No. 54313-3-II

IN THE SUPREME COURT OF THE STATE OF

WASHINGTON

STATE OF WASHINGTON, Respondent

v.

DEMARCUS WILLIAMS, Petitioner

APPEAL FROM THE SUPERIOR COURT

OF PIERCE COUNTY

THE HONORABLE JUDGE TIMOTHY ASHCRAFT

PETITION FOR REVIEW

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253-445-7920

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Court Rules

I. IDENTITY OF PETITIONER

Petitioner Demarcus Williams, the appellant below, asks the Court to review the decision of Division II of the Court of Appeals referred to in Section II below.

II. COURT OF APPEALS DECISION

Demarcus Williams seeks review of the Court of Appeals unpublished opinion entered on August 3, 2021. A copy of the opinion is attached as an appendix.

III. ISSUES PRESENTED FOR REVIEW

A. A criminal defendant maintains a statutory right to make a personal argument or statement to the sentencing court and present information in mitigation of sentence. It is an opportunity to plead for mercy from the court. RCW 9.94A.500(1).

1) Did the Court of Appeals incorrectly hold that because Mr. Williams was represented by counsel, his request during allocution for an exceptional downward sentence amounted to a hybrid representation and was therefore not a valid request to the trial court?

B. Did the trial court abuse its discretion when it did

not expressly consider an exceptional downward sentence based on youthfulness?

IV. STATEMENT OF THE CASE

Nineteen-year-old DeMarcus Williams pleaded guilty to assault in the first degree with a deadly weapon on November 28, 2017. CP 1;11-20. The court imposed 179 months of confinement. CP 30. He successfully sought postconviction relief based on an incorrectly calculated offender score. CP 40; *In the Matter of Personal Rest. of Demarcus Williams*, 10 Wn.App. 2d 1013 (2019).

On remand, the counsel for both parties asked the court to impose a low-end sentence. CP 45,104; RP 1, 16. Defense counsel noted that Mr. Williams was barely 19 years old at the time of the offense and asked the court to impose a low-end sentence based on the science of brain development in adolescents, and the changes Mr.

Williams made in his life as he matured into a man. RP 8-9.

During allocution, Mr. Williams described himself as an adolescent "who was actively taking steps toward self-betterment." RP 12. He told of a misdiagnosis of mental health issues at around 12 years old, which began a cycle of committing crimes to get money to purchase drugs and being sent to JRA. At JRA he experienced isolation and depression and upon release became involved in increasingly violent situations. He described his PTSD. RP 11-13. He took large amounts of Xanax because the medication was the only thing that made him feel "normal." RP 13.

Mr. Williams asked the court to consider the age of culpability, 17-25 years, and that he was just now becoming a man. RP 15. He described having grown up in a neighborhood that housed Tacoma's most violent gang members and their children. He described his

cousins as violent gang members. RP 14. He asked the court to consider his youth, the societal and family influences on him, and his mental health struggles when imposing sentence. RP 14.

In conjunction with his oral allocution, Mr. Williams submitted to the court a document entitled “Defendant’s Handwritten Sentencing Document” requesting an exceptional downward sentence. CP 122-128. He detailed the law requiring the court to consider his age, family environment, and immaturity, and its application to his case. The Court of Appeals later referred to the document as “a handwritten motion”. *Slip. Op.* at 1.

The sentencing court acknowledged it appreciated Mr. Williams taking the time to learn about himself and encouraged him to continue a rehabilitative path. RP 16. The court did not expressly indicate it considered the handwritten sentencing document Mr. Williams had prepared for the court as part of his allocution, or any of

the factors to which Mr. Williams allocuted. Nor did the court acknowledge its authority to consider the factors in sentencing. CP 122-128.

The court followed the recommendation of counsels and imposed the low end of the range, 111 months plus 24 additional months for the deadly weapon. RP 16; CP 114.

