

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)
)
 Respondent,) No. 70536-9-I
)
 v.) DIVISION ONE
)
 ALVIN BURNS,) UNPUBLISHED OPINION
)
 Appellant.) FILED: MAY 27 2014

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STATE OF WASHINGTON
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PER CURIAM. Alvin Burns appeals the sentence imposed following his conviction for possession of cocaine with intent to deliver. He contends the trial court erroneously included a washed out conviction in his offender score. Specifically, he contends the five-year washout period for his 2004 class C felony expired before his next conviction in 2010. But the State correctly points out, and Burns does not dispute, that the 2004 conviction for conspiracy to deliver cocaine is actually a class B felony, not a class C felony. RCW 69.50.407; State v. Mendoza, 63 Wn. App. 373, 377-78, 819 P.2d 387 (1991). Therefore, the applicable washout period is ten years, RCW 9.94A.525(2)(b), and the 2004 offense does not wash out.

Affirmed.

For The Court:

Leach, J.
Becker, J.