

Basra contends that DOC's restrictions on incoming third-party correspondence violate his First Amendment right to free speech. "A prisoner retains those First Amendment rights that are consistent with his status as a prisoner or with the legitimate penological objectives of the corrections system." In re Pers. Restraint of Parmelee, 115 Wn. App. 273, 281, 63 P.3d 800 (2003). "As a condition of confinement, an inmate's First Amendment right to send and receive mail lawfully may be restricted by prison regulations reasonably related to legitimate penological interests." Livingston v. Cedeno, 164 Wn.2d 46, 56, 186 P.3d 1055 (2008). As this court recently held in an unpublished decision, Stephens v. Dep't of Corr., noted at 192 Wn. App. 1060 (2016), DOC Policy 450.100 as it relates to third party correspondence is reasonably related to legitimate penological goals and does not violate the First Amendment.

Basra next contends that DOC is violating the PRA by refusing to provide him with his mail. But the PRA "only requires that agencies 'make available' public records – it does not require agencies to guarantee disclosure or guarantee that mailed documents will be physically received by the person making the request." Livingston v. Cedeno, 135 Wn. App. 976, 980, 146 P.3d 1220 (2006). Under RCW 72.09.530, DOC "has broad discretion to deny entry of any materials it determines may threaten legitimate penological interests, without exception for public records." Livingston v. Cedeno, 164 Wn.2d 46, 52, 186 P.3d 1055 (2008).

Moreover, despite Basra's claim, Basra is not being prevented from reading the case or possessing a copy of it. As DOC points out, Basra has

access to the law library and can read or print the case during his law library use. DOC also notes that Basra may make his own public records request and have it sent directly to him instead of through a third party.

Because Basra has not demonstrated an entitlement to relief in this proceeding, the petition is dismissed.¹ Now, therefore, it is hereby

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

Done this 28th day of September, 2017.

Trickey, ACTJ
Acting Chief Judge

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¹ Basra's request for attorney fees and costs is denied.