Mr. Williams made a timely appeal. CP 130. He asked for remand with instruction for the sentencing court to exercise its discretion in considering an exceptional downward sentence in line with *State v. O'Dell,* 183 Wn.2d 680, 358 P.3d 359 (2015).

On review, the Court of Appeals reasoned remand was unnecessary because Mr. Williams' advocacy for an exceptional downward sentence contradicted his counsel's sentencing recommendation: "In the absence of a request to proceed pro se, no valid request for an exceptional downward sentence occurred and the trial

court therefore acted within its discretion when it imposed a standard range sentence." *Slip Op.* at 2,7.

V. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

1. The Right To Allocute Is Authorized By Statute And Is Not Satisfied By Defense Counsel's Advocacy.

The Court of Appeals reasoned that because Mr. Williams' attorney argued for a low-end standard range sentence, Mr. Williams' allocution for an exceptional downward sentence and the accompanying written allocution was not valid. It ruled, "In the absence of a *request to proceed pro se*, no valid request for an exceptional downward sentence occurred and the trial court therefore acted within its discretion when it imposed a standard range sentence…Nothing required the trial court to consider an exceptional mitigated sentence in this case *where an exceptional sentence was not properly requested.*" *Slip Op.* at 6-7. (Emphasis added).

The Court referred to the request for a mitigated sentence as "hybrid representation." *Slip. Op.* at 6. This ruling violates both statutory and case law and the demands of due process.

a. Allocution by a criminal defendant is a statutory right and there is no requirement he proceed pro se in advocating for a particular sentence consideration.

A sentencing court "shall consider" the risk assessment and presentence reports, victim impact statements, and criminal history and allow argument from the prosecutor, the defense counsel, the offender…as to the sentence to be imposed. RCW 9.94A.500(1);*State v. Canfield,* 154 Wn.2d 698, 708, 116 P.3d 391(2005).

The statute requires the sentencing court to respect the defendant's opportunity to speak directly and personally to the court prior to imposition of sentence. It fully contemplates a criminal defendant has both an

attorney and a meaningful opportunity to speak on his own behalf *without* the burden of proceeding pro se. *Id.* at 701.

The Court's ruling in this case offends the statutory right to allocute. It potentially deprives every criminal defendant the right to allocute for a mitigated sentence *unless* he elects to proceed pro se at sentencing. The statute does not place this burden on a defendant.

b. The Court's ruling directly conflicts with the established federal and state case law.

In *Green v. United States*, 365 U.S. 301, 304, 81 S.Ct. 653, 5 L.Ed.2d 670 (1961), the Supreme Court emphasized the defendant's right to have a personal "opportunity to present to the court his plea in mitigation." and expressly rejected the "Government's contention that merely affording the defendant's counsel the opportunity to speak" met the protections of the right to allocute. *Green v. U.S.,*365 U.S. at 304. The Court observed "the

most persuasive counsel may not be able to speak for a defendant as the defendant might, with halting eloquence, speak for himself." *Id.* The right to allocute is the defendant's opportunity to speak, and self-advocacy was not designed to be dependent on agreement with counsel's recommendation.

Similarly, the ruling here conflicts with this Court's holding in *Canfield. Canfield* held "[A]llocution is the right of a criminal defendant to make a personal argument or statement to the court before the pronouncement of sentence. *It is the defendant's opportunity to plead for mercy and present any information in mitigation of sentence." State v. Canfield,* 154 Wn.2d at 701. The right of an accused to make a personal statement is "vital" given the "absolute liberty interest at stake." *Id.* at 705.

There has never been a requirement that a defendant proceed pro se to advocate for himself at sentencing. Nor is there any case law dictating that a

defendant who files his written allocution is engaging in a hybrid representation.

