

74053-9

FILED
March 31, 2016
Court of Appeals
Division I
State of Washington

74053-9

NO. 74053-9-I

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

STATE OF WASHINGTON,

Respondent,

v.

D. D.-H.,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR WHATCOM COUNTY, JUVENILE
DIVISION

The Honorable Raquel Montoya-Lewis, Judge
The Honorable David Thorn, Judge

BRIEF OF APPELLANT

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A. ASSIGNMENTS OF ERROR

1. The juvenile court lacked jurisdiction to extend appellant's community supervision.

2. The juvenile court erred in denying appellant's motion to dismiss alleged violations of community supervision based on loss of court jurisdiction.

3. The juvenile court erred in entering an order modifying community supervision on March 11, 2015. CP 29-30.

4. The juvenile court erred in entering an order modifying community supervision on May 15, 2015. CP 38-39.

5. The juvenile court erred in entering an order modifying community supervision on August 6, 2015. CP 40-41.

6. The juvenile court erred in entering finding of fact¹ 17 in support of the order denying appellant's motion to terminate supervision. CP 36.

7. The juvenile court erred in entering conclusions of law 1, 2, 4, 5, and 6 in support of the order denying appellant's motion to terminate supervision. CP 36-37.

¹ The March 23, 2015, Findings of Fact and Conclusions of Law are attached as Appendix A.

8. The superior court erred in entering JuCR 7.11(d)² finding of fact 2.11 in support of the order on revision hearing. CP 42-43.

9. The superior court erred in entering JuCR 7.11(d) conclusions of law 3.1 through 3.7 in support of the order on revision hearing. CP 42-43.

Issue Pertaining to Assignments of Error

The juvenile court has authority to toll community supervision when a juvenile is on warrant status. But, the juvenile court's jurisdiction to enforce its disposition order terminates when the community supervision period expires. Due process also requires that notice be given when the court exercises inherent authority to toll community supervision. When appellant's 12-month community supervision expired, there were no outstanding warrants and no alleged violations of supervision. Nor had the juvenile court entered any orders addressing tolled time or extending community supervision beyond the 12 months stated in the disposition order. Nonetheless, at an alleged violation hearing held after appellant's 12-month community supervision period ended, the juvenile court determined for the first time that appellant's community supervision would be tolled for an additional 122 days. Did the juvenile court lose

² The August 12, 2015, Findings of Fact and Conclusions of Law Pursuant to JuCR 7.11(d) are attached as Appendix B.

jurisdiction to toll appellant's community supervision when it failed to exercise its authority to do so before the 12-month community supervision expired?

B. STATEMENT OF THE CASE

The Whatcom county prosecutor charged 14-year-old appellant D.D.-H. with one count each of third degree theft and minor in possession of alcohol for alleging taking a bottle of Jägermeister liquor from a grocery store. CP 1-2. D.D.-H. pled guilty as charged in exchange for the prosecutor's recommendation of 12 months probation as to both counts. CP 5-10.

On February 19, 2014, D.D.-H. received a standard range disposition of 15 days confinement with credit for time already served and 12 months of community supervision to begin "immediately." CP 11-17. The conditions of community supervision required that D.D.-H. complete a drug and alcohol evaluation and comply with any treatment recommendations; refrain from using drugs and alcohol and submit to random urinalysis testing; report regularly to his probation officer; attend school regularly; not commit further offenses; and have no contact with the grocery store involved in the charged incident. CP 15.

Between February 24, 2014 and December 20, 2014, the juvenile court issued and served four bench warrants on D.D.-H. when his

probation officer alleged D.D.-H.'s whereabouts were unknown and that he was not complying with his conditions of community supervision. CP 36 (findings of fact 7-11); 48-74, 77-78, 79-80.

Four probation violation hearings were held between May 1, 2014 and December 30, 2014. CP 36 (findings of fact 7-11). At each of the four hearings, the juvenile court found D.D.-H. had not complied with the terms of his community supervision and imposed additional community supervision conditions, including: attend treatment as directed; enroll in and attend a school program; meet with a behavior health specialist; and participate in individual counseling weekly. CP 18-23, 75-76. The juvenile court also imposed additional detention time following each probation violating hearing: five days after the first violation; seven days after the second violation; 15 days after the third violation; and 20 days after the fourth violation. CP 18-23, 75-76. The remaining portions of the original February 19, 2014 disposition order "remain[ed] in full force and effect" after each Order Modifying Community Supervision was entered. CP 18-23, 75-76.

