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The opinion that begins on the next page is a slip opinion. Slip opinions are the written opinions that are originally filed by the court.

A slip opinion is not necessarily the court's final written decision. Slip opinions can be changed by subsequent court orders. For example, a court may issue an order making substantive changes to a slip opinion or publishing for precedential purposes a previously "unpublished" opinion. Additionally, nonsubstantive edits (for style, grammar, citation, format, punctuation, etc.) are made before the opinions that have precedential value are published in the official reports of court decisions: the Washington Reports 2d and the Washington Appellate Reports. An opinion in the official reports replaces the slip opinion as the official opinion of the court.

The slip opinion that begins on the next page is for a published opinion, and it has since been revised for publication in the printed official reports. The official text of the court's opinion is found in the advance sheets and the bound volumes of the official reports. Also, an electronic version (intended to mirror the language found in the official reports) of the revised opinion can be found, free of charge, at this website: https://www.lexisnexis.com/clients/wareports.

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Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

THE STATE OF WASHINGTON, Respondent, v. DIONDRAE BROWN, Appellant.	No. 79954-1-I DIVISION ONE PUBLISHED OPINION

PER CURIAM—Diondrae Brown appeals the sentence imposed following his jury conviction on multiple felony counts, several of which carried firearm enhancements. He argues that the sentencing court erred by concluding that it lacked discretion to impose an exceptional sentence downward with regard to the firearm enhancements. Finding no error, we affirm.

FACTS

A jury convicted Brown of four counts of first degree robbery, one count of attempted first degree robbery, two counts of second degree assault, and one count of attempting to elude a pursuing police vehicle. Five of the convictions included firearm enhancements.

At sentencing, the State recommended a sentence of 381 months. The State's recommendation included a low-end standard range base sentence of 129 months, and five firearm enhancements running consecutively to each other and to the base sentence. Citing his history of substance abuse and mental health issues,

Brown requested the sentencing court impose an exceptional sentence below the standard range by ordering the firearm enhancements to be served concurrently. The sentencing court, relying on State v. Brown, concluded that it lacked the authority to impose concurrent sentences on firearm enhancements. 139 Wn.2d 20, 29, 983 P.2d 608 (1999) (overruled in part by State v. Houston-Sconiers, 188 Wn.2d 1, 391 P.3d 409 (2017)). The trial court imposed the State's recommended sentence. Brown appeals.

DISCUSSION

Brown's sole claim is that he is entitled to resentencing because the sentencing court erroneously believed it lacked the discretion to depart from the required term of confinement for a firearm enhancement. We disagree.

Interpretation of a statute is a question of law we review de novo. State v. Gonzalez, 168 Wn.2d 256, 263, 226 P.3d 131 (2010). Under RCW 9.94A.535, a court may impose an exceptional sentence below the standard range if it finds mitigating circumstances are established by a preponderance of the evidence and substantial and compelling reasons justify an exceptional sentence.

However, RCW 9.94A.533(3)(e) provides that "[n]notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements." In Brown, the Washington Supreme Court held that this statutory language deprives sentencing courts of the discretion to impose an exceptional sentence with regard to firearm enhancements. 139 Wn.2d at 29.

Brown cites In re Pers. Restraint of Mulholland, to argue that a sentencing court has the discretion to impose concurrent firearm enhancements despite the statutory language requiring them to be served consecutively. 161 Wn.2d 322, 166 P.3d 677 (2007). Mulholland is distinguishable. Mulholland held that RCW 9.94A.535 gives a sentencing court discretion to impose concurrent terms for serious violent offenses, despite the language of RCW 9.94A.589(1)(b), which requires that convictions for serious violent offenses "shall be served consecutively to each other." But RCW 9.94A.535 explicitly allows for a departure from RCW 9.94A.589(1) as an exceptional sentence. RCW 9.94A.533(3)(e), on the other hand, applies "[n]otwithstanding any other provision of law." Mulholland did not address RCW 9.94A.533(3)(e), and is not applicable to Brown's case.

In the alternative, Brown argues, this court should depart from Brown and adopt the reasoning in Justice Madsen's concurring opinion in Houston-Sconiers, which concluded that "the discretion vested in sentencing courts under the Sentencing Reform Act of 1981 (SRA) includes the discretion to depart from the otherwise mandatory sentencing enhancements when the court is imposing an exceptional sentence." 188 Wn.2d at 34. But Houston-Sconiers overruled Brown with regard to juveniles only, holding that the Eighth Amendment requires the court to consider "mitigating circumstances associated with the youth of any juvenile defendant." Id. at 21. Brown was 31 when he committed the crimes at issue in this appeal, and Houston-Sconiers does not apply to him. In any event, a decision by the Washington Supreme Court is binding on all lower courts of the state. State v.

Gore, 101 Wn.2d 481, 487, 681 P.2d 227 (1984). This court does not have the authority to overrule Brown.

Affirmed.

FOR THE COURT: