

*The Court of Appeals
of the
State of Washington*

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
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CASE #: 73281-1-1
Personal Restraint Petition of Gregory D Johnson

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

LAM

enclosure

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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. 73281-1-1
)	
)	ORDER OF DISMISSAL
GREGORY D. JOHNSON,)	
)	
Petitioner.)	
_____)	

In 2012, Gregory Johnson pleaded guilty to a murder he committed in 1979. He is now serving an indeterminate sentence in Snohomish County Cause No. 11-1-01127-0 under the jurisdiction of the Indeterminate Sentence Review Board with a minimum term of 298 months. Johnson filed a personal restraint petition claiming that he has been unlawfully deprived of credit for time served in jail before sentencing. In order to obtain collateral relief by means of a personal restraint petition, Johnson must demonstrate that he is being unlawfully restrained. See In re Pers. Restraint of Cashaw, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994); RAP 16.4.

Johnson claims he entitled to 520 days' credit, in accordance with a Snohomish County Jail Certification. According to the response submitted on behalf of the Board and the Department of Corrections (DOC), because no statute specifically authorizes an offender to earn presentence early release credits for crimes committed before the 1984 enactment of the Sentencing Reform Act, the Board did not initially award Johnson any presentence credit. However, after Johnson filed the instant petition, the Board made an administrative policy decision to apply presentence early release credits to Johnson's sentence. Documents submitted by the Board and the DOC reflect that as of May 2015, the Board awarded

No. 73281-1-1/2

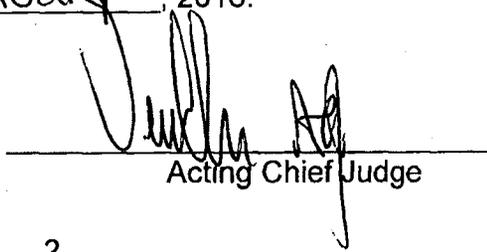
credit toward Johnson's sentence for 336 days for time served in jail between April 22, 2011 and the date of sentence, March 23, 2012, and 168 days of good time credits earned in jail. Thus, a total of 504 days of credit has been applied to Johnson's sentence.

In his reply, Johnson argues that he is entitled to 16 days of additional credit because the jail certified credit for time served in jail until April 3, 2012. But, as the Respondents explain, the DOC considers all time served after the date of sentence as time served under the jurisdiction of the DOC, regardless of whether Johnson was physically in the custody of the DOC. Thus, Johnson's release date already reflects credit for time served after the date of sentence as post-sentence time served under the jurisdiction of the DOC. See In re Pers. Restraint of Erickson, 146 Wn. App. 576, 191 P.3d 917 (2008) (DOC need not give presumptive legal effect to a county jail certification if it contains apparent error). Johnson fails to establish that he is entitled to additional credit. Because Johnson has apparently received all of the credit he sought in his original petition to which he was entitled, this court cannot provide effective relief. See In re Pers. Restraint of Cross, 99 Wn.2d 373, 376-77, 662 P.2d 828 (1983) (a claim is moot if the court can provide no effective relief).

Now, therefore, it is hereby

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

Done this 28th day of January, 2016.



Acting Chief Judge

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COURT REPORTER
STANLEY P. STONE, JR.