

NO. 64756-3-I

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

REC'D  
OCT 20 2010  
King County Prosecutor  
Appellate Unit

STATE OF WASHINGTON,

Respondent,

v.

DOMANIQUE MOORE,

Appellant.

2010 OCT 20 10:41:01  
JAMES D. CAYCE

ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR KING COUNTY

The Honorable James D. Cayce, Judge

BRIEF OF APPELLANT

ERIC BROMAN  
Attorney for Appellant

NIELSEN, BROMAN & KOCH, PLLC  
1908 E Madison Street  
Seattle, WA 98122  
(206) 623-2373

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A. ASSIGNMENTS OF ERROR

1. The sentencing court erred by identifying appellant's offense as a "sex offense" in the judgment and sentence. CP 97.

2. The sentencing court erred in imposing 36 months of community placement, instead of the 24-36 month range as understood by appellant and set forth by both parties in the plea agreement. CP 71, 89; 2RP 7.<sup>1</sup>

Issues Related to Assignments of Error

1. Did the sentencing court err by identifying the offense as a "sex offense" by checking the wrong box on the judgment and sentence? CP 97.

2. On remand, does the plea agreement require the imposition of a 24 to 36-month term of community custody? CP 71, 89.

B. STATEMENT OF THE CASE

On December 9, 2008, the King County prosecutor charged appellant Domanique Moore with two counts: (1) premeditated first degree murder, for the death of Steven Jackson, and (2) attempted

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<sup>1</sup> This brief refers to the report of proceedings as follows: 1RP – November 5, 2009 (trial start); 2RP – November 9, 2009 (plea hearing); 3RP – January 10, 2010 (sentencing).

first degree murder, for an accomplice's shooting of Robert Taylor. CP 1-6; RCW 9A.28.020, 9A.32.030(1)(a). The state alleged firearm enhancements for both counts. CP 1-2; RCW 9.94A.533(3).

The defense investigated DNA questions related to a handgun Jackson possessed before he was shot. CP 7-62. The case was called for trial on November 5, 2009. 1RP 1-5.

On November 9, 2009, after continued plea discussions, the information was amended to charge: (1) first degree felony murder of Jackson, committed in the course of robbery, and (2) second degree assault. CP 65-66; RCW 9A.32.030(1)(c); 9A.36.021(1)(c). For count 1 only, the state alleged a firearm enhancement. CP 65-66; RCW 9.94A.533(3). Moore pled guilty to the amended charges. 2RP 1-12; CP 68-91. After a colloquy, the court found Moore's plea was knowing and voluntary. CP 78; 2RP 12.

The defense did not dispute that Moore's offender score was two points on both counts. CP 70, 84-88; 2RP 6; 3RP 12-13. The standard range on count 1 was 261-347 months in prison; with the 60-month firearm enhancement, the enhanced range was 321-407 months. CP 86-87. Count 2 had a 12+ to 14-month standard range. CP 88.

As consideration for Moore's plea, the state agreed to reduce the charges and to recommend a 407-month sentence. The recommended community custody period for count 1 was 24-36 months. CP 84, 89; 2RP 7.

The judgment and sentence included several potential boxes the court could check when imposing community placement. One box identified the agreed 24 to 36-month community custody period for a serious violent offense committed prior to August 1, 2009, but the court did not check that box. Instead, it checked the box for "Sex Offense, RCW 9.94A.030 – 36 months – when not sentenced under RCW 9.94A.507." CP 97.

This appeal timely follows.

C. ARGUMENT

1. THE COURT MISIDENTIFIED MOORE'S OFFENSE AS A "SEX OFFENSE."

Moore's offenses occurred December 4, 2008. CP 77, 79, 93.

When imposing a sentence under Washington's Sentencing Reform Act (SRA), the court's authority is limited to that granted by statutes in effect at the time the offense was committed. RCW 9.94A.345; In re Postsentence Review of Leach, 161 Wn.2d 180, 184, 163 P.3d 782 (2007); State v. Smith, 144 Wn.2d 665, 673-75, 30 P.3d 1245, 39

P.3d 294 (2001). Because this is a question of law, a reviewing court owes no deference to the trial court's decision. State v. Armendariz, 160 Wn.2d 106, 110, 156 P.3d 201 (2007).

First degree felony murder is a serious violent offense. RCW 9.94A.030(41) (2008). It is not a sex offense. RCW 9.94A.030(42) (2008). The trial court therefore erred when identified Moore's offense as a "sex offense" in the judgment and sentence. CP 97.

