**FILED**
DEC 01, 2020
Court of Appeals
Division III
State of Washington

**COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON**

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| **In the Matter of the Personal Restraint of:** | **)** | **No. 37582-0-III** |
| | **)** | **consolidated with** |
| | **)** | **No. 37679-6-III** |
| **RALPH HOWARD BLAKELY,** | **)** | |
| | **)** | **ORDER DISMISSING** |
| | **)** | **PERSONAL RESTRAINT PETITIONS** |
| **Petitioner.** | **)** | |

Ralph Blakely seeks relief from personal restraint imposed in his 2005 Grant County jury convictions of two counts of solicitation to commit first degree murder. His judgment and sentence were affirmed on appeal and a consolidated personal restraint petition was dismissed. *See State v. Blakely*, unpub. op'n nos. 24035-5-III; 25010-5-III (Wa. Ct. App. 2006), *review denied*, 161 Wn.2d 1005 (2007). The judgment and sentence was final on the date the mandate was issued: April 17, 2008. Since then, Mr. Blakely has filed at least eight additional personal restraint petitions. The petitions were all dismissed as time-barred, successive, or both. *See In re Pers. Restraint of Blakely*, order nos. 27573-6-III (Wa. Ct. App. 2008); 30566-0-III (Wa. Ct. App. 2012); 30746-8-III (Wa. Ct. App. 2012); 31536-3-III (Wa. Ct. App. 2013); 35905-1-III (Wa. Ct. App.

2018); 36503-4-III (Wa. Ct. App. 2019); and 36584-1-II (Wa. Ct. App. 2019); 37593-5-III (Wa. Ct. App. 2020).

Mr. Blakely filed the present petitions as writs of habeas corpus. The writs were transferred to this court for consideration as personal restraint petitions.[1] Because the petitions allege similar claims and include similar argument, the petitions are being consolidated.

Generally, a defendant may not collaterally attack a judgment and sentence in a criminal case more than one year after his judgment and sentence becomes final. RCW 10.73.090(1). Because Mr. Blakely filed the present petitions (numbers tenth and eleventh) more than one year after his judgment and sentence became final, the petitions are barred as untimely under RCW 10.73.090(1) unless the judgment and sentence is invalid on its face, the court lacked competent jurisdiction, or the petition is based solely on one or more of the exceptions set forth in RCW 10.73.100(1)-(6). Additionally, because the petitions are successive, the petitions must be dismissed unless Mr. Blakely certifies that he has not filed a previous petition on similar grounds and shows good cause why any new grounds were not raised in his previous petitions. RCW 10.73.140; *In re Pers. Restraint of Rudolph*, 170 Wn.2d 556, 564, 243 P.3d 540 (2010). Mr. Blakely fails to meet the burden, and therefore, Mr. Blakely fails to establish his restraint is unlawful.

Mr. Blakely's current petitions do not raise novel issues; rather, the petitions merely repeat arguments and issues previously raised and rejected including failure to receive alleged critically

[1] Mr. Blakely filed one writ in the Washington Supreme Court. The Court redesignated the writ as a personal restraint petition (no. 37679-6-III) and transferred it to this court pursuant to RAP 16.3. Mr. Blakely filed the other writ in the Walla Walla Superior Court. The superior court transferred the matter (no. 37582-0-III) to this court pursuant to CrR 7.8(c)(2).

needed medical and dental treatment. Prisoners can establish an Eighth amendment violation with respect to medical care if they can prove there has been deliberate indifference to their serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 104, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976). Differences in judgment between an inmate and prison medical personnel regarding appropriate medical diagnosis and treatment are not enough to establish a deliberate indifference claim. *See Sanchez v. Vild*, 891 F.2d 240, 242 (9th Cir. 1989).

In the present petitions, Mr. Blakely includes a declaration outlining numerous claims of medical problems. However, he fails to provide admissible medical evidence documenting or establishing his various alleged medical infirmities. The medical documentation provided by the DOC in its Response, on the other hand, demonstrates that contrary to Mr. Blakely's assertions, Mr. Blakely's concerns and medical claims have been addressed and he has not been denied care. DOC Resp. Ex. 2. Additionally, according to the DOC documentation, Mr. Blakely frequently exhibits conduct that is inconsistent with his claims of injury and pain both informally (yard time) and formally (such as in a medical exam), thus calling into question the validity of his medical claims. *Id*.

Because Mr. Blakely's claims are supported only by mere speculation and conclusory allegations, rather than a preponderance of competent, admissible evidence, Mr. Blakely fails to establish an eighth amendment violation or that his restraint is unlawful. *In re Pers. Restraint of Cook*, 114 Wn.2d 802, 813, 792 P.2d 506 (1990). Accordingly, Mr. Blakely's petitions are dismissed as frivolous, untimely, and successive. RAP 16.8.l(b); RCW 10.73.090(1); RCW 10.73.140.

**KEVIN M. KORSMO**
**ACTING CHIEF JUDGE**