

*The Court of Appeals
of the
State of Washington*

RICHARD D. JOHNSON,
Court Administrator/Clerk

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June 15, 2016

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CASE #: 74276-1-I
Personal Restraint Petition of Jonathan Lawrence Dennington

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

law

enclosure

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form authoring the release information. The hearing officer found him guilty as charged and imposed sanctions, including the loss of 15 days of good conduct time.

Dennington does not challenge the process he received during the disciplinary hearing or the evidence supporting the finding of guilt. He claims that the sanction violates federal statutes that require an authorized signature before releasing personal protected information to third parties.¹ He further claims that imposing sanctions based upon his refusal to allow third-party access to personal information amounts to unconstitutional cruel and unusual punishment.

The Department of Corrections (DOC) has long been authorized to require an inmate to participate in certain programming. In re Pers. Restraint of Forbis, 150 Wn.2d 91, 99, 74 P.3d 1189 (2003). The legislature has directed the DOC to provide "opportunities for self improvement." RCW 72.09.010 (5)(c). According to DOC Policy 390.600 (B), the DOC may impose conditions during prison confinement to enforce conditions of the judgment and sentence, to address safety or security concerns, or address community or behavior issues. DOC Policy 670.500 specifically governs prison-based drug treatment and provides for the DOC to identify eligible offenders who are in need of treatment and refer them for such treatment. The legislature has also allowed DOC to link "the receipt or denial of privileges to responsible behavior and accomplishments." RCW 72.09.010(5)(d). RCW 72.09.130 explicitly requires DOC-operated state correctional facilities to adopt a system linking an inmate's behavior and participation in available programs with the receipt or denial of earned early release

¹ Dennington specifically refers to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Americans with Disabilities Act of 1990 (ADA).

credit and other privileges. Consequently, the DOC's requirement that Dennington participate in a substance abuse assessment does not constitute an unlawful restraint.

Contrary to his argument, Dennington disclosed no information when he appeared for an assessment, so there is nothing in the record to suggest that the DOC unlawfully released his personal information to third parties. Dennington's own testimony at the hearing acknowledged that he was properly presented with a form requiring his signature in order to release such information. The record also clearly indicates that the finding of guilt was based on Dennington's refusal to participate in the assessment, not based on his refusal to authorize the release of information. Although Dennington maintained that he simply questioned whether he was required to sign the release form, the hearing officer was not required to accept his testimony. The hearing officer expressly found that it was Dennington's refusal to provide the information required to complete the assessment that amounted to a refusal to program.

Under these circumstances, Dennington has failed to establish unlawful restraint.

Now, therefore, it is hereby

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

Done this 15th day of June, 2016.

Trickey, ACS
Acting Chief Judge

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CLERK OF SUPERIOR COURT
STATE OF WASHINGTON