If the ruling in this case were to stand it hollows out the constraints on government by depriving the defendant of a meaningful opportunity to be heard. To permit a defendant's words to be considered only if he agrees with his attorney's recommendation is a meaningless gesture and offensive to due process. The right to advocate is personal. *Green,* 365 U.S. at 304

Finally, Mr. Williams' advocacy for an exceptional downward sentence is fully contemplated by the statute governing plea agreements: *a sentencing court is not obligated to follow the recommendation* contained in allowed plea agreements *and the defendant must be so informed at the time of the plea.* RCW 9.94A.431(2); *State v. Coppin,*57 Wn.App. 866, 791 P.2d 228 (1990).

The sentencing court is authorized to exercise its discretion in imposing sentence and is explicitly required

to inform the defendant of the court's discretion. When read together, the statutes demonstrate the sentencing court is not only required to tell the defendant it does not have to follow the recommendations of counsel *but also* is required to provide opportunity for the defendant to advocate for himself. Contrary to the ruling by the Court of Appeals here, the exceptional sentence was properly requested. *Slip Op.* at 7.

RAP 13.4(b) authorizes this Court to accept discretionary review if the decision by the Court of Appeals is in conflict with a decision of this Court or a published decision of a lower appellate Court. The decision in this case is in conflict with *Canfield* and bears review on that basis.

Moreover, a petition may also be accepted if it involves an issue of substantial public interest that should be determined by this Court. RAP 13.4(b)(4). This decision eliminates the right of every criminal defendant

to allocute prior to sentencing by imposing the new requirement that he proceed pro se if he advocates inconsistent with his attorney's recommendation.

This court reviews questions of statutory construction de novo. *State v. Hatchie,* 161 Wn.2d 390, 395, 166 P.3d 698 (2007). The statute protecting allocution is clear and unambiguous. The ruling by the Court of Appeals on the allocution statute is an erroneous interpretation. As an issue of substantial public interest, Mr. Williams asks this Court to accept his petition to provide guidance on application of the statute.

2. Mr. Williams Presented Sufficient And Compelling Argument For The Sentencing Court to Consider Imposing An Exceptional Downward Sentence.

Every defendant is entitled to ask the sentencing court for an exceptional sentence below the standard range and to have the request actually considered. *State v. Grayson,* 154 Wn.2d 333, 342, 111 P.3d 1183 (2005).

A sentencing court abuses its discretion when it fails to consider mitigating factors raised by the defendant. *State v. O'Dell,* 183 Wn.2d at 697.

In the context of allocution, in *State v. Gonzales,*90 Wn.App. 852, 855, 954 P.2d 360 (1998), the Court was clear: "There is no question that a defendant convicted of a crime is allowed a right of allocution at the time of sentencing." *Gonzales,* 90 Wn.App. at 854. Unlike here, the *Gonzales* Court noted that while the defendant argued and bargained for his criminal history, with knowledge of the resulting sentencing range, and of the sentencing recommendation of the State, he "did not provide any argument for an exceptional sentence downward nor does the record disclose any basis for such a sentence." *Id.* at 854.

If the ruling by the Court of Appeals in this case were to stand, a defendant who does not bring a basis and argument for an exceptional downward sentence

foregoes the opportunity. Yet, the defendant who does bring a basis and argument during allocution has not properly requested consideration unless his attorney agrees, or he proceeds pro se. Such an interpretation of the statute is unfounded. Case law is equally clear, *every* defendant is entitled to ask for an exceptional downward sentence and *every* defendant is entitled to have it actually considered.

This Court has recognized that trial courts are authorized to consider a defendant's youth, immaturity, impetuosity, failure to appreciate risks and consequences, as well as peer pressure, as mitigating factors justifying an exceptional sentence below the standard range. *State v. O'Dell,* 183 Wn.2d at 696. This extends to individuals over the age of 18: "[D]ecreased moral culpability for criminal conduct may well persist past the age of 18" as the qualities that "distinguish juveniles from adults do not disappear when an individual turns 18 [just as] some

under 18 have already attained a level of maturity some adults will never reach." *Id.* at 695.

