

*The Court of Appeals
of the
State of Washington*

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
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CASE #: 74384-8-1
Personal Restraint Petition of Patrick Preston Brown

Counsel:

Enclosed please find a copy of the Order Dismissing Personal Restraint Petition entered by this court in the above case today.

Pursuant to RAP 16.14(c), "the decision is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in Rule 13.5A."

This court's file in the above matter has been closed.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

ssd

enclosure

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

IN THE MATTER OF THE)	
PERSONAL RESTRAINT OF:)	No. 74384-8-1
)	
PATRICK PRESTON BROWN,)	ORDER OF DISMISSAL
)	
Petitioner.)	
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Patrick Brown pled guilty to first degree robbery in King County Superior Court Cause No. 06-1-02026-6 SEA. He filed this personal restraint petition contending that the Department of Corrections (DOC) failed to give him credit against his community custody term following the revocation of his release to community custody, in violation of In re Pers. Restraint of Bovan, 157 Wn App. 588, 238 P.3d 528 (2010). In order to obtain collateral relief by means of a personal restraint petition, Brown must demonstrate that he is being unlawfully restrained. See In re Pers. Restraint of Cashaw, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994); RAP 16.4.

Brown was sentenced in September 2006 to 129 months of confinement and a community custody term of 18 to 36 months "or for the entire period of earned early release awarded under RCW 9.94A.728, whichever is longer." After Brown served 86 months and earned 43 months of good time credit, DOC released him on May 13, 2013 to community custody. Brown repeatedly violated the terms of his community custody. Following his tenth violation, DOC revoked his release to community custody as a sanction for his violations and returned him to total confinement to serve the period of earned early release previously applied to his sentence, less the number of days he had successfully served in community custody. See RCW 9.94A.633(2)(a) ("If the offender was transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.728, the offender may be

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transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.”).

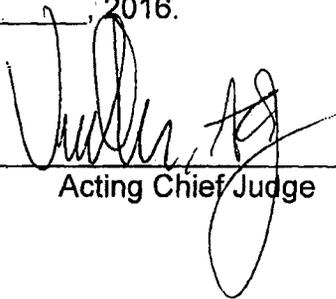
Brown now claims that DOC improperly failed to give him credit for 148 days that he spent detained awaiting DOC violation hearings. But Brown does not provide any evidence, other than his own assertion, in support of his calculation. DOC filed a response in which it provided documents from its offender database showing that Brown spent only 102 days confined for DOC sanctions, and that he was credited with this time against his remaining sentence. Consequently, Brown has failed to establish any basis for relief by means of a personal restraint petition.

Now, therefore, it is hereby

ORDERED that the personal restraint petition is dismissed under RAP

16.11(b).

Done this 18th day of March, 2016.



Acting Chief Judge

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