The error matters for several reasons. Supervision levels are different for different offenses and offenders. RCW 9.94A.501 (2008). Community custody conditions can require an offender to participate in crime-related treatment and counseling programs. RCW 9.94A.715(2) (2008); RCW 9.94A.700(5)(c) (2008). The Department of Corrections can order additional community custody conditions the court did not initially order. CP 100; RCW 9.94A.715(2)(b) (2008); RCW 9.94A.720(1)(d) (2008). Finally, there is an obvious societal stigma that attaches to the "sex offender" label.

For these reasons, this Court should remand to direct the trial court to correct the erroneous judgment and sentence.<sup>2</sup> See, e.g.,

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<sup>2</sup> Moore's counsel is familiar with Division Three's suggestion that some errors in a judgment and sentence might be more efficiently corrected by motion in the trial court. State v. Rowland, 97 Wn. App. 301, 305-06, 983 P.2d 696 (1999). However, counsel is also familiar

State v. Moten, 95 Wn. App. 927, 929, 935, 976 P.2d 1286 (1999) (remand to correct scrivener's error referring to wrong statute on judgment and sentence form ); State v. Broadaway, 133 Wn.2d 118, 942 P.2d 363 (1997) (court has the authority to correct an erroneous sentence).

2. THE COMMUNITY PLACEMENT PERIOD IS ERRONEOUS.

In addition to erroneously identifying Moore's offense as a "sex offense," the court erred in failing to impose the 24 to 36-month period of community placement. CP 97. That period should be imposed on remand.

The plea documentation informed Moore the count 1 offense included a 24 to 36-month period of community custody. CP 71. Moore pled guilty with that understanding, answering "[y]es, sir" when the prosecutor asked if he understood his community custody range was 24 to 36 months. 2RP 7; CP 71, 78. The judgment and sentence also noted the community placement period for a serious violent offense: "[i]f crime committed prior to 8-1-09, a range of 24 to

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with Anders v. California, 386 U.S. 738, 18 L. Ed. 2d 493, 87 S. Ct. 1396 (1967) and State v. Hairston, 133 Wn.2d 534, 946 P.2d 397 (1997). Counsel was appointed to represent appellant in this Court, not the trial court, and is obliged to raise all potentially meritorious issues on appeal.

36 months.” CP 97. The prosecutor agreed to recommend the 24 to 36-month range as a material part of the state’s agreement. CP 89. The trial court should have imposed this range. In re Restraint of Isadore, 151 Wn.2d 294, 302-03, 88 P.3d 390 (2004); State v. Miller, 110 Wn.2d 528, 756 P.2d 122 (1988).

In response, the state probably should not argue that the sentencing statutes in effect in 2008 provided for a 24 to 48-month period of community custody for serious violent offenses, rather than the agreed 24 to 36-month period.<sup>3</sup> RCW 9.94A.505(2)(a) (2008); RCW 9.94A.715(1), (4) (2008); 9.94A.850 (2008); WAC 437.20.010 (2008).<sup>4</sup> Under Isadore and Miller, that difference should not matter. In re Restraint of Hudgens, 156 Wn. App. 411, 417-20, 233 P.3d 566 (2010) (accused may seek specific performance of plea agreement even where statute does not support the agreed recommendation). The plea form shows Moore was informed the range was 24 to 36 months. This was not a unilateral mistake, as both parties understood this to be true and the state agreed to recommend that range. 2RP 7; CP 71, 89. Where Moore gave up his constitutional rights as part of

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<sup>3</sup> The state is bound by its agreement to recommend the 24 to 36-month range, CP 89, and cannot undercut that recommendation.

<sup>4</sup> Copies of the cited rule and statutes are attached in appendix A.

the plea agreement, he is entitled to the benefit of the bargain. State v. Sledge, 133 Wn.2d 828, 839, 947 P.2d 1199 (1997).

D. CONCLUSION

This court should remand with directions to correctly identify Moore's offense as a serious violent offense. In accordance with the parties' agreement, the proper term of community custody is 24-36 months. CP 71, 89, 97.

DATED this 20<sup>th</sup> day of October, 2010.

Respectfully Submitted,

NIELSEN, BROMAN & KOCH, PLLC.



