

FILED

9/29/2017

Court of Appeals

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
Division II
State of Washington

DIVISION II

In re the Personal Restraint Petition of
MIKHAIL ALEXANDER LAYER,
Petitioner.

No. 50034-5-II

ORDER DISMISSING PETITION

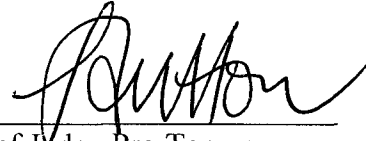
Mikhail Layer seeks relief from the December 30, 2015 decision of the Department of Corrections (DOC) terminating his early release and returning him to prison to serve a 120-day sanction. Layer was sentenced to 56 months of confinement and 12 months of community custody. He was released early to community custody. One of the conditions of community custody was law-abiding behavior. While on community custody, he committed the crimes of theft of a motor vehicle, attempting to elude a pursuing police vehicle and residential burglary. DOC convened a community custody hearing for Layer's violations of his condition of community custody. It imposed a sanction of a return to prison for 120 days of his term of confinement.

Layer argues that under RCW 9.94A.633(1)(a) and RCW 9.94A.737(4), DOC could impose a sanction of no more than 30 days per community custody hearing. But because he had been released early from his term of confinement and then violated the condition of his community custody, RCW 9.94A.633(2)(a) gave DOC the authority to impose a sanction of a return to prison "to serve up to the remaining portion of the sentence." When DOC imposed its sanction, Layer had 276 days remaining on his term of confinement. Thus, it had the authority to impose a sanction of 120 days of return to prison.

Layer does not demonstrate that DOC exceed its authority in imposing its sanction.

Accordingly, it is hereby

ORDERED that Layer's petition is dismissed under RAP 16.11(b).



Acting Chief Judge Pro Tempore

cc: Mikhail A. Layer
Mandy L. Rose