

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON,	)	
	)	DIVISION ONE
Respondent,	)	
	)	No. 71621-2-1
v.	)	
	)	
DALE PERCIVAL,	)	UNPUBLISHED OPINION
	)	
Appellant.	)	FILED: MAY 18 2015
_____	)	

PER CURIAM — Dale Percival appeals his conviction for first degree rape of a child. He contends, and the State concedes, that an order dismissing a second count of child rape without prejudice should have dismissed *with* prejudice. The State argues, however, that a remand is unnecessary because the judgment and sentence omits the words “without prejudice” when referencing the dismissal. But this fails to unambiguously correct the error on the face of the order of dismissal. We therefore remand with directions to amend the judgment and sentence and the order of dismissal to reflect that the count was dismissed with prejudice.

Percival’s statement of additional grounds raises matters that are either outside the record on appeal or beyond the scope of review. State v. Thomas, 150 Wn.2d 821, 874-75, 83 P.3d 970 (2004), abrogated in part on other grounds by Crawford v. Washington, 541 U.S. 36, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004) (appellate court “must defer to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence”); State v. Grier, 171 Wn.2d 17, 29, 246 P.3d 1260 (2011) (matters outside the record must be raised in a personal restraint petition).

No. 71621-2-1/2

Affirmed in part and remanded in part for the court to amend the judgment and sentence and order of dismissal.

FOR THE COURT:

*Speelman C.J.*  
*Dryden J.*  
*Appelholz J.*

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