

FILED
Court of Appeals
Division III
State of Washington
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No. 37011-9-III

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

THE STATE OF WASHINGTON,

Respondent

v.

MONTY RAY BOCKMAN,

Appellant

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR BENTON COUNTY

NO. 19-1-00068-03

BRIEF OF RESPONDENT

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I. RESPONSE TO ASSIGNMENTS OF ERROR

- A. The State agrees that the clause in the Judgment and Sentence, Section 4.2 (B)(7), requiring the defendant to pay supervision fees, should be stricken.
- B. The State agrees that the Judgment and Sentence contains a scrivener's error and that the correct date of the offense is January 12, 2019.

II. STATEMENT OF FACTS

For the purposes of this appeal, the defendant raises only two issues. The defendant is correct that the date of offense is incorrectly listed as January 5, 2019 and that Section 2.1 of the Judgment and Sentence should be amended to read January 12, 2019. CP 227. The defendant is also correct that the boilerplate language in Section 4.2 (B)(7) of the Judgment and Sentence has a provision that he is to pay supervision fees. CP 229-30.

III. ARGUMENT

The defendant is correct on both issues. Under *State v. Lundstrom*, 6 Wn. App. 2d. 388, 396, 429 P.3d 1116 (2018), an indigent defendant should not be assessed with supervision fees. The correct date of offense is January 12, 2019, not January 5, 2019.

Upon remand the State will prepare an amendment to the Judgment and Sentence with these changes:

2.1 Current Offenses: The defendant is guilty of the following offenses, based upon
 guilty plea (date) _____ jury-verdict on April 22, 2019 bench trial (date) _____:

<i>Count</i>	<i>Crime</i>	<i>RCW</i>	<i>Class</i>	<i>Date</i>
1	Unlawful Possession of a Controlled Substance – Methamphetamine	RCW 69.50.4013(1)	C	1/5/2019 1/12/2019

4.2 Community Custody. (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701, RCW 10.95.030(3))

(A) The defendant shall be on community custody for:

Count 1 for 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by street gang member or associate)

Note: combined term of confinement and community custody for any particular offense cannot exceed the statutory maximum. RCW 9.94A.701.

(B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant’s address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) ~~pay supervision fees as determined by DOC~~; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant’s

residence location and living arrangements are subject to the prior approval of DOC while on community custody.

IV. CONCLUSION

The Court should affirm the conviction but remand for the above amendments to the Judgment and Sentence.

RESPECTFULLY SUBMITTED on May 1, 2020.

ANDY MILLER

Prosecutor

A handwritten signature in black ink, appearing to read 'T. Bloor', written over a horizontal line.

Bar No. 46390 for

Terry J. Bloor, Deputy

Prosecuting Attorney

Bar No. 9044

OFC ID NO. 91004

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this day I served, in the manner indicated below, a true and correct copy of the foregoing document as follows:

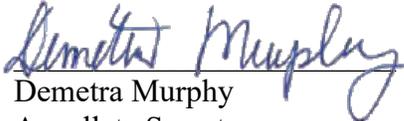
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Demetra Murphy
Appellate Secretary

BENTON COUNTY PROSECUTOR'S OFFICE

May 01, 2020 - 2:02 PM

Transmittal Information

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