ERIC BROMAN, WSBA 18487  
OID No. 91051  
Attorneys for Appellant

# APPENDIX A

No. 64756-3-I

West's RCWA 9.94A.505

WEST'S REVISED CODE OF WASHINGTON ANNOTATED  
TITLE 9. CRIMES AND PUNISHMENTS  
CHAPTER 9.94A. SENTENCING REFORM ACT OF 1981

9.94A.505. Sentences

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, the court shall impose a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) RCW 9.94A.700 and 9.94A.705, relating to community placement;

(iii) RCW 9.94A.710 and 9.94A.715, relating to community custody;

(iv) RCW 9.94A.545, relating to community custody for offenders whose term of confinement is one year or less;

(v) RCW 9.94A.570, relating to persistent offenders;

(vi) RCW 9.94A.540, relating to mandatory minimum terms;

(vii) RCW 9.94A.650, relating to the first-time offender waiver;

(viii) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(ix) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(x) RCW 9.94A.712, relating to certain sex offenses;

(xi) RCW 9.94A.535, relating to exceptional sentences;

(xii) RCW 9.94A.589, relating to consecutive and concurrent sentences;

(xiii) Section 4 of this act, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; until July 1, 2000, a term of community supervision not to exceed one year and on and after July 1, 2000, a term of community custody not to exceed one year, subject to conditions and sanctions as authorized in RCW 9.94A.710 (2) and (3); and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community supervision, community placement, or community custody which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

(9) The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment must be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate.

(10) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(11) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may, as part of any term of community supervision, community placement, or community custody, order the offender to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

#### CREDIT(S)

[2006 c 73 § 6, eff. July 1, 2007; 2002 c 290 § 17; 2002 c 289 § 6; 2002 c 175 § 6; 2001 2nd sp.s. c 12 § 312; 2001 c 10 § 2. Prior: 2000 c 226 § 2; 2000 c 43 § 1; 2000 c 28 § 5; prior: 1999 c 324 § 2; 1999 c 197 § 4; 1999 c 196 § 5; 1999 c 147 § 3; 1998 c 260 § 3; prior: 1997 c 340 § 2; 1997 c 338 § 4; 1997 c 144 § 2; 1997 c 121 § 2; 1997 c 69 § 1; prior: 1996 c 275 § 2; 1996 c 215 § 5; 1996 c 199 § 1; 1996 c 93 § 1; 1995 c 108 § 3; prior: 1994 c 1 § 2 (Initiative Measure No. 593, approved November 2, 1993); 1993 c 31 § 3; prior: 1992 c 145 § 7; 1992 c 75 § 2; 1992 c 45 § 5; prior: 1991 c 221 § 2; 1991 c 181 § 3; 1991 c 104 § 3; 1990 c 3 § 705; 1989 c 252 § 4; prior: 1988 c 154 § 3; 1988 c 153 § 2; 1988 c 143 § 21; prior: 1987 c 456 § 2; 1987 c 402 § 1; prior: 1986 c 301 § 4; 1986 c 301 § 3; 1986 c 257 § 20; 1984 c 209 § 6; 1983 c 163 § 2; 1982 c 192 § 4; 1981 c 137 § 12. Formerly RCW 9.94A.120.]

West's RCWA 9.94A.700

WEST'S REVISED CODE OF WASHINGTON ANNOTATED  
TITLE 9. CRIMES AND PUNISHMENTS  
CHAPTER 9.94A. SENTENCING REFORM ACT OF 1981

9.94A.700. Community placement

When a court sentences an offender to a term of total confinement in the custody of the department for any of the offenses specified in this section, the court shall also sentence the offender to a term of community placement as provided in this section. Except as provided in RCW 9.94A.501, the department shall supervise any sentence of community placement imposed under this section.

(1) The court shall order a one-year term of community placement for the following:

(a) A sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990; or

(b) An offense committed on or after July 1, 1988, but before July 25, 1999, that is:

(i) Assault in the second degree;

(ii) Assault of a child in the second degree;

(iii) A crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender or an accomplice was armed with a deadly weapon at the time of commission; or

(iv) A felony offense under chapter 69.50 or 69.52 RCW not sentenced under RCW 9.94A.660.

(2) The court shall sentence the offender to a term of community placement of two years or up to the period of earned release awarded pursuant to RCW 9.94A.728, whichever is longer, for:

(a) An offense categorized as a sex offense committed on or after July 1, 1990, but before June 6, 1996, including those sex offenses also included in other offense categories;

(b) A serious violent offense other than a sex offense committed on or after July 1, 1990, but before July 1, 2000; or

(c) A vehicular homicide or vehicular assault committed on or after July 1, 1990, but before July 1, 2000.

