

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

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|-------------------------------|---|--------------------|
| In the Matter of the Personal |) | |
| Restraint of: |) | No. 72182-8-1 |
| |) | |
| CLYDE ELLIOTT JACKSON, |) | ORDER OF DISMISSAL |
| |) | |
| Petitioner. |) | |
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Clyde Jackson challenges the sanction imposed by the Department of Corrections (DOC) following a community custody violation hearing. To prevail here, Jackson must establish (1) that he is currently restrained, and (2) that the restraint is unlawful. RAP 16.4; In re Pers. Restraint of Cashaw, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994). Because Jackson fails to meet this burden, the petition is dismissed.

Jackson, serving a sentence imposed upon convictions for rape of a child, was released to community custody in 2013 on early release time. A condition of release imposed as a part of his judgment and sentence prohibited Jackson from having any contact with minors unless accompanied by a responsible adult who was aware of Jackson's offenses. In February 2014, the DOC charged Jackson with violating conditions of release by having prohibited contact with a minor. Jackson pleaded guilty to the violation. Following two hearings, his community custody was revoked and he was returned to the custody of the DOC.

In his petition, Jackson claims that he was denied due process because the sanction was supported by only hearsay evidence. Jackson also claims that he pleaded guilty based on an agreement with his Community Corrections Officer (CCO) that the only sanction would be credit for time served, and that the hearing officer misinterpreted his statements as a guilty plea.

For violations allegedly committed while on community custody, offenders are afforded the procedural due process protections established in Morrissey v. Brewer, 408 U.S. 471, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972). These protections are:

(a) written notice of the claimed violations of parole; (b) disclosure to the parolee of evidence against him; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a 'neutral and detached' hearing body such as a traditional parole board, members of which need not be judicial officers or lawyers; and (f) a written statement by the factfinders as to the evidence relied on and reasons for revoking parole.

Morrissey, 408 U.S. at 489; see also In re Pers. Restraint of McNeal, 99 Wn. App. 617, 619, 994 P.2d 890 (2000) (liberty interest of a person in community custody closely resembles that of a parolee).

Jackson's challenge to the sufficiency of the evidence fails because he stipulated to the violation. By way of explanation, he claimed that his neighbor asked him for a ride and he agreed because he did not know the neighbor was also asking him to drive her daughter and minor grandchild. He also claimed that he was unsure whether the conduct violated the conditions of his release because the child's mother was present during the contact. Jackson admitted, however, that he had not specifically told either of the adults involved about his offenses. In addition, the record does not support Jackson's claim that the hearing officer coerced or misinterpreted his plea. Jackson admitted to the contact with a minor, although his account differed from the neighbor's and he argued that the violation was mitigated by the fact that he reported the incident himself.

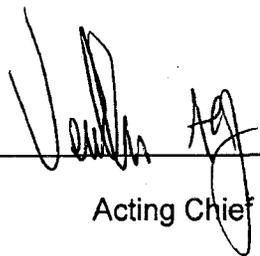
Jackson provides no support for his claim that the CCO promised to recommend a lesser sanction in exchange for his plea. Jackson did not mention any agreement during the two violation hearings. The notice of alleged violation clearly states the CCO's recommendation to revoke Jackson's supervision and return him to DOC custody to serve the remainder of his sentence.

Because Jackson has not stated grounds upon which relief can be granted in a personal restraint proceeding, the petition must be dismissed.

Now, therefore, it is hereby

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

Done this 4th day of May, 2015.



Acting Chief Judge

FILED
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STATE OF WASHINGTON
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