

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

IN THE MATTER OF THE  
PERSONAL RESTRAINT OF:

CARL ALONZO BROOKS,  
  
Petitioner.

No. 82555-1-I

ORDER OF DISMISSAL

In 1978, Carl Brooks pleaded guilty to three counts of first degree robbery, first degree rape, first degree kidnapping, second degree murder, first degree assault, and first degree burglary in King County Superior Court No. 1-84744. Brooks did not appeal, so his judgment and sentence became final when entered in May 1978. RCW 10.73.090(3)(a).

Under the sentencing statutes then in effect, Brooks received an indeterminate sentence and the former Board of Prison Terms and Paroles set four consecutive minimum terms totaling 90 years. Brooks has been paroled from his first minimum term, and at his most recent parolability hearing on his second minimum term, the Indeterminate Sentencing Review Board (ISRB) denied parole and added 60 months to the term. Brooks disagreed with the decision and filed a personal restraint petition,<sup>1</sup> which the Washington Supreme Court ultimately granted, holding that

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<sup>1</sup> Over the years, Brooks has filed numerous personal restraint petitions. See No. 82983-1-I; No.

No. 82555-1-I/2

Brooks is entitled to an early release hearing under RCW 9.94A.730. In re Pers. Restraint of Brooks, 197 Wn.2d 94, 102, 480 P.3d 399 (2021). The court remanded to the ISRB to hold an early release hearing for Brooks but stressed such a hearing “does not guarantee that the petitioner will be released.” Id.

Brooks filed this personal restraint petition in April 2021, arguing that (1) the ISRB must resentence him under the new sentencing rules for juvenile offenders, which apply to him retroactively pursuant to In re Pers. Restraint of Ali, 196 Wn.2d 220, 474 P.3d 507 (2020) and In re Pers. Restraint of Domingo-Cornelio, 196 Wn.2d 255, 474 P.3d 524 (2020); (2) his guilty plea must be “dismissed” due to “outrageous prosecutor misconduct” because he suffered physical injuries and post-traumatic stress disorder (PTSD) following his April 2010 suicide attempt; (3) “prejudicial ineffective assistance” resulted in substantial personal injuries suffered from his 2010 suicide attempt; and (4) the presentence report was fabricated and fraudulent. In lieu of a response, the State and the ISRB jointly filed a motion to dismiss the petition as mixed. Brooks filed a response to the motion.

Generally, personal restraint petitions must be filed within one year after the judgment and sentence becomes final. RCW 10.73.090. Thus, Brooks’s collateral attack is time-barred under RCW 10.83.090(1) unless he can show that (1) his judgment and sentence is facially invalid or was not entered by a court of competent jurisdiction or (2) an exception under RCW 10.73.100 applies. As the petitioner,

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82226-8-I; No. 80941-5-I; No. 79757-3-I; No. 79541-4-I; No. 78980-5-I; No. 78381-5-I; No. 75098-4-I; No. 71582-8-I; No. 63630-8-I; No. 63630-8-I; No. 54626-1-I; No. 54411-8-I; No. 52825-4-I; No. 49219-5-I; No. 46891-0-I; No. 42680-0-I; No. 38063-0-I; No. 35043-9-I; and No. 23694-6-I.

Brooks bears the burden of showing that his petition was timely filed. In re Pers. Restraint of Quinn, 154 Wn. App. 816, 833, 226 P.3d 208 (2010).

Brooks does not contend that his judgment and sentence is invalid on its face, nor does he identify a specific exception applicable to each challenge he is attempting to assert. While Brooks's claim that the holdings in Ali and Domingo-Cornelio apply retroactively to him potentially qualifies as an exception under RCW 10.73.100(6), his remaining claims (for plea withdrawal, ineffective assistance of counsel, and fraud) are clearly not issues that qualify under any of the exceptions identified in RCW 10.73.100.<sup>2</sup> Accordingly, Brooks has at best presented a "mixed petition," which is a petition containing at least one time-barred matter, which must be dismissed. In re Pers. Restraint of Hankerson, 149 Wn.2d 695, 702-03, 72 P.3d 703 (2003). Where one claim is time-barred, the appellate court "will not analyze every claim that is raised in order to determine or advise which claims are time barred

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<sup>2</sup> "The time limit specified in RCW 10.73.090 does not apply to a petition or motion that is based solely on one or more of the following grounds:

- (1) Newly discovered evidence, if the defendant acted with reasonable diligence in discovering the evidence and filing the petition or motion;
- (2) The statute that the defendant was convicted of violating was unconstitutional on its face or as applied to the defendant's conduct;
- (3) The conviction was barred by double jeopardy under Amendment V of the United States Constitution or Article I, section 9 of the state Constitution;
- (4) The defendant pled not guilty and the evidence introduced at trial was insufficient to support the conviction;
- (5) The sentence imposed was in excess of the court's jurisdiction; or
- (6) There has been a significant change in the law, whether substantive or procedural, which is material to the conviction, sentence, or other order entered in a criminal or civil proceeding instituted by the state or local government, and either the legislature has expressly provided that the change in the law is to be applied retroactively, or a court, in interpreting a change in the law that lacks express legislative intent regarding retroactive application, determines that sufficient reasons exist to require retroactive application of the changed legal standard."

RCW 10.73.100.

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and which are not, nor will it decide claims under RCW 10.73.100 that are not time barred.” Id. at 703. However, “any claim that is not time barred may be refiled without danger of untimeliness.” Id. at 702.

In addition, Brooks has not met his obligation under RCW 10.73.140 to acknowledge and distinguish his prior petitions. Accordingly, this mixed, successive petition must be dismissed under RCW 10.73.090 and RCW 10.73.140. In re Pers. Restraint of Becker, 143 Wn.2d 491, 20 P.3d 409 (2001).

Now, therefore, it is hereby

ORDERED that respondents’ motion to dismiss “mixed” personal restraint petition is granted; and it is further

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

Andrus, A.C.J.  
Acting Chief Judge