

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

IN THE MATTER OF THE  
PERSONAL RESTRAINT OF:

MATTHEW WRIGHT,

Petitioner.

No. 83954-3-I

ORDER OF DISMISSAL

In January 1994, Matthew Wright was sentenced to 34 months for third degree rape of a child in King County Superior Court No. 93-1-00469-5. In March 1994, he was sentenced to 494 months for first degree murder in King County Superior Court No. 93-1-03427-6, which ran consecutive to his third degree rape of a child conviction. The trial court ordered up to two years of community placement on each offense.

The Department of Corrections determined Wright's earned release date (ERD) on the child rape conviction was May 8, 1995. At that point, Wright began serving his sentence for murder, which he continues to serve. The Department calculated the ERD on Wright's current sentence to be May 5, 2030.

In March 2020, the Department informed Wright that he needed to have an approved release plan prior to the maximum expiration date of March 16, 2031 on the child rape conviction. He filed a complaint with the Department seeking clarification on how he could lose ERD credits from his child rape sentence. In a September 2021 response, the Department informed Wright that he would be

subject to confinement to his maximum expiration pursuant to Policy 350.200, not due to a loss of good time credits.

In April 2022, Wright filed this personal restraint petition challenging the Department's calculation of his ERD on his child rape sentence. The Department filed a response in opposition and Wright filed a reply.

To prevail here, Wright must demonstrate that his current restraint is unlawful. See RAP 16.4; In re Pers. Restraint of Cashaw, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994). As demonstrated by his briefing, Wright's claim of unlawful restraint turns on his belief that the Department "retroactively decertified good conduct time" from his child rape sentence "after that term of incarceration was certified closed." A review of the record, however, does not support Wright's claim.

There is no record of the Department retroactively decertifying Wright's ERD related to or taking any good conduct time credits away from his child rape sentence.<sup>1</sup> Rather, it appears that the Department simply advised Wright of its need to obtain and approve a release plan from him prior to releasing him early into community custody, as statutorily required:

- (a) A person who is eligible for earned early release as provided in this section and who will be supervised by the department . . . , shall be transferred to community custody in lieu of earned release time;
- (b) The department shall, as part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

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<sup>1</sup> The most recent disciplinary infraction Wright received was in September 2013.

- (c) The department may deny transfer to community custody in lieu of earned release time if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody[.]

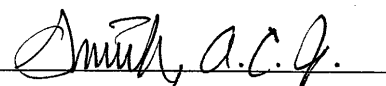
RCW 9.94A.729(5)(a)-(c).

The Department asserts that it has not made any decisions on transferring Wright to community custody on the child rape sentence because he is still serving his first degree murder sentence. Thus, it contends, "Wright's petition challenges a hypothetical future situation: if Wright fails to provide an approved release address by the time he reaches the Murder in the First Degree's ERD, the Department cannot transfer him to community custody on the Rape of a Child Third Degree." The record shows that Wright has not yet submitted a release plan and the Department has not yet approved or denied his plan.

Because Wright fails to establish that his restraint is unlawful, his petition must be dismissed. In re Pers. Restraint of Khan, 184 Wn.2d 679, 686-87, 363 P.3d 577 (2015).

Now, therefore, it is hereby

ORDERED that this personal restraint petition is dismissed under RAP 16.11(b).

  
Acting Chief Judge