

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

June 23, 2020

DIVISION II

In re the Personal Restraint of

CHANLYN LEANN BROWN,

Petitioner.

No. 54309-5-II

ORDER DISMISSING PETITION

Chanlyn Brown seeks relief from personal restraint imposed after her 2017 plea of guilty to two counts of second degree trafficking in stolen property and one count of third degree theft. The trial court imposed a drug offender sentencing alternative (DOSA) sentence of 27.75 months of confinement, to be followed by 27.75 months of community custody. The Department of Corrections (DOC) released her from confinement to her term of community custody on February 4, 2019.

On February 21, 2019, Brown tested positive for, and admitted to using, methamphetamines and her treatment provider reported she was non-compliant. DOC imposed a one-day confinement sanction. On March 20, 2019, Brown tested positive for amphetamines and her treatment provider reported she was non-compliant. On April 8, 2019, Brown tested positive for, and admitted to using, methamphetamines. DOC imposed a two-day confinement sanction. On April 15, 2019, Brown tested positive for both amphetamines and methamphetamines. Brown then absconded from DOC supervision until July 12, 2019. During that absconding, her treatment discharged Brown from her program for non-participation. On July 12, 2019, Brown admitted to having used

methamphetamines. DOC imposed a 20-day confinement sanction. After she was released from that confinement on July 31, 2019, Brown again absconded until September 11, 2019.¹ DOC imposed a negotiated 25-day confinement sanction. One day after being released from that confinement on October 1, 2019, Brown again tested positive for, and admitted to using, methamphetamines and opiates.

DOC charged Brown with three violations of her DOSA community custody. On October 17, 2019, Brown pleaded guilty to those violations. The DOC hearing officer revoked Brown's DOSA community custody, returned her to confinement and provided her with an appeal form. When Brown was received by DOC on October 21, 2019, she was placed on dry cell watch until October 28, 2019. Brown filed an administrative appeal of the revocation of her DOSA community custody on December 20, 2019. DOC found that the appeal was untimely by 56 days and did not process it.

Brown seeks the restoration of her DOSA community custody. Brown argues that revocation was improper because she had already been sanctioned for her violations. But as the above chronology demonstrates, Brown's revocation resulted from violations committed after those for which the confinement sanctions had been imposed. Brown also argues that she was denied due process because she was deprived of the ability to timely appeal her sanction by being placed on dry cell watch. But Brown had had four days having her DOSA community custody revoked and being placed on dry cell watch, during which she could have timely appealed the revocation. Nor did Brown file her appeal sooner after

¹ In her reply, Brown asserts that she had only absconded on August 27, 2019. But the record indicates otherwise, and the duration of her absconding is not relevant to the revocation of her DOSA community custody.

having been release from dry cell watch—with an argument for tolling of the appeal period.

Brown was not denied due process.

Brown fails to demonstrate grounds for relief from restraint, making her petition frivolous. Accordingly, it is hereby

ORDERED that Brown's petition is dismissed as frivolous under RAP 16.11(b).

Brown's request for appointment of counsel is denied.


ACTING CHIEF JUDGE

cc: Chanlyn L. Brown
Holger Sonntag