At none of the four probation violation hearings was tolling of community supervision discussed, nor were court orders entered applying tolled time or extending community supervision beyond the 12 months stated in the February 19, 2014 disposition order. CP 36 (finding of fact

12); CP 43 (finding of fact 2.7); 1RP³ 4. By the express terms of the February 19, 2014 disposition order, the 12-month term of community supervision expired on February 19, 2015. CP 36 (finding of fact 13); CP 44 (finding of fact 2.8). At that time, D.D.-H. had no outstanding warrants and the State had not filed any notice of alleged violations of community supervision. CP 36 (finding of fact 14); CP 44 (finding of fact 2.9); 1RP 5.

On February 24, 2015 another bench warrant was issued based on the probation officer's allegations that beginning on February 22, 2015, D.D.-H.'s whereabouts were unknown. CP 77-78. The warrant was served on D.D.-H. the following day. CP 79-80. On March 4, 2015 the State petitioned to modify the terms of D.D.-H.'s community supervision alleging he had violated several terms of his disposition order. CP 81-83.

At the hearing on March 11, 2015, D.D.-H. argued the juvenile court had lost jurisdiction by virtue of the fact the juvenile court never exercised its authority to toll D.D.-H.'s community supervision prior to the end of the 12-month supervision period which ended February 19, 2015. CP 24-28; 1RP 6, 9, 17-20. Defense counsel also argued that D.D.-H. was never provided with the required notice as to what period of time the juvenile court intended to toll his community supervision. 1RP 19-20.

³ This brief refers to the verbatim report of proceedings as follows: 1RP – March 11, 2015; 2RP – March 23, 2015; 3RP – July 30 & 31, 2015.

Accordingly, D.D.-H. requested that his alleged disposition violations be dismissed and his community supervision terminated. CP 28; 1RP 19.

The State responded that State v. V.J., 132 Wn. App. 380, 384, 132 P.3d 763 (2006), was controlling because it allowed the juvenile court to toll community supervision time. 1RP 10; 3RP 11; CP 84-96. The State maintained that D.D.-H.'s community supervision had not expired on February 19, 2015 because the juvenile court had not yet had a full 12 months in which to supervise him because of his prior time on warrant status. 1RP 10-15, 21-22, 84-96.

The juvenile court commissioner denied D.D.-H.'s motion to dismiss, finding that a full 12 months of community supervision was needed and that D.D.-H. had missed about 3 months of supervision when he was on warrant status. 1RP 24; 2RP 45; CP 36 (finding of fact 17); CP 37 (conclusion of law 4). The commissioner further concluded that it had inherent authority to toll D.D.-H.'s community supervision retroactively, "even though it's later than it should have been." 1RP 25-28; CP 36-37 (conclusions of law 1, 2, 4). Accordingly, the juvenile court added 122 days to D.D.-H.'s community supervision, thereby extending his community supervision until June 21, 2015. 1RP 46-48; CP 37 (conclusions of law 5-6). The juvenile court recognized that D.D.-H. was never given notice that the probation department sought to toll his

community supervision prior to February 19, 2015. CP 36 (finding of fact 15). Subsequent orders modifying D.D.-H.'s disposition and community supervision were entered on on March 11, 2015, May 15, 2015, and August 6, 2015. CP 29-30, 38-41.

D.D.-H. moved to revise the commissioner's ruling denying his motion to dismiss community supervision. 3RP 3; CP 31-34, 97-151. The State maintained that V.J. controlled, that D.D.-H. was not entitled to notice of tolling, and that the juvenile court was not required to take affirmative action in order to initiate tolling. 3RP 11-13, 15-16, 152-67.

The Whatcom County Superior Court denied the motion to revise. 3RP 31; CP 42-44. The court concluded that V.J. was factually distinguishable, but that D.D.-H. required community supervision for a full 12-month period in order to give effect to the rehabilitative purposes of the juvenile justice act. 3RP 30-33; CP 43 (conclusions of law 3.3-3.4). The court was not troubled by the lack of notice provided to D.D.-H. regarding the tolling of community supervision, finding that he "was not entitled to notice and an opportunity to be heard concerning the application of tolled time." 3RP 33; CP 43 (conclusion of law 3.6).

