

63741-0

63741-0

NO. 63741-0-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

JAMES WILLIAMS,

Appellant.

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CLERK OF COURT
KING COUNTY

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE PALMER ROBINSON AND
THE HONORABLE JEFFREY RAMSDELL

BRIEF OF RESPONDENT

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TABLE OF CONTENTS

	Page
A. <u>ISSUES PRESENTED</u>	1
B. <u>STATEMENT OF THE CASE</u>	2
1. PROCEDURAL FACTS	2
2. FACTS OF THE CRIME	2
3. FACTS REGARDING COMPETENCY AND WILLIAMS' PLEA OF GUILTY	4
C. <u>ARGUMENT</u>	11
1. THE TRIAL COURT PROPERLY EXERCISED ITS DISCRETION IN DENYING THE MOTION TO WITHDRAW THE GUILTY PLEA	11
a. Williams Was Competent.....	11
b. Williams' Plea Was Voluntary.....	15
2. WILLIAMS WAS PROPERLY INFORMED OF THE DIRECT CONSEQUENCES OF HIS PLEA.....	18
D. <u>CONCLUSION</u>	24

TABLE OF AUTHORITIES

Page

Table of Cases

Federal:

Blakely v. Washington, 542 U.S. 296,
124 S. Ct. 1531, 159 L. Ed. 2d 403 (2004)..... 23

Brady v. United States, 397 U.S. 742,
90 S. Ct. 1463, 25 L. Ed. 2d 747 (1970)..... 21

Edwards v. Indiana, 554 U.S. 164,
128 S. Ct. 2379, 171 L. Ed. 2d 345 (2008)..... 14

Godinez v. Moran, 509 U.S. 389,
113 S. Ct. 2680, 125 L. Ed. 2d 321 (1993)..... 15

Washington State:

In re Personal Restraint of Brooks,
166 Wn.2d 664, 211 P.3d 1023 (2009)..... 23

In re Personal Restraint of Fleming,
142 Wn.2d 853, 16 P.3d 610 (2001)..... 12

In re Personal Restraint of Isadore,
151 Wn.2d 294, 88 P.3d 390 (2004)..... 19

In re Personal Restraint of Stoudmire,
145 Wn.2d 258, 36 P.3d 1005 (2001)..... 20, 21

State v. Atsbeha, 142 Wn.2d 904,
16 P.3d 626 (2001)..... 14

State v. Barton, 93 Wn.2d 301,
609 P.2d 1353 (1980)..... 18

State v. Branch, 129 Wn.2d 635,
919 P.2d 1228 (1996)..... 15, 16

<u>State v. Heddrick</u> , 166 Wn.2d 898, 215 P.3d 201 (2009).....	11, 12, 13
<u>State v. Kennar</u> , 135 Wn. App. 68, 143 P.3d 326 (2006).....	23
<u>State v. Lord</u> , 117 Wn.2d 829, 822 P.2d 177 (1991).....	13, 15
<u>State v. Ortiz</u> , 104 Wn.2d 479, 706 P.2d 1069 (1985).....	13
<u>State v. Osborne</u> , 102 Wn.2d 87, 684 P.2d 683 (1984).....	15, 16
<u>State v. Perez</u> , 33 Wn. App. 258, 654 P.2d 708 (1982).....	16
<u>State v. Ross</u> , 129 Wn.2d 279, 916 P.2d 405 (1996).....	18, 19
<u>State v. Smith</u> , 74 Wn. App. 844, 875 P.2d 1249 (1994).....	15
<u>State v. Walsh</u> , 143 Wn.2d 1, 17 P.3d 591 (2001).....	19
<u>State v. Weyrich</u> , 163 Wn.2d 554, 182 P.3d 965 (2008).....	22, 23

Statutes

Washington State:

Laws of 2009, ch. 375	21
RCW 9.94A.030	20
RCW 9.94A.535	23
RCW 9.94A.701	20, 21

RCW 9.94A.850	20
RCW 9A.20.021	23
RCW 9A.32.030	23
RCW 10.77.060.....	12

Rules and Regulations

Washington State:

CrR 4.2.....	15, 18, 23
--------------	------------

Other Authorities

<u>Diagnostic and Statistical Manual of Mental Disorders, 679-80 (4th ed., American Psychiatric Association, 1994)</u>	5
Sentencing Reform Act	23
WAC 437-20-010	20

A. ISSUES PRESENTED.

1. A defendant is competent to stand trial and competent to plead guilty if he can understand the charges against him and assist in his defense. The record amply demonstrates that Williams was competent under this standard. Did the trial court properly accept his plea of guilty?

