

Hoyt, Trina (ATG)

From: ATG MI COR Oly CE Reader
Sent: Tuesday, April 28, 2015 3:47 PM
To: Hoyt, Trina (ATG); Ronning, Kate (ATG); Davila-Simmons, Rebecca (ATG)
Subject: FW: D2 469839--PERSONAL RESTRAINT PETITION OF SHAWN ERIC CHRISTOPHER--
Order
Attachments: Christopher Order Dismissing Petition.pdf
Importance: High

Becca, I have been forwarding all Order Dismissing Petition re RAP 16.11(b) (State Court Strike) to Trina and Kate for tracking. There is a boat load of them coming in and we can use this information in our cases in trying to motion for dismiss based on 3 strikes, etc.

From: Mitchell, Christina [<mailto:Christina.Mitchell@courts.wa.gov>]
Sent: Tuesday, April 28, 2015 3:03 PM
To: ATG MI COR Oly CE Reader
Subject: D2 469839--PERSONAL RESTRAINT PETITION OF SHAWN ERIC CHRISTOPHER--Order
Importance: High

Office Hours

9:00 am to 12:00 pm
1:00 pm to 4:00 pm

You may file documents electronically as provided below. Briefs are considered filed as of the postmark date. RAP 18.6(c). Briefs may only be filed electronically through the portal website. Close of business remains 5 pm .

To Counsel and Interested Parties:

Attached is an Order filed today, 4/28/2015.

This will be the only notice you will receive from the court.

The court requests that motions and other correspondence be sent to coa2filings@courts.wa.gov, or, if counsel has a JIS USERID (can access SCOMIS/ACORDS), please use the newly established attorney portal at <http://www.courts.wa.gov/coa2efiling>. If you have difficulty accessing or using either method, please contact this office. When filing electronically, please do NOT follow up with a paper copy.

Please contact the court at (253) 593-2970 if you have any questions or comments.

Thank you.

*Send
State Strike
only?*

Christina M. Mitchell
Case Manager

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

FILED
COURT OF APPEALS
DIVISION II
2015 APR 28 PM 2:58
STATE OF WASHINGTON
BY *[Signature]*
DEPUTY

In re the
Personal Restraint Petition of

SHAWN E. CHRISTOPHER,

Petitioner.

No. 46983-9-II

ORDER DISMISSING PETITION

Shawn E. Christopher has filed a personal restraint petition complaining of disciplinary sanctions he received after the Department of Corrections (DOC) found him guilty of fighting with another person, rioting, and participating or engaging in the activities of a security threat group. WAC 137-25-030 (505), (650), and (734). The sanctions imposed included 180 days of visitation restriction and 30 days of segregation, as well as the loss of 180 days of privileges, 180 days of fee-based recreation, and 142 days of good conduct time. Christopher contends that the disciplinary proceedings violated his right to due process because some of the infraction reports misstated his first name and the infraction citations, only a single hearing officer presided over his disciplinary hearing, and he was not allowed to point himself out on the videotape of the riot that led to his infractions. Christopher also alleges that the evidence is insufficient to support the infractions.¹

¹ After DOC filed its response to this petition, Christopher filed a reply brief raising new allegations related to his disciplinary proceedings and his conditions of confinement. We will not consider these additional issues. RAP 10.1(c).

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not Fed.
4-24-15
dk*

To obtain relief, Christopher must show that he is under unlawful restraint. RAP 16.4(a); *In re Pers. Restraint of Grantham*, 168 Wn.2d 204, 212-13 (2010). In the context of prison disciplinary proceedings, this standard requires us to determine whether DOC's action was so arbitrary and capricious as to deny the petitioner a fundamentally fair proceeding. *In re Pers. Restraint of Reismiller*, 101 Wn.2d 291, 294 (1984). In doing so, we look at whether the petitioner received the due process protections afforded him under *Wolff v. McDonnell*, 418 U.S. 539, 563-66 (1974). These protections include: (1) written notice of the charged violations; (2) the opportunity to present documentary evidence and call witnesses when not unduly hazardous to institutional safety and correctional goals; and (3) a written statement of the evidence relied on and the reasons for the disciplinary action. *Dawson v. Hearing Committee*, 92 Wn.2d 391, 397 (1979) (citing *Wolff*, 418 U.S. at 563-66). In addition, there must be at least some evidence to affirm the discipline. *Grantham*, 168 Wn.2d at 216; *see also In re Pers. Restraint of Gronquist*, 138 Wn.2d 388, 397 n.7 (1999) (factual determinations of prison officials must stand if there is some evidence in the record to support their disciplinary sanctions).

Christopher's allegations concerning the misspelling of his first name and the inclusion of a transposed infraction citation on some of his disciplinary records do not show arbitrary and capricious conduct sufficient to constitute a due process violation. *See Brewster v. Dretke*, 587 F.3d 764, 768 (5th Cir. 2009) (prison official's failure to follow prison policies, procedures, or regulations does not constitute due process violation if minimum constitutional requirements are satisfied). There is no support for Christopher's contention that a committee must preside over a disciplinary hearing. Moreover, Christopher was allowed to explain his conduct during the riot and his belief

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that he did not engage in fighting, and the fact that he was not allowed to point himself out on the videotape of the riot does not demonstrate a due process violation.

The evidence supporting the infractions consisted of the initial infraction report, the videotape of the riot, and confidential information linking Christopher to one of the gangs involved in the riot. This evidence is sufficient to satisfy the "some evidence" standard. *Gronquist*, 138 Wn.2d at 397 n.7.

Christopher does not succeed in showing that DOC's disciplinary action was so arbitrary and capricious that it denied him a fundamentally fair proceeding, and his claim of unlawful restraint fails. Accordingly, it is hereby

ORDERED that this petition is dismissed under RAP 16.11(b), and the petitioner's request for the appointment of counsel is denied.

DATED this 28th day of April, 2015.



Acting Chief Judge, Pro Tem

cc: Shawn E. Christopher
Dept. of Corrections
Clark County Cause No. 13-1-01577-3
Timothy N. Lang, Department Of Corrections
Haley Beach, Assistant Attorney General, Corrections Division