(3) The community placement ordered under this section shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned release. When the court sentences an offender to the statutory maximum sentence then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible. Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(4) Unless a condition is waived by the court, the terms of any community placement imposed under this section shall include the following conditions:

(a) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(b) The offender shall work at department-approved education, employment, or community restitution, or any combination thereof;

(c) The offender shall not possess or consume controlled substances except pursuant to lawfully issued prescriptions;

(d) The offender shall pay supervision fees as determined by the department; and

(e) The residence location and living arrangements shall be subject to the prior approval of the department during the period of community placement.

(5) As a part of any terms of community placement imposed under this section, the court may also order one or more of the following special conditions:

(a) The offender shall remain within, or outside of, a specified geographical boundary;

(b) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(c) The offender shall participate in crime-related treatment or counseling services;

(d) The offender shall not consume alcohol; or

(e) The offender shall comply with any crime-related prohibitions.

(6) An offender convicted of a felony sex offense against a minor victim after June 6, 1996, shall comply with any terms and conditions of community placement imposed by the department relating to contact between the sex offender and a minor victim or a child of similar age or circumstance as a previous victim.

(7) Prior to or during community placement, upon recommendation of the department, the sentencing court may remove or modify any conditions of community placement so as not to be more restrictive.

CREDIT(S)

[2003 c 379 § 4, eff. July 1, 2003; 2002 c 175 § 13; 2000 c 28 § 22.]

West's RCWA 9.94A.715 (2008)

WEST'S REVISED CODE OF WASHINGTON ANNOTATED  
TITLE 9. CRIMES AND PUNISHMENTS  
CHAPTER 9.94A. SENTENCING REFORM ACT OF 1981

9.94A.715. Community custody for specified offenders--Conditions

(1) When a court sentences a person to the custody of the department for a sex offense not sentenced under RCW 9.94A.712, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, or when a court sentences a person to a term of confinement of one year or less for a violation of RCW 9A.44.130(10)(a) committed on or after June 7, 2006, the court shall in addition to the other terms of the sentence, sentence the offender to community custody for the community custody range established under RCW 9.94A.850 or up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer. The community custody shall begin: (a) Upon completion of the term of confinement; (b) at such time as the offender is transferred to community custody in lieu of earned release in accordance with RCW 9.94A.728 (1) and (2); or (c) with regard to offenders sentenced under RCW 9.94A.660, upon failure to complete or administrative termination from the special drug offender sentencing alternative program. Except as provided in RCW 9.94A.501, the department shall supervise any sentence of community custody imposed under this section.

(2)(a) Unless a condition is waived by the court, the conditions of community custody shall include those provided for in RCW 9.94A.700(4). The conditions may also include those provided for in RCW 9.94A.700(5). The court may also order the offender to participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community, and the department shall enforce such conditions pursuant to subsection (6) of this section.

(b) As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department under RCW 9.94A.720. The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of the offender's community custody based upon the risk to community safety. In addition, the department may require the offender to participate in rehabilitative programs, or

otherwise perform affirmative conduct, and to obey all laws. The department may impose electronic monitoring as a condition of community custody for an offender sentenced to a term of community custody under this section pursuant to a conviction for a sex offense. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring imposed under this section using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning system technology.

(c) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court imposed conditions. The department shall notify the offender in writing of any such conditions or modifications. In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

(3) If an offender violates conditions imposed by the court or the department pursuant to this section during community custody, the department may transfer the offender to a more restrictive confinement status and impose other available sanctions as provided in RCW 9.94A.737 and 9.94A.740.

(4) Except for terms of community custody under RCW 9.94A.670, the department shall discharge the offender from community custody on a date determined by the department, which the department may modify, based on risk and performance of the offender, within the range or at the end of the period of earned release, whichever is later.

(5) At any time prior to the completion or termination of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.631 and may be punishable as contempt of court as provided for in RCW 7.21.040. If the court extends a condition beyond the expiration of the term of community custody, the department is not responsible for supervision of the offender's compliance with the condition.

(6) Within the funds available for community custody, the department shall determine conditions and duration of community custody on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection.

(7) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to any of the following: (a) The crime of conviction; (b) the offender's risk of reoffending; or (c) the safety of the community.

CREDIT(S)

[2006 c 130 § 2, eff. June 7, 2006; 2006 c 128 § 5, eff. June 7, 2006; 2003 c 379 § 6, eff. July 1, 2003; 2001 2nd sp.s. c 12 § 302; 2001 c 10 § 5; 2000 c 28 § 25.]