D.D.-H. timely appeals. 45-47.

C. ARGUMENT

THE JUVENILE COURT ORDERS MODIFYING COMMUNITY SUPERVISION AND DISPOSITION ARE VOID AND MUST BE STRICKEN BECAUSE THE JUVENILE COURT LOST JURISDICTION WHEN IT FAILED TO TOLL SUPERVISION BEFORE THE END OF APPELLANT'S 12-MONTH SUPERVISION PERIOD.

The juvenile court's jurisdiction is limited to that provided by statute. State v. V.J., 132 Wn. App. 380, 384, 132 P.3d 763 (2006). As part of a dispositional order in a non-sex offense case, a juvenile court may impose a period of community supervision for up to one year. RCW 13.40.020(5). The juvenile court may modify the original disposition only when the juvenile is found to have failed to comply with the requirements of supervision. RCW 13.40.200. Although not expressly authorized by statute, the juvenile court has authority to toll community supervision when the juvenile is on warrant status. V.J., 132 Wn. App. at 387. However, a juvenile "court's jurisdiction to enforce its disposition order terminates when the community supervision period expires, unless a violation proceeding is then pending before the court." State v. May, 80 Wn. App. 711, 717, 911 P.2d 399 (1996); State v. Y.I., 94 Wn. App. 919, 923-24, 973 P.2d 503 (1999). Whether a court has jurisdiction is a question of law reviewed de novo. Y.I., 94 Wn. App. at 922.

Here, D.D.-H. received a disposition that included 12 months of community supervision beginning on February 19, 2014. CP 11-17. By its express terms, the 12-month term of community supervision expired on February 19, 2015. CP 13; CP 43 (finding of fact 2.8). At the time the community supervision expired, D.D.-H. had no outstanding warrants and the State had not filed a notice of alleged violations of supervision. CP 43 (finding of fact 2.9). Nor had the juvenile court entered any orders addressing tolled time or extending community supervision beyond the 12 months stated in the February 19, 2014 disposition order. CP 43 (finding of fact 2.7). Because the juvenile court's jurisdiction expired on February 19, 2015 without a pending violation proceeding, outstanding warrant, or court order tolling D.D.-H.'s community supervision beyond that set forth in the disposition order, the juvenile court lost jurisdiction. The subsequent juvenile court orders modifying D.D.-H.'s disposition and community supervision entered in March, May, and August are void and must be reversed because the juvenile court no longer has jurisdiction.

V.J. is instructive by way of contrast. V.J. was sentenced to 12 months of community supervision. During the community supervision period, V.J. left an in-patient treatment facility without permission. When the State informed the juvenile court of this fact, a bench warrant was issued. V.J., 132 Wn. App. at 382. The warrant was served 71 days after

community supervision had ended. The juvenile court found that V.J. had violated the terms of her community supervision and imposed detention. Id.

V.J. sought revision of the juvenile court order, arguing that the court was without jurisdiction because the community supervision period had expired. The superior court ruled that the juvenile court had inherent power to toll the period of juvenile probation. Id. Noting the rehabilitative goals of the juvenile justice act, this Court affirmed the superior court's decision, holding that "the juvenile court has authority to toll community supervision *when the juvenile is on warrant status.*" V.J., 132 Wn. App. at 387 (emphasis added).

V.J. is distinguishable from the present situation for several reasons. First, significantly, V.J. was on warrant status at the time the original community supervision period ended. Thus, the outstanding warrant allowed the court to retain jurisdiction even when the original supervision period ended. Compare State v. Todd, 103 Wn. App. 783, 789-90, 14 P.3d 850 (2000) (court retained jurisdiction where the State moved to revoke a deferred disposition three weeks before the supervisory period ended) with, Y.I., 94 Wn. App. at 921 (order requiring juvenile to pay victim penalty assessments reversed for lack of jurisdiction because petition to review conditions was filed after supervision period had

terminated). In contrast, here D.D.-H. was not on warrant status, and the State had not instituted violation proceedings before the supervisory period ended on February 19, 2015. CP 44 (finding of fact 2.9). Thus, unlike V.J., here there was no mechanism by which the juvenile court retained jurisdiction over D.D.-H.'s supervision beyond that date.

