

May 1, 2018

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the
Personal Restraint Petition of

ORLANDIS DONTE CAMPBELL,

Petitioner.

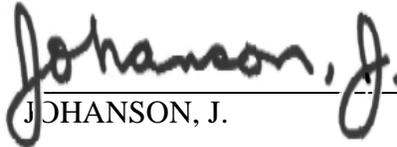
No. 50544-4-II

UNPUBLISHED OPINION

JOHANSON, J. — Orlandis Campbell seeks relief from personal restraint resulting from his 1992 convictions for conspiracy to commit first degree murder (count I) and for two counts of first degree murder (counts II and III). The trial court sentenced him using count II as the predicate offense, resulting in a total sentence of 934 months. He argues that under former RCW 9.94A.400(1)(b) (1990), the trial court was required to use count I as the predicate offense, resulting in a total sentence no longer than 920.5 months. The State concedes that under *State v. Weatherwax*, 188 Wn.2d 139, 156, 392 P.3d 1054 (2017), the trial court erred in sentencing

Campbell using count II as the predicate offense. We accept the State's concession and remand for resentencing.¹

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.



JOHANSON, J.

We concur:



WORSWICK, P.J.



BJORGEN, J.

¹ Because Campbell's judgment and sentence is facially invalid, it is not time barred by RCW 10.73.090(1). He filed an amended brief arguing that he is entitled to a new sentencing hearing under *State v. O'Dell*, 183 Wn.2d 680, 695-96, 358 P.3d 359 (2015), and *In re Personal Restraint of Light-Roth*, 200 Wn. App. 149, 163, 401 P.3d 459, *review granted*, 189 Wn.2d 1030 (2017). But we denied his motion to amend his petition to include this issue, because it would have resulted in a mixed petition, and so do not address it here. He must file a separate petition raising his issue under *O'Dell* and *Light-Roth*.