2. A defendant who signs a plea agreement and attests that his plea is voluntary in open court cannot overcome the evidence of voluntariness with a bare allegation that the plea was coerced. There was no evidence that Williams' plea was coerced. Did the trial court properly exercise its discretion in finding that the plea was voluntary and denying the motion to withdraw the plea?

3. A defendant must be advised of the imposition of community custody at the time he pleads guilty. Williams was correctly advised of the range of community custody required at the time that he entered his plea. Due to a subsequent legislative amendment the period of community custody is a set term that is in the midpoint of that range. Should Williams' claim that he was misadvised as to community custody be rejected?

4. A defendant must be informed of the statutory maximum term when he pleads guilty. Williams was correctly

advised of the statutory maximum term. Should Williams' claim that he was misadvised be rejected?

B. STATEMENT OF THE CASE.

1. PROCEDURAL FACTS.

In January of 2008, James Williams was charged with the crime of murder in the first degree while armed with a deadly weapon. CP 1. The court found that Williams was not competent to stand trial, and committed him to Western State Hospital for treatment to restore his competency. CP 12-14. The court subsequently found Williams had been restored to competency. CP 43-44. Williams pled guilty as charged and was sentenced to 422 months of total confinement. CP 45-66, 70. Four months later, Williams moved to withdraw his guilty plea. CP 95-96. The court denied the motion to withdraw the plea. CP 143; 5RP 19-20.

2. FACTS OF THE CRIME.

On New Year's Eve, 2007, Shannon Harps was stabbed to death outside her Capitol Hill apartment building at approximately 7:00 p.m., as she was returning from the grocery store. CP 2. Bystanders heard her scream and found her lying on the planting

strip adjacent to her building, bleeding to death. CP 2. Bystanders saw a man walking away from the murder scene. CP 2.

James Williams was contacted by police at 8:42 p.m. at a nearby bus shelter. CP 3. He was drinking a Pabst Blue Ribbon beer. CP 3. The police found a Pabst Blue Ribbon beer can around the corner from the murder scene as well. CP 3. The bystanders were unable to identify Williams as the man they saw walking away from the murder scene. CP 3. Williams was interviewed by police and denied involvement in the killing, but agreed to submit to a cheek swab for DNA testing. CP 3.

The murder weapon, a bent kitchen knife, was found a few feet from the stairwell where the victim was attacked. CP 3. Williams' DNA was found on the knife handle. CP 4. Williams was interviewed again and admitted to stabbing the victim. CP 4. He said he had no motive for the murder, but just wanted to kill Ms. Harps when he saw her walk down the street. CP 4. He told the officers that the knife he was using bent when he stabbed her. CP 4. Only detectives of the homicide unit and a few other officers knew that the murder weapon had a bent blade. CP 4.

3. FACTS REGARDING COMPETENCY AND WILLIAMS' PLEA OF GUILTY.

On June 5, 2008, the trial court ordered a competency evaluation to be performed by the staff at Western State Hospital. CP 7-10. On July 11, 2008, the court found that Williams was not competent to stand trial. CP 12-14. At a hearing held on July 30, 2008, to determine whether the court should authorize Western State Hospital to force Williams to take anti-psychotic medications, Dr. Margaret Dean testified that Williams suffers from schizoaffective disorder as well as antisocial personality disorder. 2RP 18.¹ She explained that persons with schizoaffective disorder have trouble distinguishing what is real from what is not real. 2RP 19. They often have fixed delusional beliefs and paranoia, such as believing they are being tortured. 2RP 19. In regard to Williams specifically, she testified that he has delusions that are very real to him, including beliefs that chunks of bone fly out of his arms, that he has lasers burning through his body, and that he is being tortured by aliens. 2RP 36. She opined that anti-psychotic

¹ The Verbatim Report of Proceedings will be referenced as follows: The single volume that contains the hearings held on July 10, 2008, October 16, 2008, November 19, 2008, April 9, 2009, April 22, 2009, May 14, 2009, May 21, 2009 and May 28, 2009 is "1RP"; July 20, 2008 is "2RP"; August 4, 2008 is "3RP"; August 5, 2008 is "4RP"; and February 11, 2009 is "5RP."

medication would likely restore Williams to competency. 2RP 32-33.

At that hearing, Williams told the court that he was being beaten by the jail guards and that they had permanently injured his wrists. 3RP 5. No evidence was presented to support this claim. He testified on his own behalf at the hearing, listing by name the many anti-psychotic medications he had taken in the past, and detailing in medical terms the side effects that he had suffered. 3RP 14-17.² Williams opined that rather than helping his symptoms, anti-psychotic medication caused him to act violently. 4RP 47. The court granted the State's request to authorize forced medication. 4RP 89.

The next hearing occurred in October of 2008. 1RP 7. Western State Hospital had returned Williams to the King County Jail because he had quickly been restored to competency when placed on anti-psychotic medication. 1RP 8. However, once back in jail, Williams refused to continue taking the medication and became incompetent again. 1RP 8-10. The parties agreed that he

² As an example, Williams testified as to the side effects, "The two most common ones are akathisia and tardive dyskinesia and cramps." Akathisia and tardive dyskinesia are actual medical conditions involving involuntary movements. Diagnostic and Statistical Manual of Mental Disorders, 679-80 (4th ed., American Psychiatric Association, 1994).

should be sent back to Western State Hospital for further treatment.

1RP 16-17.

In November, Williams returned to the King County Jail because Western State Hospital had concluded he was too dangerous to be housed there. 1RP 18-19. According to his attorney's declaration, Williams stabbed a staff member at Western State. CP 40. He also subsequently stabbed a jail staff member. CP 41. The parties agreed that Williams needed to be evaluated while housed in the King County Jail. 1RP 20.

At a hearing on April 8, 2009, held while the parties awaited a final report on Williams' competency, Williams told the court that he had suffered ten beatings in jail and that his wrists and fingers had been permanently crippled. 1RP 39. No evidence was presented to support his assertion. He then explained to the court his understanding of competency, which was entirely accurate. He stated:

. . . I know what -- what a competency test entails. And -- and, uh, basically it's not based on mental illness. You can be extremely mentally ill and still be competent. A competency test is based on how well you understand what's going on around you, uh -- uh, how -- how well you can pay attention, and -- and, specifically, and the -- and the number one thing is,

how well do you -- how well do you understand how the judicial system works, right?

1RP 40-41.

A few weeks later, at a hearing on April 22, 2009, the court found that Williams had been restored to competency. 1RP 44-48.

Williams and his counsel did not object to the court's finding.

1RP 44.³ Williams complained of ten beatings and injuries to his wrist and thumb. 1RP 52. Again, no evidence was presented that Williams had in fact been injured. Williams also told the court: "the only defense I'm -- I'm going to use or allow anybody to use is diminished capacity. If our expert says that I don't have diminished capacity, then I'm just going to plead guilty." 1RP 51. He continued, "I'm not going -- going - you going to use any other defense because that's what -- what the case was, you know."

1RP 51.

The next hearing occurred on May 14, 2009, and defense counsel advised the court that Williams wished to plead guilty.

1RP 59. As to the voluntariness of the plea, defense counsel told the court, "I am close to being able to assure the Court that I

³A forensic psychiatric medical report was filed and sealed by the trial court on April 17, 2009, as sub number 64. Counsel for appellant did not designate this report.

believe Mr. Williams can enter a knowing, intelligent and voluntary plea of guilty." 1RP 60. Counsel advised that he had retained an expert who had reviewed the records, and that counsel wanted to have one final conversation with that expert before entry of the plea. 1RP 60. Williams told the court that he had been beaten 13 times and that eight of his fingers had been broken, although there was again no evidence presented of any injuries. 1RP 63. Williams told the court he was interested in being moved to another jail. 1RP 63-65. However, Williams explicitly denied that he was pleading guilty because of his perception of abuse. Williams stated, "when I plead guilty - I'm going to plead guilty simply because I am guilty, because I committed this murder, right?" 1RP 62. He explained:

[M]y attorneys seem to think that I want to plead guilty because I want to get out of jail before they break all my bones. But that's not it. Uh-uh, it's true that I -- I -- I want to get moved to another jail, is what I want to do. That what I want to ask today, that I can be moved anywhere before they -- they kill me in this motherfucker. Anywhere, any jail, I don't care where -- where it is. But, I'm still guilty. I want to plead guilty anyway.

