

RICHARD D. JOHNSON,  
Court Administrator/Clerk

*The Court of Appeals*  
of the  
*State of Washington*

DIVISION I  
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September 28, 2015

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CASE #: 73583-7-1  
Personal Restraint Petition of Jamal James Ellis

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

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Served  
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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. 73583-7-1
	)	
JAMAL JAMES ELLIS,	)	
	)	ORDER OF DISMISSAL
Petitioner.	)	
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Jamal Ellis challenges Department of Corrections (DOC) actions regarding legal supplies and outgoing mail at the Washington State Penitentiary Intensive Management Unit. Ellis contends that the 10 stamps provided per month for indigent offenders is not sufficient for his legal needs, that he should be able to obtain oversized envelopes for his legal mail without the assistance of a counselor, and that DOC personnel take too long to respond to his requests for legal supplies. In support of his petition, Ellis has provided documents such as grievances and offender kites. He requests injunctive relief as well as damages.

In order to obtain relief by means of a personal restraint petition, Ellis must demonstrate that he is under restraint and that the restraint is unlawful. RAP 16.4; see also In re Pers. Restraint of Cashaw, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994); In re Pers. Restraint of Cook, 114 Wn.2d 802, 813, 792 P.2d 506 (1990). Unlawful restraint occurs when the "conditions or manner of restraint of petitioner are in violation of the Constitution of the United States or the Constitution or laws of the State of Washington." RAP 16.4(c). But the only relief this court can grant in a personal restraint petition is removal of an allegedly unlawful restraint. See In re Pers. Restraint of Sappenfield, 138 Wn.2d 588, 595, 980 P.2d 1271 (1999). Bare

assertions and conclusory allegations do not warrant relief in a personal restraint proceeding. In re Pers. Restraint of Rice, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992) (competent, admissible evidence, such as affidavits, required to establish facts entitling petitioner to relief).

While inmates have a constitutional right of access to the courts, it is not an unlimited right. Lewis v. Casey, 518 U.S. 343, 116 S. Ct. 2174, 135 L. Ed. 2d. 606 (1996). Consequently, although there is an obligation to provide inmates with the incidentals necessary to pursue legal action, inmates are not entitled to unlimited free postage, and courts have recognized that reasonable restrictions based on budgetary concerns are lawful. See, e.g., Blaise v. Fenn, 48 F.3d 337 (8th Cir. 1995) (regulation limiting free postage rationally related to legitimate government goals); see also Smith v. Erickson, 884 F.2d 1108, 1111 (8th Cir.1989); Chandler v. Coughlin, 763 F.2d 110, 114 (2d Cir.1985). To show that he has been denied access to the courts, Ellis must demonstrate an actual injury resulting from the challenged policy. Lewis, 518 U.S.at 351-52. Nothing in his petition suggests that Ellis has suffered any actual injury resulting from delays by DOC personnel in responding to any particular request for additional postage, large envelopes, or other supplies necessary to his pursuit of legal matters. He makes no showing that the time required to make requests or the participation of counselors has hindered, in any meaningful sense, his efforts to pursue any specific legal matter. Thus, Ellis fails to demonstrate an existing unlawful restraint with respect to supplies for pursuing his legal matters. To the extent he

No. 73583-7-I/3

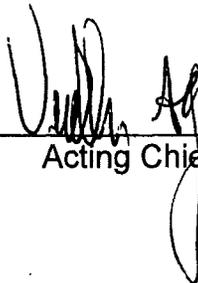
seeks affirmative relief other than the removal of an allegedly unlawful restraint, Ellis must resort to a civil action. See Sappenfield, 138 Wn.2d at 598.

Under these circumstances, this petition must be dismissed.

Now, therefore, it is hereby

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

Done this 28<sup>th</sup> day of September, 2015.



Acting Chief Judge

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COURT OF APPEALS DIV 1  
STATE OF WASHINGTON