflict with a decision of the Supreme Court violating the Petitioner's United States Constitution and Washington State Constitutional Right(s):
6th Amendment: Speedy trial, Effective Representation, and due Process, Article 1, section 22, 14th Amendment: due Process of law and equal protection of the laws, Article 1, section 3.

1. Both the Sixth Amendment to the United States Constitution and article 1, section 22 of the Washington Constitution guarantee a criminal defendant the right to a speedy trial, which is a fundamental constitutional right. *State v. Iniguez*, 167 Wash.2d 273, 281-82, 217 P.3d 768 (2009). The United States Supreme Court has made clear that "the primary burden" falls on the courts and the prosecutors to assure that cases are brought to trial. *Barker v. Wingo*, 407 U.S. 514, 529, 92 S. Ct. 2182, 33 L. Ed.2d 101 (1972). If the State violates a defendant's speedy trial right, we have no choice but to

dismiss the charges no matter how horrendous the charged crimes may be. See *Iniguez*, 167 Wash.2d at 282, 217 P.3d 768.

The court and the prosecutor failed to initially arraign MR. Harrison pursuant to CrR 3.3, CrR 4.1, which the record clearly reflects. And if a convicted defendant can establish a violation of the constitutional right to a speedy trial, the court must set aside the conviction, vacate the sentence, and dismiss the charging document. *United States v. Villarreal*, 613 F.3d 1344 (11th Cir. 2010) see *Strunk v. United States*, 412 U.S. 434, 440, 93 S. Ct. 2260, 37 L. Ed. 2d 56 (1973) (quoting *Barker*, 407 U.S. at 522, 92 S. Ct. 2182) see *Klopfer v. North Carolina*, 386 U.S. 213, 18 L. Ed. 2d 1, 87 S. Ct. 988 (1967).

Ineffective Assistance of Counsel
In determining a claim of ineffectiveness, the court must determine whether in light of all the

CIRCUMSTANCES, THE CLAIMED OMISSIONS WERE OUTSIDE THE WIDE RANGE OF PROFESSIONALLY COMPETENT ASSISTANCE AND WHETHER THERE IS A REASONABLE PROBABILITY THAT, BUT FOR THE UNPROFESSIONAL ERRORS, THE RESULTS IN THE PROCEEDING WOULD HAVE BEEN DIFFERENT. STRICKLAND V. WASHINGTON, 466 U.S. 668, 109 S. CT. 2052, 80 L. ED. 2D 674 (1984); CARTER V. HOLT, 817 F.2D 699, 701 (11TH CIR 1987)

IF COUNSEL HAD CHALLENGED THE SUFFICIENCY OF THE EVIDENCE IN THE TRIAL COURT AND ON DIRECT APPEAL, THERE IS A "REASONABLE PROBABILITY" THAT MR. HARRISON WOULD HAVE PREVAILED. SEE HOLZCLAW V. SMITH, 822 F.2D 1041 (11TH CIR 1987) IS THERE A FACTUAL BASIS THAT EXIST FOR THE UNDERLYING PLEA AGREEMENT? DID THE STATE PROVE BEYOND A REASONABLE DOUBT THE FIREARM ELEMENT IN BOTH CONVICTIONS? *IN RE WINOSKI*? 397 U.S. 358, 364 (1970) SUBSEQUENTLY, THE FIREARM RECOVERED TO INCRIMINATE MR. HARRISON CONCLUSIVELY EXONERATED HIM FROM ANY COLPABILITY.

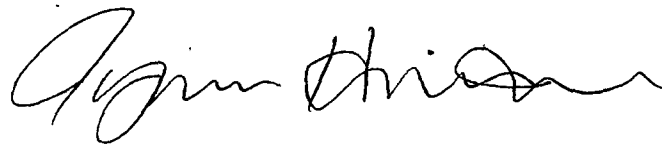
Given the facts of the present case can only reasonably establish that the petitioner was present at the crime scene, and acquainted with the victim and others present, but not that he was guilty. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (after viewing the evidence in the light most favorable to the prosecution could any rational trier of fact have found the essential elements of the crime beyond a reasonable doubt) see WSP CRIME LABORATORY REPORT, also see *in re Personal Restraint of Mathew Wilson* MOI NO. 897069 Decided: Oct 29, 2015.

