

FILED
Jun 18, 2019
Court of Appeals
Division III
State of Washington

COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

In the Matter of the Personal Restraint)	No. 36290-6-III
of:)	
)	
SHANNON BRUCE MORLEY,)	ORDER DISMISSING PERSONAL
)	RESTRAINT PETITION
)	
Petitioner.)	

Shannon Morley is currently in the custody of the Department of Corrections (DOC) serving a sentence for his 2010 Spokane County and Cowlitz County convictions. His current estimated release date is February 15, 2020.

In this personal restraint petition, Mr. Morley claims the DOC is deducting excessive and illegal fees from his prison account, beyond what is authorized by RCW 10.01.160 and the judgments and sentences entered in the following cases: Spokane County cause numbers 01-1-01585-1, 11-1-04015-2, 09-1-02300-1, 01-1-01586-0, and 01-1-01587-8; Douglas County cause number 11-1-00209-1, and Cowlitz County cause number 09-1-01185-8. He asks this court to appoint an independent accounting firm to

audit his prison account.

As an initial matter, Mr. Morley cites no authority supporting his assertion that this court may appoint an auditor as a remedy in a personal restraint petition. In any event, he has failed to demonstrate that any of the challenged deductions are illegal.

A court-ordered legal financial obligation (LFO) is an obligation imposed by the superior court, usually at the time of sentencing, which can include a number of different type of fees, including victim restitution, crime victims' compensation fees, court costs, and any other LFO assessed as a result of the felony conviction. RCW 72.011.010(2); RCW 9.94A.760. The legislature has given the DOC broad authority to make appropriate deductions from inmate accounts, including deductions to effect a court's imposition of LFOs. *See* RCW 72.11.020, .030. RCW 72.11.020 requires the DOC to make LFO deductions where they have been imposed in the judgment and sentence, unless the withdrawal of LFO fees reduces the inmate's account below the level of indigency as defined by the DOC.

In each of the cause numbers identified in Mr. Morley's petition, the sentencing court imposed LFOs and therefore the DOC was statutorily required to deduct fees for these LFOs. The record demonstrates that Mr. Morley owes over \$220,000 in LFOs from six collectible court cases, and the DOC has collected only \$334.28 in LFO deductions on those cause numbers. Mr. Morley has failed to demonstrate that the DOC has exceeded

its statutory authority with respect to the LFO deductions.¹

In addition to challenging the LFO deductions, Mr. Morley claims the DOC is illegally imposing the following fees: a T.V. cable fee, inmate store debt, postage debt, cost of incarceration, medical copays, TV rental fee, dental co-pay, over the counter medications, cost of supervision debt, and miscellaneous debt. However, these deductions are authorized by statute: RCW 72.09.470 (deductions for cost of privileges, including television cable access); RCW 72.09.480 (deductions for cost of incarceration, including supervision); RCW 72.09.450 (deductions to recoup debt for services and supplies); RCW 70.48.130 (deductions for medical costs). Mr. Morley has failed to demonstrate that any of the challenged deductions exceed the DOC's statutory authority.

To the extent Mr. Morley's petition is read as asserting a due process claim with respect to these statutorily authorized deductions, he has failed to demonstrate a violation of his procedural or substantive rights. When a procedural due process challenge is to a legislative enactment, "the legislative process provides all the process due." *In re Pers. Restraint of Metcalf*, 92 Wn. App. 165, 176, 963 P.2d 911 (1998). With respect to

¹ Mr. Morley also appears to challenge the DOC's LFO deductions on the basis that he has an inability to pay due to his diagnosed mental disability of post-traumatic stress disorder. However, the DOC is required to impose the LFOs as ordered by the superior courts. RCW 72.11.020; *See e.g., Dress v. Dep't of Corr.*, 168 Wn. App. 319, 328, 279 P.3d 875 (2012) (DOC must comply with a judgment and sentence, even if it believes it is erroneous). If Mr. Morley believes the existing LFOs should be waived based on his claimed mental disability, his remedy is to pursue motions to remit the fees in the superior courts that imposed the LFOs.

substantive due process, Mr. Morley makes no argument that his interest in the monies at issue involves a fundamental right, and his claim is therefore subject only to rational basis review. *In re Metcalf*, 92 Wn. App. at 176-77. The deductions at issue here appear to be rationally related to the legitimate government interests of curtailing the costs of incarceration and compensating victims of crime, and Mr. Morley makes no argument to the contrary. He has failed to demonstrate that any of the challenged deductions are unlawful such that he is entitled to relief.

Mr. Morley's final argument is that Washington House Bill 1783 prohibits the DOC from making the challenged deductions. House Bill 1783, which became effective June 7, 2018, prohibits trial courts from imposing discretionary LFOs on defendants who are indigent at the time of sentencing. LAWS OF 2018, ch. 269, § 6(3); *Ramirez*, 191 Wn.2d at 745-47. Contrary to Mr. Morley's argument, these amendments do not prohibit DOC from enforcing LFOs imposed prior to the effective date of the amendments. The DOC is bound by the existing judgments and sentences, and if Mr. Morley wishes to challenge the courts' imposition of LFOs in his various cases, his remedy is to seek remission through the superior courts rather than to challenge the DOC for complying with the judgments and sentences.

Mr. Morley has failed to demonstrate he is under unlawful restraint. His petition is dismissed as frivolous pursuant to RAP 16.11(b). The court also denies Mr. Morley's request for appointed counsel. *In re Pers. Restraint of Gentry*, 137 Wn.2d 378, 390, 972

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PRP of Morley

P.2d 1250 (1999); RCW 10.73.150(4).

A handwritten signature in black ink, consisting of stylized, cursive letters that appear to read 'R. Pennell'.

**REBECCA L. PENNELL
ACTING CHIEF JUDGE**