West's RCWA 9.94A.720  
WEST'S REVISED CODE OF WASHINGTON ANNOTATED  
TITLE 9. CRIMES AND PUNISHMENTS  
CHAPTER 9.94A. SENTENCING REFORM ACT OF 1981

9.94A.720. Supervision of offenders

(1)(a) Except as provided in RCW 9.94A.501, all offenders sentenced to terms involving community supervision, community restitution, community placement, or community custody shall be under the supervision of the department and shall follow explicitly the instructions and conditions of the department. The department may require an offender to perform affirmative acts it deems appropriate to monitor compliance with the conditions of the sentence imposed. The department may only supervise the offender's compliance with payment of legal financial obligations during any period in which the department is authorized to supervise the offender in the community under RCW 9.94A.501.

(b) The instructions shall include, at a minimum, reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(c) For offenders sentenced to terms involving community custody for crimes committed on or after June 6, 1996, the department may include, in addition to the instructions in (b) of this subsection, any appropriate conditions of supervision, including but not limited to, prohibiting the offender from having contact with any other specified individuals or specific class of individuals.

(d) For offenders sentenced to terms of community custody for crimes committed on or after July 1, 2000, the department may impose conditions as specified in RCW 9.94A.715.

The conditions authorized under (c) of this subsection may be imposed by the department prior to or during an offender's community custody term. If a violation of conditions imposed by the court or the department pursuant to RCW 9.94A.710 occurs during community custody, it shall be deemed a violation of community placement for the purposes of RCW 9.94A.740 and shall authorize the department to transfer an offender to a more restrictive confinement status as provided in RCW 9.94A.737. At any time prior to the completion of an offender's term of community custody, the department

may recommend to the court that any or all of the conditions imposed by the court or the department pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the expiration of the offender's term of community custody as authorized in RCW 9.94A.715 (3) or (5).

The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(2) No offender sentenced to terms involving community supervision, community restitution, community custody, or community placement under the supervision of the department may own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the violation process and sanctions under RCW 9.94A.634, 9.94A.737, and 9.94A.740. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection has the same definition as in RCW 9.41.010.

[2003 c 379 § 7, eff. July 1, 2003; 2002 c 175 § 14; 2000 c 28 § 26.]

Wash. Admin. Code 437-20-010

WASHINGTON ADMINISTRATIVE CODE  
TITLE 437. SENTENCING GUIDELINES COMMISSION  
CHAPTER 437-20. COMMUNITY CUSTODY RANGES  
Current with amendments adopted through January 2, 2008.

437-20-010. Community custody ranges.

Offense Type	Community Custody Range
Sex Offenses (Not sentenced under RCW 9.94A.120(8))	36 to 48 months
Serious Violent Offenses	24 to 48 months
Violent Offenses	18 to 36 months
Crimes Against Persons (As defined in RCW 9.94A.440(2))	9 to 18 months
Offenses under chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.120(6))	9 to 12 months

The ranges specified in this section are not intended to affect or limit the authority to impose exceptional community custody ranges, either above or below the standard community custody range as authorized by RCW 9.94A.120(2) and pursuant to guidelines specified in RCW 9.94A.390. The community custody range for offenders with multiple convictions must be based on the offense that dictates the longest term of community custody. The community custody range for offenders convicted of an offense that falls into more than one of the five categories of offense types listed in this section must be based on the offense type that dictates the longest term of community custody.

Statutory Authority: RCW 9.94A.040(6) (rule-making authority under chapter 34.05 RCW). 00-11-052, S 437-20-010, filed 5/12/00, effective 7/1/00.

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

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STATE OF WASHINGTON,	)	
	)	
Respondent,	)	
	)	
v.	)	COA NO. 64756-3-1
	)	
DOMANIQUE MOORE,	)	
	)	
Appellant.	)	

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**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 20<sup>TH</sup> DAY OF OCTOBER, 2010, 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] DOMANIQUE MOORE  
DOC NO. 337242  
WASHINGTON STATE PENITENTIARY  
1313 N. 13<sup>TH</sup> AVNUE  
WALLA WALLA, WA 99362

**SIGNED** IN SEATTLE WASHINGTON, THIS 20<sup>TH</sup> DAY OF OCTOBER, 2010.

x *Patrick Mayovsky*

FILED  
2010 OCT 20 PM 4:02