Most importantly however, V.J. does not address the issue presented here: whether, the juvenile court loses jurisdiction to toll community supervision when it utterly fails to exercise its authority to do so before expiration of the supervisory period. Because there is no case factually identical with D.D.-H.'s case, comparison with cases addressing a juvenile court's jurisdiction to enforce its disposition order after the community supervision period expires, are instructive.

In May, the Court of Appeals reversed a juvenile court's order imposing detention for violation of provisions of disposition order because that modification was entered after the community supervision period had ended. 80 Wn. App. at 717. On January 12, 1993, May pled guilty to residential burglary and second-degree burglary. May was given 12 months of community supervision, and ordered to complete several other conditions, as part of his disposition order. May, 80 Wn. App. at 712. On January 10, 1994 May's probation counsel submitted a report to the prosecutor's office alleging that May had failed to comply with the

conditions of his community supervision. Ten days later, the prosecutor's office instituted a show cause proceeding regarding the alleged violations. May, 80 Wn. App. at 713.

At the violation hearing held two weeks later, May argued the juvenile court lacked jurisdiction because the community supervision period ended before the prosecutor instituted the violation proceedings. The juvenile court concluded that as long as the alleged violation information was brought in a "reasonable amount of time," and the juvenile was given proper notice of the alleged violation, then disposition of the violations need not occur within the community supervision period. May, 80 Wn. App. at 713. The superior court affirmed, concluding the court retains jurisdiction over juveniles until age 18 and, absent a showing of prejudice, could impose sanctions after expiration of the community supervision period for violations committed during the period. May, 80 Wn. App. at 713-14.

On appeal, the Court disagreed. May established a "bright-line rule," and concluded that a juvenile court's jurisdiction to enforce its disposition order terminates when the community supervision period expires, unless a violation proceeding is already pending before the court. May, 80 Wn. App. at 716-17. In distinguishing a juvenile court's authority to modify disposition orders from adult probation revocation

proceedings, which permit a sentencing court to retain jurisdiction to enforce the requirements of a sentence until they are met and/or a certificate of discharge is provided upon completion of the sentence, the Court noted that a juvenile offender, “is at the mercy of the State’s administrative bureaucracy.” May, 80 Wn. App. at 716.

The purpose behind May’s “bright-line rule” carefully limiting juvenile court jurisdiction is to protect juveniles from the same type of “administrative inertia” that occurred in this case. May, 80 Wn. App. at 716-17; see also Y.I., 94 Wn. App. at 924 (recognizing that a juvenile should not be “under constant threat of incarceration until his or her 18th birthday.”). D.D.-H. appeared before the juvenile court on four separate occasions before the 12-month supervisory period ended. CP 43 (findings of fact 2.3-2.6). Consequently, the juvenile court had ample opportunity to exercise its authority to toll D.D.-H.’s during his 12-month supervisory period. Instead, for the entire 12 months, the court inexplicably took no action with respect to tolling. No court orders were entered addressing tolled time or extending community supervision. 1RP 4; CP 43 (finding of fact 2.7). No discussions were held regarding the possibility of tolled time or community custody extensions. 1RP 4; CP 43 (finding of fact 2.7). The State made no requests that the community supervision be tolled or extended. 1RP 4. In fact, no mention whatsoever was made of tolling

until defense counsel argued that the juvenile court had lost jurisdiction to modify D.D.-H.'s community supervision pursuant to the State's March 4, 2015 notice of alleged violations. Only after the March 11, 2015 hearing, did the juvenile court decide to toll D.D.-H.'s community supervision, "even though it's later than it should have been." 1RP 25-26, 28.

To hold that a juvenile court can, for the first time, exercise its authority to toll community supervision after the supervisory period has already ended would render meaningless the "bright-line rule" that a juvenile court's jurisdiction to enforce its disposition order terminates when the community supervision period expires.

