

March 24, 2023

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

In the Matter of the Personal Restraint of:

No. 57436-5-II

JAMES DAVID KARNATH,

Petitioner.

ORDER DISMISSING PETITION

James Karnath seeks relief from personal restraint imposed following his 2006 plea of guilty to murder in the first degree, theft in the first degree, and animal cruelty in the first degree. In this, his sixth petition,¹ he argues that he is a sovereign with immunity.

RCW 10.73.090(1) requires that a petition be filed within one year of the date that the petitioner's judgment and sentence becomes final. Karnath's judgment and sentence became final on February 8, 2006, when the trial court entered it. RCW 10.73.090(3)(a). He did not file his petition until August 31, 2010, more than one year later.² Unless he shows that one of the exceptions contained in RCW 10.73.100 applies or that his judgment and sentence is facially

¹ See Order Dismissing Petition, *In re Pers. Restraint of Karnath*, No. 36366-6-II (Jan. 4, 2008), Order Dismissing Petition, *In re Pers. Restraint of Karnath*, No. 40605-5-II (Aug. 25, 2010), Order Dismissing Petition, *In re Pers. Restraint of Karnath*, No. 43795-3-II (Nov. 7, 2012), Order Dismissing Petition, *In re Pers. Restraint of Karnath*, No. 52437-6-II (Oct. 4, 2018), and Order Dismissing Petition, *In re Pers. Restraint of Karnath*, No. 54836-4-II (Oct. 1, 2020).

² It appears Karnath filed a motion to modify or correct judgment and sentence in the trial court on August 31, 2010. That court transferred his motion to us to be considered as a personal restraint petition, but not until September 27, 2022. No explanation was contained in the transfer order.

invalid, his petition is time-barred. *In re Pers. Restraint of Hemenway*, 147 Wn.2d 529, 532-33, 55 P.3d 615 (2002).

Karnath does not show that his judgment and sentence is facially invalid or that any of the exceptions contained in RCW 10.73.100 applies his petition. Accordingly, it is hereby

ORDERED that Karnath's petition is dismissed as time barred under RAP 16.11(b).³ His motions to supplement the record filed on December 27, 2022, March 2, 2023, and March 16, 2023 are denied.



Acting Chief Judge Pro Tempore

Cc: James D. Karnath
Clark County Prosecuting Attorney
Clark County Clerk
County Cause No. 05-1-00696-0

³ Although Karnath's petition is successive, we dismiss it rather than transfer it to our Supreme Court because it is also untimely. *In re Pers. Restraint of Turay*, 150 Wn.2d 71, 86-87, 74 P.3d 1194 (2003).