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

IN THE MATTER OF THE
PERSONAL RESTRAINT OF:

JOSHUA CAIN KELLERMAN,

Petitioner.

) No. 77959-1-I
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UNPUBLISHED OPINION

FILED: October 22, 2018

Per Curiam. In September 2013, Kellerman pleaded guilty to three counts of felony violation of a no contact order in Whatcom County Superior Court Cause No. 13-1-100849-4. He filed a personal restraint petition, contending that the court imposed a sentence that exceeds the five-year statutory maximum on his convictions. See RCW 26.50.110(5), RCW 9A.20.021(1)(c). The State concedes error.

We accept the State's concession that the trial court exceeded its authority in sentencing Kellerman to a twelve-month term of community custody in addition to a 60-month term of confinement. Because the trial court sentenced Kellerman to a term of confinement that is equal to the statutory maximum for the offense, the court was required under RCW 9.94A.701(9) to reduce his term of community custody to zero. See 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.

Accordingly, we grant Kellerman's petition and remand to the trial court to amend the community custody term consistent with RCW 9.94A.701(9).

No. 77959-1-1/2

For the court:

Mann, ACT

Vandenberg

Chun, J.