

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

IN THE MATTER OF THE)	
PERSONAL RESTRAINT OF:)	No. 69785-4-I
)	
ANDREW LEE BRANCH, JR.,)	DIVISION ONE
)	
Petitioner.)	UNPUBLISHED OPINION
)	
)	FILED: OCT 28 2013

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 SUPERIOR COURT
 CLERK

PER CURIAM. Andrew Branch has filed a personal restraint petition challenging the sentence imposed on his convictions of 16 counts of identity theft, one count of second degree possession of stolen property, and one count of possession of cocaine in King County Superior Court No. 09-1-01621-2 SEA. We accept the State's concession that the trial court exceeded its authority in sentencing Branch on the identity theft and property counts to a term of community custody of 9-12 months in addition to a standard range term of confinement of 52 months.¹ See RCW 9.94A.701(9). Because Branch was sentenced in August 2009, the trial court, not Department of Corrections, has the obligation to reduce the term of community custody to avoid a sentence in excess of the statutory maximum. State v. Boyd, 174 Wn.2d 470, 275 P.3d 321 (2012); see also State v. Winborne, 167 Wn. App. 320, 329, 273 P.3d 454, review denied, 174 Wn.2d 1019 (2012).

¹ Possession of stolen property is not a "crime against a person" or a felony violation of RCW 69.50/52 and therefore, does not qualify for the imposition of community custody. RCW 9.94A.411.

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Accordingly, we remand to the trial court to amend the community custody term consistent with RCW 9.94A.701(9) to 8 months for Counts I through XVI. See Boyd, 174 Wn.2d at 473. The judgment and sentence should also state that no community custody is ordered for Count XVII.

Remanded.

For the court:

Specimen, A.C.J.
Leach, C.J.
Dryden, J.