Lastly, trial counsel could of raise the issue of the court violating the petitioner's speedy trial right and right to effective counsel in the denial of an initial arraignment hearing violating U.S. CONST. 6th Amendment; 14th Amend., Wash. CONST. ART. 1, Sec. 22, 3, CrR 3.3 and CrR 4.1. To require a reversal of a conviction has two components: First, counsel's performance was deficient; And deficient performance prejudice the defense.

The evidence presented against Harrison was barely enough, if in fact it was enough, to warrant a conviction and counsel's failure to contest sufficiency of the evidence could not conceivably have been a strategic decision.
Holsclaw v. Smith, 822 F.2d 1041 (11th Cir. 1987)

CONCLUSION

Pursuant to the violations of the United States and Washington States Constitution(s); The Petitioner respectfully request the Grant of Harrison's Petition for Review; DISMISS with Prejudice the Murder conviction; remand to the trial court.



SIGNED

9/18/2022

DECLARATION OF DOCUMENT FILING AND SERVICE

I, TYRESE HARRISON, state that on the 18 Day of
September, 2022, I caused the ORIGINAL Petition
for Review to be filed in the COURT of APPEALS
DIVISION ONE and a true COPY of the same to be
SERVED on the Following in the Manner indicated
below.

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SEPT. 18, 2022

SIGNED: Tyrese Harrison

E. APPENDIX

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,)	No. 83044-9-I
)	
Respondent,)	
)	
v.)	UNPUBLISHED OPINION
)	
TYRESE BRANDELE HARRISON,)	
)	
Appellant.)	

CHUNG, J. — In 2011, Tyrese Harrison pleaded guilty to one count each of second degree murder and unlawful possession of a firearm. The unlawful possession charge was predicated on prior convictions for drug possession that are now void under State v. Blake.¹ Upon resentencing, the court dismissed the unlawful possession of a firearm conviction, recalculated Harrison's offender score, and imposed a standard range sentence. Harrison claims the trial court should have considered an exceptional sentence based on youth as a mitigating factor because he was 22 years old at the time of the crime. The trial court considered Harrison's age and found the record lacked evidence of youthfulness as a mitigating factor. Harrison also raises other claims, including ineffective assistance of counsel. We affirm.

¹ State v. Blake, 197 Wn.2d 170, 195, 481 P.3d 521 (2021).

FACTS

In 2009, the State charged 22-year-old Harrison with second degree murder with a firearm enhancement. Harrison pleaded guilty to second degree murder and unlawful possession of a firearm predicated on a prior felony drug possession conviction. The current offenses and history of two convictions for drug possession resulted in an offender score of three and a sentencing range of 154-254 months. The trial court accepted the guilty plea and subsequently sentenced Harrison to 204 months. The court entered Harrison's judgment and sentence in May 2011.

In 2021, the Washington Supreme Court concluded that the simple drug possession statute violates due process. State v. Blake, 197 Wn.2d 170, 195, 481 P.3d 521 (2021). As a result of the Court's ruling in Blake, simple drug possession convictions are constitutionally invalid and cannot be included when calculating an offender score. State v. Jennings, 199 Wn.2d 53, 67, 502 P.3d 1255 (2022). Harrison is one of the many defendants who require resentencing after Blake.

At the resentencing hearing, the State moved to vacate Harrison's conviction for unlawful possession of a firearm because it was predicated on the now void drug possession convictions. The court vacated and dismissed the charge with prejudice. The parties agreed that Harrison had a recalculated offender score of 0 and a standard sentencing range of 123 to 220 months. The State urged the court to re-impose a sentence of 204 months. Harrison asked the court for a low-end sentence of 123 months due to his youthfulness at the time of

No. 83044-9-1/3

the crime and the increasing awareness that neurological immaturity and brain development continue past the teenage years.

