

FILED  
Aug 19, 2016  
Court of Appeals  
Division I  
State of Washington



**COURT OF APPEALS, DIVISION I  
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

RONALD L. BROWN,

Petitioner.

SUPPLEMENTAL  
RESPONSE OF THE  
DEPARTMENT OF  
CORRECTIONS

Respondent, Department of Corrections (Department), submits this supplemental response to Mr. Brown’s personal restraint petition.

**I. ARGUMENT**

**Brown’s Consecutive Community Placement Terms Are Not Affected By RCW 9.94A.400(5)**

This Court ordered the Department to respond to Mr. Brown’s claim that he is on community supervision and that under former RCW 9.94A.400(5) (currently codified as RCW 9.94A.595(5)) the aggregate of the community supervision cannot exceed 24 months. Petitioner’ Reply Memorandum, at 3-4.

Mr. Brown is incorrect. He was not sentenced to community supervision, but to community placement, a different sentence. *See* Brown’s judgment and sentences in the Department’s Response, Exhibit 2, Attachment A, at 3; Exhibit 2, Attachment B, at 5. This Court as well as other appellate divisions held that the community placement and community supervision are different sentences. *See In re Smith*, 139 Wn.

App. 600, 605 fn. 1 (2007)(“Community supervision, community placement and community custody are different types of sentences.”) This Court explained that community supervision is similar to probation, whereby an offender is subject to crime-related prohibitions and other sentence conditions. *Id.* Community placement, on the other hand, is divided into community custody and postrelease supervision. Community custody is a portion of an offender’s confinement served in the community while the offender is monitored by DOC. *Id.* Postrelease supervision is that portion of an offender’s community placement that is not community custody. *Id.* Other appellate courts agree. *See State v. Holland*, 80 Wn. App. 1, 5 fn. 1 (1995), *abrogated on other grounds by, State v. Riles*, 135 Wn.2d 326 (1998)(“Community placement and community supervision are separate distinct sentencing terms. *See* RCW 9.94A.030(5) and (7).”); *State v. Mahone*, 164 Wn. App. 146, 149 fn. 8 (2011)(Community supervision and community placement are different types of sentences, citing to this Court’s *In re Smith*, 139 Wn. App. 600, 603 fn. 1(2007)).

This Court should reject Mr. Brown’s argument that RCW 9.94A.400(5) applies in his case. He was not sentenced to community supervision, but community placement. As this and other appellate courts held, community placement is a type of sentence distinct from community supervision. The statute, therefore, is inapplicable to Mr. Brown.

Consequently, the length of the consecutive community placement terms can exceed 24 months.

## II. CONCLUSION

For the reasons, *above*, this Court should deny relief on Brown's claim and dismiss his petition with prejudice.

RESPECTFULLY SUBMITTED this 19th day of August, 2016.

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**CERTIFICATE OF SERVICE**

I certify that on the date below I caused to be electronically filed the SUPPLEMENTAL RESPONSE OF THE DEPARTMENT OF CORRECTIONS with the Clerk of the Court using the electronic filing system and I hereby certify that I have mailed by United States Postal Service the document to the following non electronic filing participant:

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I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

EXECUTED this 19th day of August, 2016, at Olympia, WA.

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