. . .
I'm not going to plead guilty because of this. I want to get moved to another jail because of this.

1RP 65. He then expressed his determination to plead guilty, stating:

I'm going to plead guilty regardless of what happens. If -- if they force me to go to trial, on my first day of trial I'm going to stand up and tell everybody I'm guilty right now. I'm not going to have no trial. I'm going to prison [inaudible].

1RP 70. Defense counsel then assured the court that Williams' plea was voluntary and not based on the abuse he perceived due to his mental illness. Defense counsel stated, "We are very close to being able to go forward with this guilty plea and it's not because he's being beaten up. It's not because he wants to get out of here because he's being abused. It's because he's guilty." 1RP 87-88.

One week later, the plea hearing was held. Defense counsel told the court that he had consulted "at length" with an independent physician with regard to the voluntariness of the plea, but had not received a written report yet. 1RP 101. Nonetheless, given the defendant's insistence to move forward as quickly as possible with the plea, defense counsel told the court "I would sign off on the fact that Mr. Williams is competent to make this plea." 1RP 101. The prosecutor also stated, "I am convinced, based on the Western State Hospital reports, that Mr. -- Mr. Williams is competent." 1RP 102. The prosecutor engaged in an extended colloquy with

Williams, reviewing the Statement of Defendant on Plea of Guilty. 1RP 122-27. Williams told the court that he was making the plea freely and voluntarily and that there were no threats or promises that caused him to plead guilty. 1RP 126-27. The court accepted the plea as knowing, voluntary and intelligent. 1RP 128.

At sentencing a week later, on May 28, 2009, defense counsel described the defendant's plea of guilty as "his choice, his very purposeful choice, to plead guilty to the murder of Shannon Harps." 1RP 153. The defendant, speaking to the court and the victim's family, explained that he did not commit the crime "for pleasure or for profit." 1RP 160. He then expressed at length his remorse for killing Shannon Harps, stating "I got to go through all eternity knowing I'm a murderer." 1RP 163-66.

Four months later, in October, the defense filed a motion to withdraw the plea based on ineffective assistance of counsel. CP 91-98. After listening to the tapes of the hearings held on April 22, May 14 and May 21, the trial court denied the motion to withdraw the plea. 5RP 19-20; CP 143. The court entered written findings in which the court found that Williams' claim that his plea was coerced was factually unsupported. CP 140-41.

During the 19 months of proceedings between being found incompetent to stand trial and the trial court's denial of the motion to withdraw the guilty plea the defense never presented any evidence that Williams had suffered any injuries in the King County Jail.

C. ARGUMENT.

1. THE TRIAL COURT PROPERLY EXERCISED ITS DISCRETION IN DENYING THE MOTION TO WITHDRAW THE GUILTY PLEA.

Williams contends that the trial court should have allowed him to withdraw his guilty plea because he was either incompetent or the plea was involuntary. Both of these claims should be rejected. The record reflects that Williams was competent at the time he pled guilty. The record also reflects that his plea was voluntary. The trial court properly exercised its discretion in denying the defendant's motion to withdraw his guilty plea.

a. Williams Was Competent.

An accused has a fundamental right under both the federal and state constitution not to be convicted while incompetent to stand trial. State v. Heddrick, 166 Wn.2d 898, 903-04, 215 P.3d 201 (2009). There is a two-part test for competency. In re

Personal Restraint of Fleming, 142 Wn.2d 853, 862, 16 P.3d 610 (2001). A defendant is competent if he (1) can understand the nature of the charges, and (2) is capable of assisting in his defense. Id. at 862. The competency standard for pleading guilty is the same as the competency standard for standing trial. Id. A defendant receiving medication is competent if the medication enables him to understand the proceedings and assist in his own defense. Id.

The determination of whether a competency hearing should be ordered rests within the discretion of the trial court. Heddrick, 166 Wn.2d at 903. Whether a trial court erred in ordering a competency evaluation is reviewed for abuse of discretion. Id. The statutory procedures required to determine competency can be waived. Id. at 908.