When handing down Harrison's sentence, the court noted that it had considered the mitigating issues raised by Harrison of "youthfulness, maturity, the physiological nature of an individual who is in their early 20s or just above their majority," and had "listened and carefully considered arguments of counsel concerning the youthfulness of the defendant at the time of the crime." The court then sentenced Harrison to a standard range sentence of 185 months of incarceration.

Harrison appeals.

ANALYSIS

I. Consideration of Youthfulness in Sentencing

Harrison contends the court was required to consider whether his age at the time of the offense merited an exceptional sentence below the standard range. According to Harrison, the court failed to account for his youthfulness and exercise its full discretion to consider an exceptional sentence. We disagree.

Washington courts recognize that children are different from adults and that those differences must be considered during sentencing for criminal offenses. State v. Houston-Sconiers, 188 Wn.2d 1, 18-19, 391 P.3d 409 (2017). "Differences in brain development mean that children possess lessened culpability, poorer judgment, and greater capacity for change than adults. To comply with the Eighth Amendment, courts must consider the mitigating qualities of youth and have discretion to impose a proportional punishment based on

No. 83044-9-1/4

those qualities.” In re Pers. Restraint of Ali, 196 Wn.2d 220, 225–26, 474 P.3d 507 (2020), cert. denied sub nom. Washington v. Ali, 141 S. Ct. 1754, 209 L. Ed. 2d 514 (2021). Age may also mitigate culpability for defendants over the age of 18. State v. O’Dell, 183 Wn.2d 680, 695, 358 P.3d 359 (2015).

Under the Sentencing Reform Act (SRA), standard range sentences “shall not be appealed.” RCW 9.94A.585(1). But a party may challenge the court’s legal conclusions and determinations that support its sentencing decision. State v. Mandefero, 14 Wn. App. 2d 825, 833, 473 P.3d 1239 (2020). As a result, a standard range sentence is reviewable when the court refused to exercise discretion or relied on an impermissible basis when refusing to impose an exceptional sentence. State v. McFarland, 189 Wn.2d 47, 56, 399 P.3d 1106 (2017). While “age is not a per se mitigating factor automatically entitling every youthful defendant to an exceptional sentence,” youth can justify a sentence below a standard range, and, thus, a trial court must be allowed to consider youth as a mitigating factor. O’Dell, 183 Wn.2d at 695-96. The defendant has the burden of proving youth as a mitigating factor. State v. Rogers, 17 Wn. App. 2d 466, 476, 487 P.3d 177 (2021).

Defendant’s presentencing report to the trial court prior to the August 2021 resentencing focuses on Harrison’s youth to support a lower sentence. In addition to discussing the evolving science and case law concerning issues of culpability for young people, defense counsel specifically highlighted Harrison’s youth at the time of the crime as compared to his maturation process over the ensuing years. “Mr. Harrison was twenty-two at the time of this offense. He is

No. 83044-9-1/5

thirty-three now. Over the last eleven years he has matured in a manner predicted by the neuroscience.” Counsel noted that Harrison had used his time in prison to take advantage of treatment and training programs and had been infraction-free since 2013.

During resentencing, the court explicitly mentioned that defense counsel had “persuasively raised” the issues of youthfulness and maturity for individuals just above maturity. Thus, the record shows that the trial court did consider Harrison’s age at the time of the crime but found evidence of youth as a mitigating factor to be lacking.

I’d note that counsel has pointed out that the defendant was 22 when he committed that crime. I certainly agree that our law is changing in this area of what is appropriate consideration of youthfulness and sentencing, but I would note that it’s not just that you’re 22 and somehow that doesn’t make it as serious or that a 17-year sentence isn’t appropriate. We have nothing before this Court about this defendant’s particular immaturity or how that impacted or didn’t impact his decision-making at that time or that that makes 17 years an inappropriate sentence for taking somebody else’s life.

The court arrived at this conclusion after listening to a recording of the prior sentencing hearing, including argument about mitigating factors, as well as reading victim impact statements, considering Harrison’s statements at both sentencings, and reviewing court filings. Because Harrison did not produce any evidence to satisfy his burden of proof for an exceptional sentence based on his youthfulness, the trial court exercised its discretion to sentence him within the standard range.

