

SUPREME COURT OF WASHINGTON

In re the Personal Restraint of Brooks

166 Wash. 2d 664 (2009) · Decided July 23, 2009

SUMMARY

The Washington Supreme Court considered whether Jeffrey Brooks’s sentence of 120 months’ confinement plus community custody exceeded the statutory maximum for attempted first degree robbery. The court held that the amended judgment and sentence was valid because it expressly required that the combined periods of confinement and community custody not exceed the 120-month statutory maximum. The court also held that the sentence was not indeterminate and denied Brooks’s personal restraint petition.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Chambers, J.; Johnson, C.; Madsen, J.; Sanders, J.; Owens, J.; Fairhurst, J.; J.M. Johnson, J.; Stephens, J.; Seinfeld, J. Pro Tem.
JURISDICTION	Washington
DECIDED	July 23, 2009
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Brooks sought discretionary review of the denial of his personal restraint petition challenging the validity of a sentence combining 120 months of confinement with 18 to 36 months of community custody. After the State obtained an amended judgment and sentence clarifying that the combined periods could not exceed the statutory maximum, the Supreme Court considered whether the amended sentence was facially invalid.
STANDARD OF REVIEW	Questions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published, precedential Washington Supreme Court opinion
PARTIES	Jeffrey Brooks v. State of Washington

TOPICS

- state post-conviction relief
- sentencing
- post-conviction relief
- statutory interpretation
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a sentence imposing the statutory maximum term of confinement plus a term of community custody that could cause the combined sentence to exceed the statutory maximum violates the Sentencing Reform Act.
2. Whether such a sentence is indeterminate because the Department of Corrections must determine the amount of community custody served within the statutory limits.
3. Whether remand for amendment of the judgment and sentence, rather than resentencing, is an appropriate remedy.

HOLDINGS

1. A sentence combining a term of confinement and community custody that has the potential to exceed the statutory maximum is not facially invalid when the amended judgment and sentence expressly requires that the combined periods not exceed the statutory maximum.
2. The sentence was determinate and was not rendered indeterminate merely because the actual period of confinement and community custody depended in part on earned-release credits and Department of Corrections administration.
3. When a sentence's confinement and community-custody terms could potentially exceed the statutory maximum, the appropriate remedy is to remand for amendment expressly stating that the combined periods may not exceed the statutory maximum.

KEY QUOTATIONS

"We hold that when a defendant is sentenced to a term of confinement and community custody that has the potential to exceed the statutory maximum for the crime, the appropriate remedy is to remand to the trial court to amend the sentence and explicitly state that the combination of confinement and community custody shall not exceed the statutory maximum." (675)

"Because the amended judgment and sentence in this case ensures that Brooks will not serve a sentence in excess of the statutory maximum, Brooks's PRP is denied." (675)

FACTUAL BACKGROUND

A jury found Brooks guilty of three counts of first degree attempted robbery and one count of residential burglary. Attempted first degree robbery is a class B felony with a statutory maximum of 120 months. The trial court imposed 120 months of actual confinement plus 18 to 36 months of community custody, with the applicable term determined under the Sentencing Reform Act and earned-release provisions. The amended judgment and sentence clarified that the combined periods of confinement and community custody could not exceed 120 months.

PROCEDURAL HISTORY

A jury convicted Brooks in Whatcom County Superior Court of three counts of first degree attempted robbery and one count of residential burglary. The trial court imposed 120 months of confinement and 18 to 36 months of community custody. The Court of Appeals denied Brooks's personal restraint petition. On discretionary review, the commissioner conditioned denial of review on the State obtaining an amended judgment and sentence stating that confinement and community custody together could not exceed 120 months. The Supreme Court accepted review to resolve a conflict among Court of Appeals divisions and denied further relief after holding the amended sentence valid.

DISPOSITION

writ_denied

REMAND INSTRUCTIONS

For sentences of this type, the trial court should amend the judgment and sentence to state explicitly that the combined term of confinement and community custody may not exceed the statutory maximum. Brooks's amended judgment and sentence already contained that clarification, so no further relief was granted.

CASES CITED

- State v. Miller, 156 Wn.2d 23, 27, 123 P.3d 827 (2005)
- State v. Sloan, 121 Wn. App. 220, 87 P.3d 1214 (2004)
- State v. Linerud, 147 Wn. App. 944, 197 P.3d 1224 (2008)
- State v. Zavala-Reynoso, 127 Wn. App. 119, 110 P.3d 827 (2005)
- State v. Tornngren, 147 Wn. App. 556, 196 P.3d 742 (2008)
- State v. Hibdon, 140 Wn. App. 534, 166 P.3d 826 (2007)
- State v. Broadaway, 133 Wn.2d 118, 136, 942 P.2d 363 (1997)
- 1000 Friends of Wash. v. McFarland, 159 Wn.2d 165, 187 n.12, 149 P.3d 616 (2006)
- In re Registration of Elec. Lightwave, Inc., 123 Wn.2d 530, 545, 869 P.2d 1045 (1994)