

Renee S. Townsley
Clerk/Administrator

(509) 456-3082
TDD #1-800-833-6388

*The Court of Appeals
of the
State of Washington
Division III*

500 N Cedar ST
Spokane, WA 99201-1905

Fax (509) 456-4288
<http://www.courts.wa.gov/courts>



February 15, 2017

Christopher Rosario Bojorquez
#324622 16J-04054
C/O Yakima County Dept. of Corrections
111 N. Front Street
Yakima, WA 98901

E-mail:
Timothy Norman Lang
Alex A Kostin
Office of the Attorney General
PO Box 40116
Olympia, WA 98504-0116

CASE # 344029
Personal Restraint Petition of Christopher Rosario Bojorquez
YAKIMA COUNTY SUPERIOR COURT No. 071026831

Dear Counsel and Mr. Bojorquez:

Enclosed is a copy of the Order Dismissing Personal Restraint Petition filed by this Court today in the above-referenced case.

In accordance with RAP 16.14(c) and RAP 13.5 A, review of this Order may be obtained only by filing a Motion for Discretionary Review in the Washington State Supreme Court within 30 days after the filing of this Order. A copy must be filed with the Court of Appeals.

The address for the Washington State Supreme Court is Temple of Justice, P. O. Box 40929, Olympia, WA 98504-0929.

Sincerely,

Renee S. Townsley
Clerk/Administrator

RST:ko
Enclosure

COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

In the Matter of the Personal Restraint)	34402-9-III
of:)	
)	
)	
CHRISTOPHER ROSARIO BOJORQUEZ,)	ORDER DISMISSING
)	PERSONAL RESTRAINT
Petitioner.)	PETITION
)	

Christopher Rosario Bojorquez was convicted in 2008 of first degree burglary (a felony), first degree unlawful possession of a firearm (a felony), and harassment of another (a gross misdemeanor). The Yakima County Superior Court sentenced him to concurrent sentences of 48 months for the felonies plus a 60-month firearm enhancement. The court also sentenced him to 365 days in the Yakima County Jail for the gross misdemeanor. Mr. Bojorquez completed his felony sentences in the Department of Corrections (DOC) in May 2016 and then was transferred to the Yakima County Jail to begin serving the gross misdemeanor sentence. He seeks relief from personal restraint, contending the DOC improperly credited 350 days of presentence time served toward his felony sentences rather than toward his gross misdemeanor sentence.

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Mr. Bojorquez has not had an alternate opportunity for judicial review of the DOC action. Consequently, he need only show that he is unlawfully restrained. RAP 16.4; *In re Pers. Restraint of Grantham*, 168 Wn.2d 204, 214, 227 P.3d 285 (2010).

Under RCW 9.94A.729(1)(b), county jails are required to provide the DOC with documentation certifying the amount of time an inmate spent in custody at the jail before the inmate was transported to the DOC, plus the amount of early release time earned during that period. The inmate is entitled to credit for all confinement time served before sentencing if that confinement was solely related to the offense for which the inmate is being sentenced. RCW 9.94A.505(6). The county jail here certified to the DOC that Mr. Bojorquez served 350 days of presentence confinement before he was sentenced for these offenses, plus 175 days of jail good time earned. The DOC properly credited that time against Mr. Bojorquez's time served in the DOC facility for the felony sentences. RCW 9.94A.729(1)(b).

As Mr. Bojorquez notes, the record of the sentencing hearing shows that the judge told him the "vast majority" of the presentence credit for time served would be credited against his gross misdemeanor jail sentence, "and that sentence will be deemed served." Petition, appendix II. But the sentencing judge misspoke. The DOC, which received the time-served certification from the county jail, properly applied the credit for that

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presentence time against the only sentences over which it had jurisdiction: the felonies.

See RCW 9.94A.729(1)(b).

Accordingly, the petition is dismissed as frivolous. RAP 16.11(b). The court also denies Mr. Bojorquez's request for appointment of counsel. *In re Pers. Restraint of Gentry*, 137 Wn.2d 378, 390, 972 P.2d 1250 (1999); RCW 10.73.150.


ROBERT E. LAWRENCE-BERREY
ACTING CHIEF JUDGE