The trial court described the reasoning used to reach the mid-range sentence. The court noted that the high end of the standard range was 220

No. 83044-9-1/6

months, which exceeded Harrison's original sentence of 204 months. Because the court believed that "increasing the sentence on a Blake resentencing would constitute a manifest justice," the court imposed a "self-limitation" of a maximum sentence of 204 months, which was the sentence the State had requested.

Based on the facts of the case and all the information presented and considered, the trial court imposed a sentence below the midpoint and proportionately lower within the self-limited range (123 to 204 months) than the original sentence.

A court's discretion to impose an exceptional sentence based on youth as a mitigating factor includes the discretion to decline to do so. See In re Pers. Restraint of Meippen, 193 Wn.2d 310, 316-17, 440 P.3d 978 (2019) (trial court considered youth and, nevertheless, imposed top-end standard range sentence). Here, the record is clear that the court did consider youthfulness, although it ultimately declined to depart downward. Therefore, we affirm the trial court's standard range sentence.

II. Credit for Time Served

Defendants are entitled to credit for all time served in confinement on a criminal charge whether that time is before or after sentencing. State v. Enriquez-Martinez, 198 Wn.2d 98, 101, 492 P.3d 162 (2021). This includes time spent in custody in another state. Enriquez-Martinez, 198 Wn.2d at 101; State v. Brown, 55 Wn. App. 738, 757, 780 P.2d 880 (1989). Harrison requests remand to the trial court to determine his entitlement to credit for time served after his arrest in Ohio.

No. 83044-9-1/7

Credit for time served is governed by statute. "The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced." RCW 9.94A.505(6). The judgment and sentence states that Harrison will be given credit for "time served in King County Jail or EHD solely for confinement under this cause number" as determined by King County Jail and Department of Corrections (DOC).

Harrison contends that King County Jail and DOC do not have the ability to determine time served in another state, but does not suggest that they erred in determining his credit for time served in King County Jail.² Rather, his principal complaint appears to be that there is nothing in the record regarding his time served in Ohio.

Harrison is not foreclosed from challenging the calculation of credit for time served if he believes it to be incorrect and obtains the requisite documentation of his time in Ohio. "The jail's calculation of credit for time served is not independently legally binding. If the jail's calculation is correct, it has the force of law. If the jail's calculation is erroneous, the law, not the certification, provides the correct result." In re Pers. Restraint of Costello, 131 Wn. App. 828, 834, 129 P.3d 827 (2006). At the resentencing, Harrison's counsel stated he would look for documentation on the issue of the out-of-state time served. The

² When an offender is transferred from county jail to DOC, jail administrators certify the amount of time spent in custody. WAC 137-30-040. If no certification is provided, a correctional records supervisor will send a request to the jail administrator requesting one. WAC 137-30-040(1); WAC 137-30-020.

State offered to work with Harrison to ensure that he received the proper credit for time served. In the event of any problems with determining time served, the court would consider an agreed order without a hearing or set another hearing to resolve a dispute if necessary. Yet there is no such documentation of prior time served in Ohio in the record.³ The trial court did not err when it was never presented with any documentation of out-of-state time that should have been credited. Thus, there is no need for this court to remand.

III. Statement of Additional Grounds

Harrison raises several claims in his statement of additional grounds. The challenges focus on issues relating to his original guilty plea and ineffective assistance of counsel.

A. Issues related to the Guilty Plea

Harrison asserts claims pertaining to his original plea agreement, including violation of his speedy trial rights and ineffective assistance of counsel based on a failure to challenge the sufficiency of the evidence.

