

June 1, 2023

# IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

## DIVISION II

In the Matter of the Personal Restraint of:

MATTHEW BLEVINS,

Petitioner.

No. 57550-7-II

ORDER DISMISSING PETITION

Matthew Blevins currently is incarcerated at the Airway Heights Corrections Center. Blevins filed this petition challenging the conditions of confinement during the response to the COVID-19 pandemic.<sup>1</sup>

Blevins argues in her personal restraint petition (PRP) that (1) the Department of Corrections' (DOC) negligent response to COVID-19 violated the Eighth Amendment to the United States Constitution and disregarded her safety and well-being, (2) DOC disregarded proper cell assignment procedures for transgender inmates creating a severe risk of harm to her physical and mental well-being, and (3) DOC has violated the Americans with Disabilities Act (ADA), committed discriminatory acts that caused severe emotional distress, and retaliated against her. Blevins also is claiming relief under 42 U.S.C. § 1983 for civil rights violations and seeks "to recover Distress; And for all costs unto this litigation. Injunctive relief, Punitive, Declaratory & any other costs the court might deem/find favorable & compensatory relief." Petition at 17.

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<sup>1</sup> Blevins' motion to appoint counsel is denied.

Blevins claims regarding damages related to the violations of the ADA, discrimination, retaliation, emotional distress, and civil rights violations are not properly raised in a PRP, and must be raised in a separate legal action. “It is well-settled that a demand for monetary damages is not actionable by personal restraint petition.” *In re Pers. Restraint of Williams*, 171 Wn.2d 253, 256, 250 P.3d 112 (2011). And relief in a PRP is limited to ordering removal of the illegal restraint. *In re Pers. Restraint of Sappenfield*, 138 Wn.2d 588, 595, 980 P.2d 1271 (1999).

Further, Blevins’ challenges to her conditions of confinement, specifically the Department’s response to COVID-19 and Blevins’ cell assignments, are insufficient to show she is entitled to relief. To obtain relief through a PRP, petitioners challenging the conditions of their confinement must show they are being unlawfully restrained under RAP 16.4 *In re Pers. Restraint of Williams*, 198 Wn.2d 342, 352, 496 P.3d 289 (2021). RAP 16.4(c)(6) provides that restraint is unlawful if “[t]he conditions or manner of the restraint of petitioner are in violation of the Constitution of the United States or the Constitution or law of the State of Washington.”

The petitioner must state the “facts upon which the claim of unlawful restraint of petitioner is based and the evidence available to support the factual allegations.” RAP 16.7(a)(2). Therefore, the petitioner must state with particularity facts that, if proven, would entitle the petitioner to relief. *In re Pers. Restraint of Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992). The petitioner must demonstrate they have competent, admissible evidence supporting the allegations. *In re Pers. Restraint of Yates*, 177 Wn.2d 1, 18, 296 P.3d 872 (2013). Bald assertions and conclusory allegations are not sufficient. *Rice*, 118 Wn.2d at 886.

Here, Blevins does not allege particular facts to support her allegations that DOC created unconstitutional conditions of confinement in its COVID-19 response or in her cell assignments. Instead, Blevins offers only general, vague, conclusory allegations. For example, Blevins claims:

Defendant(s) did show lack of concern & Neglect safety, well-being & wellfare [sic] of plaintiff by their failing & failure to respond properly & or protect, putting one's health, safety unto covid protocols, procedures, guidelines, violating policies, state laws, statutes & Regulations. As to lack of covid protective gear, gloves, gowns, masks, Per mandatory postings, memos, rules, covid standards which Defendants failed to follow & Neglected such protocol & practices of/unto procedures.

PRP at 8. And as to the cell assignment, Blevins asserts:

As Defendant(s) ignored further Plaintiffs housing/cell assignment putting anyone random in my cell jeopardizing my safety; As being transgender Defendant(s) ignored proper cell assignment procedures as to transgender cell protocol. WDOC policy 490.700 As by putting random or moving plaintiff random puts at severe risk and harm, further threatens sanity & well-being, which defendants can not [sic] do.

PRP at 12. These general, vague, conclusory allegations do not state with particularity facts that would entitle Blevins to relief. Therefore, Blevins' petition is insufficient to show that she is subject to unlawful restraint.

Accordingly, it is hereby

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

  
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Acting Chief Judge, Pro Tem

cc: Matthew Blevins  
Alicia Mac