Here, Mr. Williams was 19 years old at the time of his arrest and conviction. At sentencing he provided the Court with a description of his youthfulness, immaturity, family circumstances, peer pressure, and his environment at the time of the crime. The allocution should have triggered the court's discretionary decision-making authority to impose an exceptional downward sentence. An exercise of discretion requires a meaningful and individualized consideration of the mitigating factors. *O'Dell,* 183 Wn.2d at 697. The court must "consider these circumstances, the convictions at issue, the standard sentencing ranges, and any other relevant factors- and should *then* determine whether to impose an exceptional sentence, taking care to thoroughly explain its reasoning." *State v. Gilbert,* 193 Wn.2d 169, 176, 438 P.3d 133 (2019).

In this case, the court did not address any of the mitigating factors and did not explain its reasoning when it imposed sentence. Whether the court did not consider an exceptional downward sentence because it did not believe it had the discretion, or simply failed to exercise discretion, the result is the same: the court abused its discretion. *In re Mulholland,* 161 Wn.2d 322, 332, 166 P.3d 677 (2007); *Ugolini v. Ugolini,*11 Wn.App.2d 443, 446, 453 P.3d 1027 (2019).

Mr. Williams advocacy was properly before the sentencing court. The sentencing court abused its discretion when it failed to consider an exceptional downward sentence. The remedy is remand with instructions to consider the mitigating factors for an exceptional downward sentence.

VI. CONCLUSION

Mr. Williams respectfully asks the Court to grant his petition for review as the ruling by the Court of Appeals is

based on an erroneous interpretation of the allocution statute and is not supported by case law.

Submitted this 2nd day of September 2021.

This document contains 2,360 words excluding the parts of the document exempted from the word count by RAP 18.17

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APPENDIX

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Washington State
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Division Two

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. DEMARCUS J. WILLIAMS, Appellant.	No. 54313-3-II Consolidated with
In the Matter of the Personal Restraint of DEMARCUS J. WILLIAMS, Petitioner.	No. 54613-2-II UNPUBLISHED OPINION

GLASGOW, A.C.J.—In 2017, 19-year-old Demarcus J. Williams fought with his girlfriend and then fired several shots toward her car as she was driving away with their child. Williams pleaded guilty to first degree assault in exchange for a significant reduction in charges.

Williams was resentenced in 2020 because his initial sentence was based on an improper offender score. At resentencing, defense counsel and the State recommended a sentence at the low end of the standard range, but Williams filed a handwritten motion on his own, asking for an exceptional sentence below the standard range on the basis of his youth. The trial court imposed a sentence at the low end of the standard range.

Williams appeals his sentence, contending that the trial court abused its discretion by not considering an exceptional sentence below the standard range based on youth. Williams also asks

us to remand to vacate a 2014 conviction for simple possession of a controlled substance under *State v. Blake*.[1] Finally, Williams filed a personal restraint petition (PRP), which was consolidated with his direct appeal, seeking to withdraw his 2017 guilty plea.

We affirm. The trial court properly imposed a standard range sentence as Williams's counsel requested because Williams did not ask to proceed pro se and his request contradicted counsel's sentencing recommendation. We do not remand to vacate Williams's simple possession conviction because that conviction is not before us. Williams may separately petition the superior court to vacate his possession conviction, however. We dismiss Williams's PRP because it is time barred.

FACTS

According to the probable cause statement, Williams, who was 19 years old, fought with his girlfriend inside a car, pulled her out of the car, and left their toddler unattended inside the vehicle for a few minutes. After Williams's girlfriend got back inside the car and drove away with their child, Williams fired several shots in the direction of the car.

The State initially charged Williams with two counts of first degree assault, one count of second degree assault, and one count of unlawful possession of a firearm. The parties then negotiated a plea deal in which Williams pleaded guilty to only one count of first degree assault with a deadly weapon. The parties agreed that Williams's offender score was 4.5 points. The State and defense counsel jointly recommended a sentence at the midpoint of the standard range.