Additionally, due process concerns arise when juveniles are not, as D.D.-H. was not, given notice of the possibility of tolling or the specific facts alleging why tolling is warranted. It is well established that when a court exercises its inherent authority to toll community supervision over a probationer, the court is required "to provide notice to probationers not only of proposed revocations, but also extensions, and advise them that they have a right to a hearing." State v. Campbell, 95 Wn.2d 954, 958-59, 632 P.2d 517 (1981); See also RCW 13.40.200(2) (juvenile entitled to "same due process of law as would be afforded an adult probationer."). "Such a rule is needed because of the potential for prejudice in ex parte extensions of probation." Campbell, 95 Wn.2d at 958. Here, D.D.-H. was

not provided with notice, prior to expiration of his community supervision period on February 19, 2015, of the juvenile court's intent to extend his community supervision beyond the original 12-month period. Nor was D.D.-H. advised that he had a right to a hearing to address the tolling of supervision. Accordingly, D.D.-H.'s due process rights were also violated when the juvenile court decided to toll his community supervision after his supervisory period has already ended.

The juvenile court lost jurisdiction to modify D.D.-H.'s community supervision and disposition when it failed to exercise its authority to toll supervision before expiration of the 12-month community supervision period. The juvenile court orders modifying community supervision should be reversed, the alleged disposition violations dismissed, and D.D.-H.'s probation should be terminated.

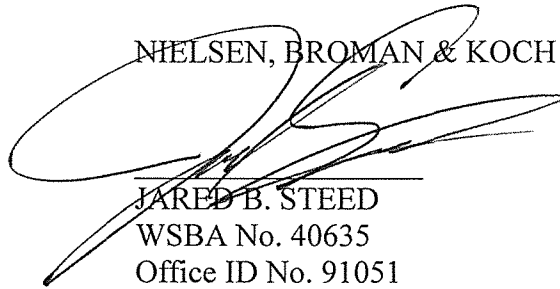
D. CONCLUSION

For the reasons set forth above, this Court should reverse the juvenile court orders modifying community supervision, dismiss the alleged violations, and terminate D.D.-H.'s probation.

DATED this 31st day of March, 2016.

Respectfully submitted,

NIELSEN, BROMAN & KOCH

A large, stylized handwritten signature in black ink, appearing to read 'Jared B. Steed', is written over a horizontal line. The signature is fluid and cursive, with a large loop at the beginning and end.

JARED B. STEED

WSBA No. 40635

Office ID No. 91051

Attorneys for Appellant

APPENDIX A

FILED IN OPEN COURT
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WHATCOM COUNTY CLERK

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By _____
Deputy

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR WHATCOM COUNTY, JUVENILE DIVISION

13	STATE OF WASHINGTON,)	
)	
15	Plaintiff,)	No. 13-8-00372-2
)	
17	vs.)	[Defense's Proposed]
)	FINDINGS OF FACT AND
19	D [REDACTED] D [REDACTED] - H [REDACTED])	CONCLUSIONS OF LAW
21	DOB: 03-28-99)	
	Respondent.)	

THIS MATTER having come on before the above-entitled Court for a Defense Motion to Dismiss a Notice of Community Supervision Violation, the State of Washington being represented by Deputy Prosecutor, Evan P. Jones, and the Respondent being represented by attorney, Mamie Lackie, and the Court having reviewed the relevant court filings, and heard the argument of counsel, now enters the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT:

1. The facts are not in dispute.
2. On February 24, 2015 a bench warrant was issued for D [REDACTED] under this cause number.
3. On February 25, 2015, D [REDACTED] was arrested and that warrant was served.
4. On February 26, 2015, a detention hearing was held for his return on the bench warrant, a probation violation hearing was scheduled for March 5, 2015, and he was held on two hundred and fifty dollars bail.
5. On March 4, 2015, the State filed a Notice of Alleged Violation of Community Supervision alleging that D [REDACTED] D [REDACTED] H [REDACTED] violated the terms of his community supervision under the above captioned cause number.
6. In the present case, a 12-month term of community supervision began on February 19, 2014, when the Respondent was adjudicated guilty of Theft 3 and Minor in Possession of Intoxicants. The Disposition Order reads at Section 4.5: COMMUNITY SUPERVISION: Count I: 12 months, Supervision beginning immediately; Count II: 12 months, Supervision beginning immediately.