In the present case, Williams did not request further competency proceedings after the trial court determined on April 22, 2009, that he had been restored to competency. There is no claim that the trial court failed to follow the statutory procedures set forth in RCW 10.77.060. Any claim that further competency proceedings were required was waived when counsel represented

to the court on May 21, 2009, that Williams was competent to proceed with the guilty plea. Heddrick, 166 Wn.2d at 908.⁴

The condition of competency cannot be waived. Id. at 907. However, a judge has wide discretion in judging the mental competency of the defendant. State v. Ortiz, 104 Wn.2d 479, 482, 706 P.2d 1069 (1985). Considerable weight should be given to the defense attorney's opinion regarding his client's competency. State v. Lord, 117 Wn.2d 829, 901, 822 P.2d 177 (1991).

In this case, there is substantial evidence in the record that Williams was competent when he entered the plea of guilty. There is no question that Williams understood the nature of the charge. He understood that he was charged with the murder of Shannon Harps. He repeated admittedly to having committed the murder and spoke of his remorse for the crime. 1RP 51, 63-65, 73, 90, 110-11, 114, 117, 126-27, 160-63. He explained to the court before the plea that, having confessed to the crime, the only defense he wished to pursue was diminished capacity, and that if the defense-retained expert could not testify to diminished capacity, then he wished to plead guilty. 1RP 26, 51. This was an entirely

⁴ Williams does not claim on appeal that counsel was ineffective in failing to challenge his competency.

reasonable position to take, and shows that Williams understood the charge, the evidence and potential defenses.⁵ The record also supports the conclusion that Williams, who had numerous cogent exchanges with the trial court, was capable of assisting in his defense. Significantly, defense counsel assured the court at the plea hearing that he had consulted with an expert and he believed that Williams was competent. 1RP 101. The record supports the trial court's finding that Williams was competent. The trial court did not abuse its discretion in finding Williams competent.

On appeal, Williams argues that the delusion he suffered that the jail staff were breaking his fingers rendered him incompetent. In making this argument Williams fails to acknowledge the distinction between mental illness and incompetence that Williams himself explained so succinctly in the proceedings below. A person suffering from mental illness is competent to stand trial if the two-part standard for competency is met. Edwards v. Indiana, 554 U.S. 164, 128 S. Ct. 2379, 171 L. Ed. 2d 345 (2008) (defendant with severe mental illness

⁵ The record contains no further reference to a diminished capacity defense. Such a defense was unlikely where Williams' actions in stabbing Shannon Harps were unprovoked, purposeful and deliberate, even though he suffered from a mental illness. See State v. Atsbeha, 142 Wn.2d 904, 921, 16 P.3d 626 (2001).

competent to stand trial although not competent to represent himself under Indiana standard); Lord, 117 Wn.2d at 901-04 (no basis for competency hearing although defendant reported having conversation with the devil); State v. Smith, 74 Wn. App. 844, 875 P.2d 1249 (1994) (defendant competent although diagnosed with several mental disorders). The record reflects that in spite of Williams' schizoaffective disorder and the resulting delusions, Williams was competent to stand trial, and thus competent to plead guilty. Godinez v. Moran, 509 U.S. 389, 113 S. Ct. 2680, 125 L. Ed. 2d 321 (1993) (competency standard for pleading guilty same as competency standard for standing trial).

b. Williams' Plea Was Voluntary.

Williams alternatively claims that, if competent, his plea was involuntary because it was coerced by the actions of the jail guards. CrR 4.2(f) authorizes the court to allow a defendant to withdraw a guilty plea if withdrawal is necessary to correct a manifest injustice. An involuntary plea is a manifest injustice. Osborne, 102 Wn.2d at 97.

A defendant's signature on a plea agreement is "strong evidence" that the plea is voluntary. State v. Branch, 129 Wn.2d

635, 642, 919 P.2d 1228 (1996). When the voluntariness of the plea has been inquired into on the record "the presumption of voluntariness is well nigh irrefutable." State v. Perez, 33 Wn. App. 258, 262, 654 P.2d 708 (1982). In State v. Osborne, 102 Wn.2d 87, 96, 684 P.2d 683 (1984), the defendant claimed he was coerced into pleading guilty by his wife's threat to commit suicide if the case went to trial. The state supreme court rejected his claim, finding that a bare allegation of coercion was insufficient to overcome the evidence from the plea hearing that the plea was voluntary. Id. at 97.