Williams's counsel noted at sentencing that Williams "accepts responsibility. He understands that this is a global resolution . . . . As [the prosecutor] has said, this was an agreed

[1] 197 Wn.2d 170, 173, 481 P.3d 521 (2021).

recommendation." 2 Verbatim Report of Proceedings (VRP) at 13. The trial court accepted Williams's guilty plea and sentenced him to the agreed midrange sentence.

More than a year after pleading guilty, Williams filed a PRP in this court seeking to withdraw his guilty plea because his offender score included convictions for juvenile felonies that did not exist.[2] The State conceded that Williams's offender score was incorrect. *Williams*, slip op at 1. We accepted the State's concession and granted Williams's PRP in part, remanding for resentencing. *Id.*, slip op at 1-2. We did not permit Williams to withdraw his guilty plea, however, because the petition was time barred under RCW 10.73.090. *Id.*

At resentencing, Williams and the State disagreed about the applicable standard range. Williams contended that other offenses in his offender score should count as the same criminal conduct, lowering his offender score to 2.5, while the State argued that only the improperly included juvenile felonies should be removed, giving him an offender score of 3.5.

Defense counsel recommended a sentence at the low end of the standard range based on an offender score of 2, rounded down from 2.5, and specifically argued that Williams's youth supported the low end sentence. The defense's sentencing memorandum stated, "The basis for the low end recommendation includes [Williams's] age at the time of the offense. [The] Washington Supreme Court has held that a defendant's youthfulness is a significant factor in diminishing his capacity to appreciate the wrongfulness of his conduct." Clerk's Papers (CP) at 45. The State also recommended a sentence at the low end of the standard range based on an offender score of 3.5.

[2] *See In re Pers. Restraint of Williams*, No. 53441-0-II, slip op. at 1 (Wash. Ct. App. Sept. 4, 2019) (unpublished), http://www.courts.wa.gov/opinions/pdf/534410.pdf.

Before the resentencing hearing, Williams submitted a handwritten statement to the trial court titled "Mitigating Circumstances in Support of Downward Exceptional Sentence." CP at 123. Williams invoked *State v. Houston-Sconiers*[3] and other juvenile and youth sentencing cases to argue that the trial court should impose an exceptional downward sentence because he was 19 at the time of the offense.

At the resentencing hearing, defense counsel reiterated that Williams's youth supported a sentence at the low end of the standard range but did not mention an exceptional sentence below the standard range. Williams's counsel reminded the trial court that Williams had prepared a written statement, which the trial court said it had read.

Williams also gave an oral statement at the sentencing hearing. While he did not explicitly request an exceptional downward sentence in his oral statement, Williams discussed his difficult childhood, his poor decision-making at age 19 when he committed the assault, and the untreated mental health issues he experienced as a child and young adult. Williams "[h]ope[d] the courts will see I was truly a misguided youth who never intended harm to anyone, and that with the proper tools, which I've already beg[u]n to utilize, and continue that behavior, I can truly be an asset to society." 4 VRP at 14. He described himself as just now "becoming a man," and suggested the trial court should apply juvenile sentencing standards to young people up to age 25. *Id.* at 15.

The trial court thanked Williams for his written and oral statements and commended him for "taking the time to learn about yourself and to turn a corner." *Id.* at 14-15. The trial court did not say anything about Williams's request for an exceptional sentence downward. The trial court pointed out that Williams had "a lot of life ahead of" him, but did not otherwise address his age.

[3] 188 Wn.2d 1, 391 P.3d 409 (2017).

*Id.*at 16. The trial court ruled in favor of the defense on the same criminal conduct argument and stated, "I am giving the low end of the sentence on the 2 [point offender score]." *Id.*

Williams timely appeals the standard range sentence imposed after his 2020 resentencing hearing, arguing that the trial court abused its discretion by not properly considering his request for an exceptional downward sentence. Williams also seeks relief in a statement of additional grounds for review, making the same arguments.

