

March 21, 2017

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the
Personal Restraint Petition of

MARTONI E. NEWTON,

Petitioner.

No. 49462-1-II

UNPUBLISHED OPINION

LEE, P.J. — Martoni Newton seeks relief from personal restraint imposed following his 2015 plea of guilty to third degree assault.¹ The trial court sentenced him to 57 months of confinement and 12 months of community custody. He argues that the combination of those terms exceeds the 60-month statutory maximum sentence for his crime. He seeks correction of his sentence to reduce his term of community custody to 3 months. The State concedes that he is entitled to correction of his sentence under *State v. Boyd*, 174 Wn.2d 470, 275 P.3d 321 (2012).

¹ Newton filed a motion for relief from his judgment and sentence in the trial court. That court transferred his motion to us under CrR 7.8(c) to be considered as a personal restraint petition.

We accept the State's concession and remand Newton's judgment and sentence to the trial court for correction as discussed above.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.



LEE, P.J.

We concur:



MELNICK, J.



SUTTON, J.