Likewise, Williams' bare allegation at the plea withdrawal hearing that his guilty plea was coerced by the actions of jail staff was insufficient to overcome the evidence of voluntariness from the plea hearing. Williams repeatedly stated that he was pleading guilty because he was guilty, and explicitly assured the trial court that he was not pleading guilty because of his perception that members of the jail staff were breaking his bones. 1RP 64-65. His attorney also assured the court that Williams was pleading guilty "not because he's being beaten up . . . not because he wants to get out of here, because he's being abused. It's because he's guilty." 1RP 87. When asked whether he was making the plea freely and

voluntarily, Williams answered "Yes, sir." 1RP 126. When asked if anyone made "threats or promises of any kind to cause you to enter into this plea," Williams answered, "No." 1RP 127. The defense never presented any evidence to support Williams' claim that he was being injured in jail, although such evidence would have been readily available if the accusation was true. Williams' bare allegation that his plea was coerced was insufficient to overcome the evidence from the plea hearing that his plea was voluntary.

In sum, the trial court properly exercised its discretion in finding Williams competent to stand trial because the record demonstrates that Williams understood the charges against him and was capable of assisting in his defense. Williams was competent to plead guilty. Both Williams and defense counsel assured the court that the plea of guilty was voluntary and not the product of Williams' belief that he was being beaten in the jail. His subsequent allegation of coercion, which was unsupported by any evidence, was insufficient to overcome the evidence of voluntariness. The trial court properly exercised its discretion in denying the motion to withdraw Williams' guilty plea.

2. WILLIAMS WAS PROPERLY INFORMED OF THE DIRECT CONSEQUENCES OF HIS PLEA.

Williams contends for the first time on appeal that he should be allowed to withdraw his plea because he was misadvised of the direct consequences of his plea in two ways. First, Williams contends that he was misadvised because he was told that the court would impose a community custody range of 24 to 48 months, and subsequent legislative change require him to serve community custody of 36 months. Second, Williams contends that he should not have been advised of the statutory maximum. Both of these claims should be rejected. Williams was correctly advised as to the range of the community custody provided by law at the time of the plea and was correctly advised of the statutory maximum. Williams cannot establish a manifest injustice in this case.

CrR 4.2(f) provides that withdrawal of a guilty plea may be allowed to correct a manifest injustice. The defendant's failure to understand a direct consequence of his plea constitutes a manifest injustice. State v. Barton, 93 Wn.2d 301, 609 P.2d 1353 (1980). A direct consequence is one which "represents a definite, immediate and largely automatic effect on the range of the defendant's punishment." State v. Ross, 129 Wn.2d 279, 284, 916 P.2d 405

(1996). A claim that the defendant was misadvised of a direct consequence of his plea may be raised for the first time on appeal. State v. Walsh, 143 Wn.2d 1, 17 P.3d 591 (2001). Once a defendant establishes that he was misadvised of a direct consequence of the plea, he need not establish that the misadvisement was material to his decision to plead guilty. In re Personal Restraint of Isadore, 151 Wn.2d 294, 88 P.3d 390 (2004).

In State v. Ross, an outdated plea form completely failed to advise the defendant that his sentence would include a period of mandatory community placement. 129 Wn.2d at 282-83. The state supreme court held that community placement was a direct consequence of the plea and the failure to advise Ross of community placement constituted a manifest injustice justifying withdrawal of the plea. Id. at 288. Similarly, in In re Personal Restraint of Isadore, the plea form completely failed to advise the defendant that the court was required to impose a term of community placement. 151 Wn.2d at 296-97. The supreme court held that the failure to advise Isadore of community placement constituted a manifest injustice justifying withdrawal of his plea. Id. at 298.

In contrast, in In re Personal Restraint of Stoudmire, 145 Wn.2d 258, 36 P.3d 1005 (2001), the defendant was advised in the plea form that he would be sentenced to community placement "for at least 1 year." He was sentenced to a two-year term of community placement. Id. at 262. He argued that he was misadvised of a direct consequence of the plea. Id. at 266. The court rejected his argument, stating:

Stoudmire nevertheless argues that due process requires notice of the *range* of punishment in addition to the mere fact of punishment. We disagree. The plea form gave him adequate notice that mandatory community placement applied and that the prosecutor intended to recommend two years.

Id.

In the present case, a review of the history of the relevant community custody statute is necessary. At the time that Williams entered his plea of guilty in May of 2009, RCW 9.94A.701(1)(b) provided that an offender sentenced for a serious violent offense would receive a term of community custody for a range established under RCW 9.94A.850. Former RCW 9.94A.701 (2008). Murder in the first degree is a serious violent offense. RCW 9.94A.030(41). The range of community custody established for serious violent offenses was 24 to 48 months. WAC 437-20-010.

In July of 2009, after Williams' guilty plea was entered and after Williams was sentenced, RCW 9.94A.701 was amended so that the community custody term for serious violent offenses was no longer a range but a set period of three years. Current RCW 9.94A.701(1)(b); Laws of 2009, ch. 375, sec. 5. The amendment became effective July 26, 2009, and applies retroactively and prospectively to all offenders, whether sentenced before or after the effective date of the statute. Laws of 2009, ch. 375, sec. 20.

Thus, the advisement that Williams received as to the community custody range was correct at the time of the plea, in May of 2009. Williams was not misadvised as to the community custody range at the time of the plea. A voluntary plea made with proper advisement of the then-existing law is not rendered involuntary because of post-plea changes in the law. Brady v. United States, 397 U.S. 742, 757, 90 S. Ct. 1463, 25 L. Ed. 2d 747 (1970).

Moreover, as in Stoudmire, the advisement that Williams received was not inconsistent with the period of community custody that Williams will serve. Williams was informed at the plea that he would be required to serve a term of community custody between 24 to 48 months. He was sentenced to serve a community custody

range of 24 to 48 months. With the legislative amendment, Williams is required to serve a term of community custody in the midpoint of that range, 36 months. Williams cannot contend that he was not aware of the requirement of community custody. Nor can he contend that he was not aware the community custody period could be as long as 36 months. He cannot establish that he was misadvised of this direct consequence of his plea.

Williams additionally contends that he should not have been advised of the statutory maximum term because the maximum sentence was the high end of the standard range. This claim must be rejected in light of State v. Weyrich, 163 Wn.2d 554, 182 P.3d 965 (2008). In Weyrich, the defendant pled guilty and was misadvised that the statutory maximum for first degree theft was 5 years, instead of 10 years. Id. at 556. The State argued that Weyrich was correctly advised of the standard range, and that the statutory maximum was not a direct consequence of the plea. Id. The state supreme court rejected this argument, holding "A defendant must be informed of the statutory maximum for a charged crime, as this is a direct consequence of his guilty plea." Id. at 557. In light of the holding of Weyrich, Williams' plea would have been deemed involuntary if he had *not* been advised of the

statutory maximum. Williams was properly advised that the statutory maximum sentence for the crime of murder in the first degree is life imprisonment. RCW 9A.32.030(2); 9A.20.021(1)(a); CP 46, 62.

In State v. Kennar, 135 Wn. App. 68, 143 P.3d 326 (2006), this Court rejected the claim that advising the defendant of the statutory maximum, as required by CrR 4.2 and Weyrich, renders a guilty plea invalid. This Court correctly concluded that the standard range and the statutory maximum sentence are both direct consequences of a guilty plea of which the defendant must be informed. Id. at 74-75. Even with the changes to the Sentencing Reform Act brought about by Blakely v. Washington, 542 U.S. 296, 124 S. Ct. 1531, 159 L. Ed. 2d 403 (2004), the statutory maximum sentence has a potential affect on the range of punishment. The statutory maximum sentence limits the period of community custody that can be imposed. See In re Personal Restraint of Brooks, 166 Wn.2d 664, 211 P.3d 1023 (2009). Provisions prohibiting contact with certain individuals are imposed for the statutory maximum term. In addition, RCW 9.94A.535(2) allows the trial court to impose an exceptional sentence not exceeding the statutory maximum based on the defendant's criminal history in

some circumstances. The statutory maximum sentence is not irrelevant. Washington law requires that the defendant be advised of the statutory maximum sentence when pleading guilty. Williams was properly advised that the statutory maximum sentence for murder in the first degree is life.

In sum, Williams was properly advised of the range of community custody at the time of the plea and the community custody period that is now required is in the midpoint of that range. Williams was properly advised of the statutory maximum. Williams cannot establish a manifest injustice. His plea was valid. His conviction should be affirmed.

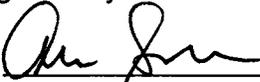
D. CONCLUSION.

This Court should affirm the trial court's denial of Williams' motion to withdraw his guilty plea.

DATED this 11th day of August, 2010.

Respectfully submitted,

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