In May 2020, Williams filed a pro se PRP, now consolidated with this case. Williams seeks to withdraw his 2017 guilty plea because he says it was facially invalid and involuntary due to the improper offender score, which had initially included juvenile felonies that did not exist. In the PRP, Williams argues that, although he filed the PRP three years after his guilty plea became final, his PRP is timely because he filed it during the one-month period when Washington State Governor Jay Inslee suspended the one-year time bar under RCW 10.73.090 due to the state of emergency caused by the COVID-19 pandemic.

ANALYSIS

I. DIRECT APPEAL

A. Request for an Exceptional Sentence Below the Standard Range

Williams contends that the trial court abused its discretion by failing to adequately consider whether his youth was a mitigating factor that supported an exceptional sentence below the standard range. The State questions whether Williams made a valid request for an exceptional sentence since he did so only in a pro se motion and his counsel recommended a sentence at the low end of the standard range. Alternatively, the State maintains the trial court properly exercised its discretion by considering Williams's request for an exceptional downward sentence and

choosing to adopt defense counsel's recommendation for a sentence at the low end of the standard range.

Under the Sentencing Reform Act of 1981, a standard range sentence generally "shall not be appealed." RCW 9.94A.585(1). Nonetheless, a defendant may "'challenge the underlying legal conclusions'" supporting a sentence. *State v. Mandefero*, 14 Wn. App. 2d 825, 833, 473 P.3d 1239 (2020) (quoting *State v. Williams*, 149 Wn.2d 143, 147, 65 P.3d 1214 (2003)). "While no defendant is entitled to an exceptional sentence below the standard range, every defendant *is* entitled to ask the trial court to consider such a sentence and to have the alternative actually considered." *State v. Grayson*, 154 Wn.2d 333, 342, 111 P.3d 1183 (2005). And "a defendant's youthfulness can support an exceptional sentence below the standard range." *State v. O'Dell*, 183 Wn.2d 680, 698-99, 358 P.3d 359 (2015).

However, a trial court can properly decline to consider a pro se motion from a defendant when that defendant is represented by competent counsel. *In re Pers. Restraint of Quinn*, 154 Wn. App. 816, 841, 226 P.3d 208 (2010). "There is . . . no . . . right to 'hybrid representation,' whereby a defendant serves as cocounsel with his attorney." *State v. Bebb*, 108 Wn.2d 515, 524, 740 P.2d 829 (1987). Although RCW 9.94A.500(1) gives a defendant the right to make a statement at a sentencing hearing, this does not limit the trial court's discretion to decline to consider or deny a pro se motion or argument made by a represented defendant. *See Quinn*, 154 Wn. App. at 841.

Williams was represented by counsel throughout the resentencing process, and his counsel requested a sentence at the low end of the standard range. Defense counsel's recommendation for a standard range sentence appeared to reflect a negotiated agreement that both parties would recommend a standard range sentence. In exchange for Williams's guilty plea, the State

significantly reduced its charges, and both the State and defense counsel recommended standard range sentences at his initial sentencing and again when he was resentenced. At the resentencing hearing, Williams's counsel specifically urged the trial court to impose a low-end standard range sentence because Williams "was only 19 at the time of this offense." 4 VRP at 8. In the absence of a request to proceed pro se, no valid request for an exceptional downward sentence occurred and the trial court therefore acted within its discretion when it imposed a standard range sentence.

The trial court did not abuse its discretion by not expressly addressing an exceptional downward sentence based on youthfulness where defense counsel asked for a standard range sentence. Nothing required the trial court to consider an exceptional mitigated sentence in this case where an exceptional sentence was not properly requested. *See O'Dell*, 183 Wn.2d at 695 ("age is not a per se mitigating factor automatically entitling every youthful defendant to an exceptional sentence").

