

Hoyt, Trina (ATG)

From: ATG MI COR Oly CE Reader
Sent: Tuesday, April 28, 2015 10:28 AM
To: Ronning, Kate (ATG); Hoyt, Trina (ATG)
Subject: FW: D2 469731--PERSONAL RESTRAINT PETITION OF GERALD LEE BELGARD--Perfection Notice
Attachments: Belgard Order Dismissing Petition.pdf
Importance: High

State court strike re RAP 16.11(b)

From: Mitchell, Christina [mailto:Christina.Mitchell@courts.wa.gov]
Sent: Tuesday, April 28, 2015 10:19 AM
To: ATG MI COR Oly CE Reader; KCPA@co.kitsap.wa.us
Subject: D2 469731--PERSONAL RESTRAINT PETITION OF GERALD LEE BELGARD--Perfection Notice
Importance: High

Office Hours

9:00 am to 12:00 pm
1:00 pm to 4:00 pm

You may file documents electronically as provided below. Briefs are considered filed as of the postmark date. RAP 18.5(c). Briefs may only be filed electronically through the portal website. Close of business remains 5 pm .

To Counsel and Interested Parties:

Attached is a Perfection Notice filed today, 4/28/2015.

This will be the only notice you will receive from the court.

The court requests that motions and other correspondence be sent to coa2filings@courts.wa.gov, or, if counsel has a JIS USERID (can access SCOMIS/ACORDS), please use the newly established attorney portal at <http://www.courts.wa.gov/coa2efiling>. If you have difficulty accessing or using either method, please contact this office. When filing electronically, please do NOT follow up with a paper copy.

Please contact the court at (253) 593-2970 if you have any questions or comments.

Thank you.

Christina M. Mitchell
Case Manager

*doc saved
not in LM #1065644
State Strike
copy*

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In re the
Personal Restraint Petition of

GERALD L. BELGARD,

Petitioner.

No. 46973-1-II

ORDER DISMISSING PETITION

FILED
COURT OF APPEALS
DIVISION II
2015 APR 28 AM 10:09
STATE OF WASHINGTON
BY *[Signature]*
DEPUTY

Gerald L. Belgard has filed a personal restraint petition accusing the Kitsap County Jail Records Department of tampering with his 1992 judgment and sentence. Belgard contends that the records department deleted some of his jail time credit and that his maximum release date was extended as a result. Belgard also argues that the records department altered his term of community supervision.¹

To be entitled to relief, Belgard must show that he is under unlawful restraint. RAP 16.4(a); *In re Pers. Restraint of Grantham*, 168 Wn.2d 204, 212-13 (2010). Belgard contends that his original judgment and sentence gave him credit for 53 days of confinement, 143 days of jail time, and 25 days of good conduct time, and that a subsequent judgment and sentence shows that he received credit for only 53 days.

¹ Belgard filed a reply brief raising additional issues and a motion making new allegations about the manner in which the Department of Corrections (DOC) handles confidential information. We decline to consider these new issues under RAP 10.1(c) and deny the motion.

*Doc not entered in
Lm# 10656949
State Strick
only?*

The Department of Corrections (DOC) explains that Belgard's judgment and sentence initially gave him credit for only 53 days. He received additional credit for 143 days of jail time and 25 days of good conduct time, and a revised jail certification showed that his correct jail time credit was 150 days and the jail good time was 27 days. DOC applied this additional credit to Belgard's sentence.

Belgard's judgment and sentence has always included a two-year term of community placement. Former RCW 9.94A.120(8)(b) (1991). The fact that alternative language allowing for a lesser term was crossed out does not indicate fraud.

DOC explains further that Belgard's maximum release date changed because he was reincarcerated following his early release and served 73 days on unrelated charges. His 1992 sentence was tolled during that 73-day period. *See In re Pers. Restraint of Costello*, 131 Wn. App. 828, 833 (2006) (credit not allowed for time served on other charges); former RCW 9.94A.120(14) (same). This tolling changed his release date from June 7, 2016, to August 20, 2016.

Belgard does not show that his restraint is unlawful. Accordingly, it is hereby ORDERED that this petition is dismissed under RAP 16.11(b), and the petitioner's motion for the appointment of counsel is denied.

DATED this 28th day of April, 2015.



Acting Chief Judge, Pro Tem

cc: Gerald L. Belgard
Dept. of Corrections
Kitsap County Cause No. 92-1-00184-3
Randall A. Sutton, Deputy Prosecuting Attorney
Timothy N. Lang, Department Of Corrections
Ronda D. Larson, Assistant Attorney General, Corrections Division