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7. Following the disposition, the Respondent had several periods of warrant status, during which time he was unavailable for supervision by the Court.
8. The first warrant was issued on 2/27/14, and served on 4/25/14. A detention hearing was held on 4/28/14 where a probation violation hearing was scheduled and bail was imposed. A probation violation hearing was held on 5/1/14 and D█████'s disposition was modified by the Court.
9. The second warrant was issued on 6/09/14, and served on 6/28/14. A detention hearing was held on 6/30/14 where a probation violation hearing was scheduled and bail was imposed. A probation violation hearing was held on 7/3/14 and D█████'s disposition was modified by the Court.
10. The third warrant was issued on 9/04/14, and served on 9/20/14. A detention hearing was held on 9/22/14 where a probation violation hearing was scheduled and bail was imposed. A probation violation hearing was held on 9/25/14 and D█████'s disposition was modified by the Court.
11. The fourth warrant was issued on 11/20/14, and served on 12/20/14. A detention hearing was held on 12/22/14 where a probation violation hearing was scheduled and bail was imposed. A probation violation hearing was held on 12/30/14 and D█████'s disposition was modified by the Court.
12. No court orders were ever entered applying tolled time or extending community supervision beyond that stated in the February 19, 2014 Disposition Order and it was never discussed at any court hearings.
13. By the express terms of the February 19, 2014 Disposition Order, and absent the application of any tolled time, the 12 month term of community supervision expired on February 19, 2015.
14. The present Notice of Alleged Violations of Community Supervision contains allegations of acts/omissions occurring after February 19, 2015.
15. Besides being aware of the Respondent's time spent on warrant status, neither the Court nor the Respondent was given notice that the probation department sought to toll supervision, prior to February 19, 2015.
16. The Respondent was born on March 28, 1999 and is currently 15 years.
17. In this case, a full 12 months of community supervision was, and remains necessary to ensure best efforts at rehabilitation of the respondent. DM

Based upon the foregoing Findings of Fact the Court makes the following Conclusions of Law:

II. CONCLUSIONS OF LAW:


1. The Court has jurisdiction over a Respondent ^{and jurisdiction over the enforceability} on community supervision for each non-sex offense ~~for up to one year.~~ ^{of its Disposition Order until Respondent turns the age of 18.}
2. When a juvenile is on warrant status, and is thus not subject to the court's supervision, the Court has the authority to toll community supervision for that period.
3. In juvenile court, probation officers do not have the authority to toll supervision.

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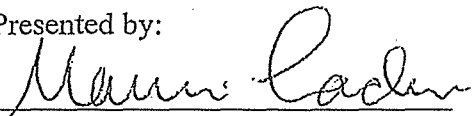
- 4. In order to facilitate the express purposes of the Juvenile Justice Act, and ensure best efforts at rehabilitation of a juvenile, a juvenile court has the inherent authority to toll a respondent's community supervision, to effectuate the original disposition order.
- 5. Therefore, the Court is now tolling D[REDACTED]'s community supervision for the period of time that he was on warrant status and unavailable for supervision: 122 days.
- 6. At this time, his community supervision will expire on June 21, 2015.
- 7. _____

Based on the foregoing Findings of Fact and Conclusions of Law, the Defense Motion to Dismiss the Notice of Alleged Violations of Community Supervision and Terminate Supervision is hereby DENIED.

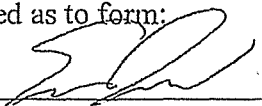
ENTERED this 22nd day of March, 2015.



 David M. Thorn
 Superior Court Commissioner

Presented by:


 Mamie Lackie WSBA #91001
 Attorney for Respondent

Approved as to form:


 Evan P. Jones, WSBA# 40608
 Deputy Prosecutor

APPENDIX B

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FILED
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WHATCOM COUNTY
WASHINGTON

BY _____

SUPERIOR COURT OF WASHINGTON COUNTY OF WHATCOM	
STATE OF WASHINGTON v. D. [REDACTED] D. [REDACTED] H. [REDACTED] Respondent(s). D.O.B.:3-28-99	No: 13-8-00372-2 FINDINGS OF FACT and CONCLUSIONS OF LAW PURSUANT TO JuCR 7.11(d)

