

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

FILED
COURT OF APPEALS
DIVISION II
2015 OCT 13 PM 1:03
STATE OF WASHINGTON
BY DEPUTY

In re the
Personal Restraint Petition of

MICHAEL A. ABERLE,

Petitioner.

No. 47848-0-II

ORDER DISMISSING PETITION

Michael A. Aberle seeks relief from personal restraint imposed after the Department of Corrections (DOC) terminated his early release and returned him to prison to serve the remainder of his sentence. Aberle contends that DOC lacked authority to rescind his earned early release credit.

This is the second petition that Aberle has filed concerning DOC's decision to return him to prison without crediting him for his earned early release time. This court dismissed Aberle's first petition on April 13, 2015 after finding authorization for DOC's action in *In re Pers. Restraint of Flint*, 174 Wn.2d 539 (2012) and former RCW 9.94A.737(1)(2005). No. 46821-2-II.

RCW 10.73.140 requires this court to dismiss a personal restraint petition if the petitioner has filed a previous petition raising the same grounds for review. A good cause exception applies to this successive petition prohibition where there has been a material intervening change in the law. *In re Pers. Restraint of Perkins*, 143 Wn.2d 261, 267 (2001); *In re Pers. Restraint of Holmes*, 121 Wn.2d 327, 331 (1993). Aberle does not

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cite any change in the law that warrants reconsideration of the earned time credit issue.

Accordingly, it is hereby

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

DATED this 13th day of October, 2015.



Acting Chief Judge, Pro Tem

cc: Michael A. Aberle
Dept. of Corrections
Cowlitz County Cause No. 06-1-00801-1
Timothy N. Lang, Department Of Corrections