

RICHARD D. JOHNSON,  
Court Administrator/Clerk

*The Court of Appeals  
of the  
State of Washington*

DIVISION I  
One Union Square  
600 University Street  
Seattle, WA  
98101-4170  
(206) 464-7750  
TDD: (206) 587-5505

October 28, 2016

Department of Corrections A.G. Office  
Attorney at Law  
PO Box 40116  
Olympia, WA 98504-0116

Mandy Lynn Rose  
Attorney General of Washington  
PO Box 40116  
Olympia, WA 98504-0116

Peter Daniel Ansell  
#331217  
MCC/WSRU  
PO Box 777  
Monroe, WA 98272

CASE #: 74729-1-I  
Personal Restraint Petition of Peter Daniel Ansell

Counsel:

Enclosed please find a copy of the Order Dismissing Personal Restraint Petition entered by this court in the above case today.

Pursuant to RAP 16.14(c), "the decision is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in Rule 13.5A."

This court's file in the above matter has been closed.

Sincerely,



Richard D. Johnson  
Court Administrator/Clerk

emp

Enclosure

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

In the Matter of the Personal	)	
Restraint of:	)	No. 74729-1-I
	)	
PETER ANSELL,	)	ORDER OF DISMISSAL
	)	
Petitioner.	)	
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Peter Ansell is serving a sentence imposed upon his plea to three counts of first-degree child molestation in King County Cause No. 08-1-04249-5 SEA. He now files this personal restraint petition. Ansell challenges the characterization by the Department of Corrections (DOC) of sex offender treatment as "court ordered" in its internal computer system (OMNI). He claims this 2011 entry in his internal OMNI file is inconsistent with his judgment and sentence and must be removed from the OMNI system. To prevail here, however, a petitioner must establish both (1) that he is currently being restrained and (2) that the restraint is unlawful. See In re Pers. Restraint of Cashaw, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994); RAP 16.4.

As a condition of Ansell's 2009 judgment and sentence, the sentencing court ordered that he obtain a sexual deviancy evaluation and follow all treatment recommendations. In 2012, the court entered an order modifying Ansell's judgment and sentence with respect to the no-contact order restricting his contact with his biological children. The amended order prohibits contact until Ansell rebuts the presumption of harm set forth by statute, RCW 26.09.191(2)(f). In making this determination, the court will consider Ansell's participation in prison-based or community-based sex offender treatment and the results of or his progress in such treatment.

Ansell challenges only the language of the OMNI entry and the characterization of the treatment as "court ordered." He does not allege that the DOC has unlawfully imposed sex offender treatment as a condition of his incarceration. It appears that Ansell was referred to the DOC's Sex Offender Treatment Program (SOTP) based upon a voluntary request.

Nevertheless, it appears that it would be within the DOC's authority to impose sex offender treatment as a condition of his incarceration. See RCW 9.94A.704 (DOC is authorized by statute to impose additional conditions of supervision as long as they do not contravene or diminish the conditions imposed by the court). DOC policy 390.600 also authorizes the DOC to impose conditions of imprisonment to enforce the judgment and sentence, and to address issues of safety, security, community, and behavioral issues. Because the "operation of a correctional institution is at best an extraordinarily difficult undertaking," prison officials require broad discretionary authority. Wolff v. McDonnell, 418 U.S. 539, 566, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974); Bell v. Wolfish, 441 U.S. 520, 527, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979). Because participation in prison-based sex offender treatment is consistent with Ansell's judgment and sentence, he would be unable to demonstrate that such a condition is unreasonable or would not further valid penological objectives.

Neither In re Capello, 106 Wn. App. 576, 24 P.3d 1074 (2001) nor Dress v. Washington State Dept. of Corrections, 168 Wn. App. 319, 337-38, 279 P.3d 875 (2012), suggests that the OMNI entry modifies Ansell's judgment and sentence. In Capello, this court held that, because the trial court had specifically declined to impose this optional condition at sentencing, the DOC acted without authority when it required

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Capello to obtain a pre-approved residence location before transferring him to community custody. Capello, 106 Wn. App. at 584. And Dress stands for the proposition that the DOC is not authorized to modify or ignore terms of the judgment and sentence, even if erroneous. Dress, 168 Wn. App. at 337-38.

The DOC contends that the language of the OMNI entry is accurate because the court ordered Ansell to follow obtain an evaluation *and* follow treatment recommendations and required him to participate in sex offender treatment should he seek to modify the order prohibiting contact with his children. But even assuming that sex offender treatment is not properly described as court ordered in the absence of an evaluation recommending such treatment, Ansell fails to establish that imprecision in the language in the OMNI system amounts to unlawful restraint. As explained, Ansell does not allege that the DOC is requiring his participation in SOTP, nor does it appear that it lacks authority to do so. Ansell does not identify the practical effect of the entry in his file. It is does not appear that the language of the notation is unlawful or that Ansel is restrained on account of the entry.

In sum, Ansell has not demonstrated that he is subject to any unlawful restraint, nor established any other basis for relief.

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Now, therefore, it is hereby

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

Done this 28<sup>th</sup> day of October 2016.

Trickey, ACT

Acting Chief Judge

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2016 OCT 28 AM 9:15