I. HEARING

- 1.1 On July 30, 2015, the Court held a hearing on Respondent's Motion to Revise pursuant to RCW 2.24.050.
- 1.2 Persons appearing at the hearing were:
 Probation Counselor Respondent
 Prosecutor Respondent's Attorney
 Other(s) _____

II. FINDINGS

Based on the witnesses exhibits presented, and after having considered the arguments of counsel and the case record to date, the court makes the following findings:

- 2.1 On February 19, 2014, the Respondent entered a guilty plea and was sentence to 12 months of community supervision under cause number 13-8-00372-2.
- 2.2 Following disposition, the Respondent had several periods of warrant status, during which time he was unavailable for supervision by the Court.
- 2.3 The first warrant was issued 2/27/14 and served on 4/24/14. A probation violation hearing was held 5/1/14 and the Respondent's disposition was modified by the Court.
- 2.4 A second warrant was issued on 6/9/14 and served on 6/28/14. A probation violation hearing was held on 7/3/14 and the Respondent's disposition was modified by the Court.
- 2.5 A third warrant was issued on 9/4/14 and served 9/20/14. A probation violation hearing was held on 9/25/14 and the Respondent's disposition was modified by the Court.
- 2.6 A fourth warrant was issued on 11/20/14 and served 12/20/14. A probation violation hearing was held on 12/30/14 and the Respondent's disposition was modified by the Court.
- 2.7 No court orders were ever entered addressing tolled time or extending community supervision beyond that stated in the February 19, 2014 Order on Disposition, nor was it ever discussed at any court hearings.

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- 2.8 By the express terms of the February 19, 2014 Order on Disposition, and absent any application of tolled time, the 12 month term of community supervision expired on February 19, 2015.
- 2.9 On February 19, 2015 there was not an outstanding warrant nor had a Notice of Violations of Supervision been filed.
- 2.10 A fifth warrant was issued on 2/24/15 and served on 2/25/15. A Notice of Violations was filed on 3/4/15 and a probation violation hearing was held on 3/5/15, at which point the Respondent challenged the jurisdiction of the court.
- 2.11 At the Respondent's hearing challenging the jurisdiction of the court on March 11, 2015, the juvenile court ruled against the Respondent and extended the Respondent's supervision for a period of 122 calendar days.

III. CONCLUSIONS OF LAW

Based on the findings of fact, the court concludes:

- 3.1 The Juvenile Court has authority to impose a period of supervision of up to 12 months.
- 3.2 The Juvenile Court has the inherent authority to toll community supervision when a juvenile is on warrant status.
- 3.3 The rehabilitative purpose of probation is frustrated when a juvenile eludes supervision.
- 3.4 To give full effect to the purpose of the Juvenile Justice Act, the juvenile court must have a full year of supervision.
- 3.5 When the Respondent reappeared before the Court after being on warrant status on each occasion, the Court was not required to formally order a new end date to the supervision period.
- 3.6 The Respondent was not entitled to notice and an opportunity to be heard concerning the application of tolled time.
- 3.7 The juvenile court maintained jurisdiction through March 11, 2015 when it ruled on the Respondent's motion to dismiss due to the 122 days that the Respondent's supervision was tolled.

Dated: August 12, 2015

Raquel Montoya-Lewis
The Honorable Raquel Montoya-Lewis
Judge, Whatcom County Superior Court

Presented by:

Brandon M. Waldron
Brandon M. Waldron, WSBA #44374
Deputy Prosecutor

Approved as to form by:

Mamie Lackie
Mamie Lackie, WSBA #91001
Attorney for the Juvenile

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

STATE OF WASHINGTON)	
)	
Respondent,)	
)	
vs.)	COA NO. 74053-9-1
)	
D.D.-H.,)	
)	
Appellant.)	

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 31ST DAY OF MARCH, 2016, I CAUSED A TRUE AND CORRECT COPY OF THE **BRIEF OF APPELLANT** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] D.D.-H.
PARKE CREEK COMMUNITY FACILITY
11042 PARK CREEK ROAD
ELLENSBURG, WA 98926

SIGNED IN SEATTLE WASHINGTON, THIS 31ST DAY OF MARCH 2016.

X *Patrick Mayovsky*