A voluntary guilty plea acts as a waiver of the right to appeal. State v. Smith, 134 Wn.2d 849, 852, 953 P.2d 810 (1998). A defendant who pleads guilty retains only a limited right to appeal collateral questions such as the validity of the statute, sufficiency of the information, and understanding of the nature of the offense. State v. Cater, 186 Wn. App. 384, 392, 345 P.3d 843 (2015). For any

³ Indeed, there is no reason that Harrison's counsel cannot seek out such information and present it to the court, as contemplated at the resentencing hearing. Also, a defendant who is wrongly denied credit for time served may bring a personal restraint petition to request a court to remedy the issue. Costello, 131 Wn. App. at 832.

No. 83044-9-1/9

other claims, a defendant must move to withdraw the plea under CrR 4.2(f) (prior to entry of judgment) or CrR 7.8(b) (after entry of judgment).

Because Harrison pleaded guilty and did not move to withdraw his plea, challenges related to the original plea agreement are not properly before us for review.

B. Ineffective Assistance of Counsel

Harrison argues he received ineffective assistance of counsel at resentencing and on appeal. Harrison's claims of ineffective assistance relate to his counsel's failure to argue the issues raised by his numerous *pro se* motions that were pending before the trial court. For a successful claim of ineffective assistance of counsel, a defendant must establish both objectively deficient performance and resulting prejudice. State v. Emery, 174 Wn.2d 741, 754-55, 278 P.3d 653 (2012). Courts apply a strong presumption of effective representation. State v. McFarland, 127 Wn.2d 322, 335, 899 P.2d 1251 (1995).

1. Ineffective Assistance Claim Regarding Counsel at Resentencing

First, Harrison contends that counsel was ineffective for failing to inform the court at the resentencing hearing of a pending motion to arrest judgment and requests for an evidentiary hearing and for discovery. Harrison himself attempted to raise the pending motion to arrest judgment during resentencing. The court acknowledged Harrison's outstanding motions but declined to consider them during the resentencing. The court stated, "those motions may have a hearing on a different date, but. . . [t]oday, the only issue in front of this Court is the resentencing." Given the court's clear decision to limit the proceedings solely to

No. 83044-9-1/10

resentencing, counsel's failure to address the additional motions was not deficient.

Harrison also argues that counsel should have moved to dismiss the second degree murder conviction after dismissal of the unlawful possession of a firearm charge. According to Harrison, unlawful possession of a firearm is "a material element and in the context of finality, we treat the judgment of conviction as one unit, rather than separately considering the judgment's components." However, unlawful possession of a firearm is not a material element of second degree murder.

"[A] person can commit the crime of intentional murder in the second degree in violation of RCW 9A.32.050(1)(a), or felony murder with assault as the underlying felony in violation of RCW 9A.32.050(1)(b)." State v. Lizarraga, 191 Wn. App. 530, 564, 364 P.3d 810 (2015). Here, the State charged Harrison with intentional murder under RCW 9A.32.050(1)(a). The unlawful possession of a firearm charge was not a predicate for the second degree murder charge, but rather, a separate count. Dismissal of the firearm charge had no bearing on Harrison's conviction for intentional second degree murder. Therefore, counsel was not deficient for failing to request dismissal of the second degree murder conviction.

2. Ineffective Assistance Claim Regarding Appellate Counsel

Harrison also alleges his appellate counsel was ineffective on several grounds. As with his claims of ineffective assistance by his counsel at

No. 83044-9-1/11

resentencing, these claims relate to the failure to argue the issues raised in his motions before the trial court that were unrelated to resentencing.

First, Harrison claims appellate counsel abandoned issues related to his arraignment, sufficiency of the evidence, and ineffective assistance of trial counsel for failure to file motions based on insufficient evidence. Because these issues pertain to the underlying guilty plea, which is not at issue in this appeal, appellate counsel's omission of these claims was not deficient.

Harrison also argues, "Considering this appellate counsel is familiar with an arrest of judgment process and Harrison has two CrR 7.4 motions pending clearly shows the unwillingness to provide adequate counsel." As discussed above, the trial court clearly limited the proceedings to resentencing. Harrison's pending motions were not before the trial court and are not before us on appeal. Appellate counsel was not deficient for failing to raise any issues related to additional motions.

