

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

IN THE MATTER OF THE	)	
PERSONAL RESTRAINT OF:	)	No. 76781-0-I
	)	
ROBERT WAYNE WEED,	)	ORDER OF DISMISSAL
	)	
Petitioner.	)	
_____	)	

Robert Weed filed a personal restraint petition challenging the calculation of his early release date for the sentence imposed following his Alford<sup>1</sup> plea to felony violation of a court order in King County Superior Court No. 16-1-01506-5 KNT by the Department of Corrections (DOC). In order to obtain relief by means of a personal restraint petition, Weed must demonstrate that he is being unlawfully restrained. See In re Pers. Restraint of Cashaw, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994); RAP 16.4.

Weed claims that he is unlawfully restrained because the DOC has failed to properly award him credit for good time earned in jail. Regardless of the merits of this issue, Weed has been released from DOC custody. Therefore, he is no longer restrained or otherwise prejudiced by the manner in which the DOC calculated his available credits. His claim is therefore moot. See In re Pers. Restraint of Cross, 99 Wn.2d 373, 376-77, 662 P.2d 828 (1983) (a claim is moot if the court can provide no effective relief).

In reply, Weed maintains that his claim is not moot because he is still serving a 12-month term of community custody and contends that the termination

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<sup>1</sup> North Carolina v. Alford, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970).

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date of his community custody should be modified to reflect the credit he was denied. But in fact, a term of community custody cannot be adjusted to reflect any excess time that a defendant spent in confinement. State v. Jones, 172 Wn.2d 236, 248-49, 257 P.3d 616 (2011). "By design, the whole 'period' of community custody must be served in the community.... [A]ny time an offender spends in jail does not count toward serving a community custody sentence." In re Pers. Restraint of Dalluge, 162 Wn.2d 814, 815, 177 P.3d 675 (2008).

Accordingly, because this court cannot provide effective relief, the petition shall be dismissed.

Now, therefore, it is hereby

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

Done this 9<sup>th</sup> day of April, 2018:

Mann, ACT  
Acting Chief Judge

FILED  
APPEALS DIV 1  
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STATE OF WASHINGTON  
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