Williams raises identical arguments for resentencing in his statement of additional grounds for review, which we reject for the same reasons.

We decline to remand for resentencing on this basis.

B. Impact of *Blake*

Williams also filed a supplemental brief asking us to remand to vacate a 2014 conviction for simple possession of a controlled substance under *Blake*, 197 Wn.2d at 173. The State responds that Williams's prior conviction for simple possession was not included in Williams's offender score, and Williams must separately petition the superior court to vacate the possession conviction.

Williams's simple possession conviction was a juvenile misdemeanor conviction for possession of less than 40 grams of marijuana. The State is correct that it was not included in his

offender score, so remand is not necessary in this case. Williams may separately petition the superior court to vacate his possession conviction, however.

We affirm Williams's sentence.

II. PRP

Williams acknowledges he filed this PRP more than a year after his judgment and sentence became final, but he asserts it is exempt from the time bar because he filed it in May 2020, when Governor Inslee's Proclamation 20-47 temporarily suspended RCW 10.73.090's one-year time bar in response to the state of emergency caused by the COVID-19 pandemic. Williams claims the incorrect offender score made his guilty plea involuntary.

Under RCW 10.73.090(1), a PRP is time barred if "filed more than one year after the judgment becomes final if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction." In *In re Personal Restraint of Blanks*, we rejected an identical argument that Proclamation 20-47 allowed a petitioner to timely file a PRP that was time barred when Governor Inslee issued the proclamation. 14 Wn. App. 2d 559, 560-61, 471 P.3d 272 (2020). We reasoned that "the Proclamation preserved existing rights and did not revive expired claims." *Id.* Division Three reached the same conclusion in *In re Personal Restraint of Millspaugh*, 14 Wn. App. 2d 137, 141, 469 P.3d 336 (2020).

Here, as in *Blanks* and *Millspaugh*, Williams's judgment and sentence became final in 2017, so his PRP was already time barred when Governor Inslee issued the proclamation in May 2020. The temporary suspension of the time bar did not resurrect Williams's untimely claim.

Nor is Williams's PRP otherwise exempt from the time bar under RCW 10.73.090(1). "[A]n allegedly involuntary plea is not an error of facial invalidity and cannot be raised on an

untimely petition absent a RCW 10.73.100 exception." *In re Pers. Restraint of Toledo-Sotelo*, 176 Wn.2d 759, 770, 297 P.3d 51 (2013). And an allegedly involuntary guilty plea does not deprive a trial court of personal or subject matter jurisdiction *See Boudreaux v. Weyerhaeuser Co*., 10 Wn. App. 2d 289, 295, 448 P.3d 121 (2019) ("'Subject matter jurisdiction' refers to a court's ability to entertain a type of case, not to its authority to enter an order in a particular case" (internal quotation marks omitted) (quoting *In re Marriage of Buecking*, 179 Wn.2d 438, 448, 316 P.3d 999 (2013))). Further, Williams does not raise any of the six grounds under RCW 10.73.100 to argue that the time bar in RCW 10.73.090 does not apply.

We dismiss Williams's PRP as time barred under RCW 10.73.090.

CONCLUSION

We affirm Williams's standard range sentence and dismiss his PRP.

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.

Glasgow, A.C.J.

We concur:

Cruser, J.

Veljacic, J.

CERTIFICATE OF SERVICE

I, Marie Trombley, do hereby certify under penalty of perjury under the laws of the State of Washington, that on September 2, 2021, I mailed to the following US Postal Service first class mail, the postage prepaid, or electronically served, by prior agreement between the parties, a true and correct copy of the Petition for Review to the following: Pierce County Prosecuting Attorney at pcpatcecf@co.pierce.wa.us and to Demarcus Williams/DOC#403999, Washington State Penitentiary, 1313 North 13th Avenue, Walla Walla, WA 99362.

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