Harrison's frustrations with both his counsel's and the trial court's failure to address his various *pro se* motions are clear. However, the sole purpose of the trial court proceedings on August 13, 2021, was to consider the State's motion to resentence Harrison pursuant to the Blake decision. As the trial court explained, Harrison was allowed to speak at the resentencing as an exercise of his right to allocution, not to argue his unrelated *pro se* motions.⁴ The fact that the court did not address the other motions is not a reflection on the merit of any of these

⁴ The right of allocution is guaranteed by RCW 9.94A.500(1) and provides a defendant the right to make arguments as to the sentence to be imposed. See State v. Ellison, 186 Wn. App. 780, 784, 346 P.3d 853 (2015).

No. 83044-9-1/12

motions; rather, they were not before the trial court at that particular proceeding.

As a result, they are also not before us on appeal, so we cannot provide a remedy for his claims in those motions.

Affirmed.

Chung, J.

WE CONCUR:

Cohen, J. Verellen J.

FILED
9/7/2022
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,)	No. 83044-9-1
)	
Respondent,)	
v.)	ORDER DENYING MOTION
)	FOR RECONSIDERATION
TYRESE BRANDELE HARRISON,)	
)	
)	
Appellant.)	

Appellant Tyrese Brandele Harrison filed a motion for reconsideration¹ of the opinion filed on June 13, 2022 in the above case. A majority of the panel has determined that the motion should be denied. Now, therefore, it is hereby

ORDERED that the motion for reconsideration is denied.

FOR THE COURT:



Judge

¹ Mr. Harrison's pro se pleading was entitled "Petition for Rehearing En Banc." He clarified that it was not intended to be a petition for review to the Washington Supreme Court, so we treat it as a motion for reconsideration.

CHRISTINE O. GREGOIRE
Governor



JOHN R. BATISTE
Chief

STATE OF WASHINGTON
WASHINGTON STATE PATROL

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CRIME LABORATORY REPORT

Agency: Seattle Police Department

Laboratory Number: 109-003252

Agency Rep: R.C. Norton

Agency Case Number: 09-412399

Subject: Suspect – Harrison, Tyrese B.

Request Number: 0001,0002

Victim – Gasoi, Max

Evidence:

Items 185000-8 and 185000-10 – Each item was a sealed paper envelope that contained a fired cartridge case, headstamped "R-P 9mm Luger," in a plastic container.

Item 185000-11 – A cardboard box that contained a 9mm Luger caliber Ruger model P94 semiautomatic pistol with serial number 308-19284 and an unsealed paper envelope. The paper envelope contained a sealed plastic bag with an empty magazine and seven cartridges, headstamped "R-P 9mm Luger."

Items 187309-8 – A sealed paper envelope that contained a fired bullet in a sealed King County Medical Examiner paper envelope.

Procedures, Results, and Conclusions:

The Ruger pistol, item 185000-11, was test fired using the submitted magazine. The firearm and its safeties were functional. The pistol's trigger pull weights were approximately three and three-quarters pounds, single action, and approximately nine and one-half pounds, double action.

The test fired cartridge cases from the Ruger pistol, item 185000-11, were microscopically compared to the two fired cartridge cases, items 185000-8 and 185000-10. The fired cartridge cases were identified as having been fired in the Ruger pistol, item 185000-11.

The fired bullet, item 187309-8, was examined and was consistent in weight and design with 38 caliber class Federal Hydra-Shok brand ammunition, which includes 9mm Luger/38 Special/357 Magnum calibers. The general rifling characteristics of this bullet were determined to be six land and groove right twist rifling.

The test fired bullets from the Ruger pistol, item 185000-11, were microscopically compared to the fired bullet, item 187309-8. The fired bullet exhibited similar general rifling characteristics. However, this bullet lacked sufficient similar markings for a conclusive identification or elimination to the test fired bullets from the Ruger pistol, item 185000-11.

The test fired cartridge cases from the Ruger pistol will be entered into the WSP NIBIN database. Any association to other cases may be the subject of a future report.


Kathy Gell, Forensic Scientist


Date



Tyrese Harrison #302844

CCCC F-7-R

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