

March 6, 2023

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

In the Matter of the Personal Restraint of:

CARLOS MEDINA RUIZ,

Petitioner.

No. 57505-1-II

ORDER DISMISSING PETITION

Carlos M. Ruiz seeks relief from personal restraint imposed following his guilty pleas to rape of a child in the first degree and child molestation in the first degree under Pierce County Superior Court cause number 07-1-06399-6. Ruiz raises two claims regarding his convictions and three claims against the Indeterminate Sentence Review Board. Because at least one of Ruiz’s claims is untimely, this personal restraint petition must be dismissed as “mixed.”

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. Ruiz’s judgment and sentence became final on the date it was filed in 2009. RCW 10.73.090(3)(a). He did not file this petition until 2022, well over one year later. Therefore, this petition is time barred unless Ruiz establishes that one of the six time-bar exceptions set out RCW 10.73.100 applies to his arguments or that his judgment and sentence is facially invalid or was not rendered by a court of competent jurisdiction. RCW 10.73.090(1); *In re Pers. Restraint of Hankerson*, 149 Wn.2d 695, 702, 72 P.3d 703 (2003).

If a petition includes both timely and untimely claims it is “mixed” and must be dismissed. *In re Pers. Restraint of Williams*, 200 Wn.2d 622, 632, 520 P.3d 933 (2022). “However, this ‘mixed petition’ rule does not preclude consideration of claims involving alleged facial invalidity


in the [judgment and sentence].” *Id.* This is because such claims implicate RCW 10.73.090 and are thus not subject to the restrictive language in RCW 10.73.100. *Id.*

Ruiz appears to argue that he was denied effective assistance of counsel and that his judgment and sentence is facially invalid because he was coerced into pleading guilty. But an ineffective assistance of counsel claim is not exempt from the time bar. *See* RCW 10.73.100. And Ruiz does not show facial invalidity based on an alleged involuntary guilty plea.

Based on the above, at least one of Ruiz’s claims is untimely and there is no merit to his claim that the judgment and sentence is facially invalid. In these circumstances, Ruiz’s personal restraint petition must be dismissed as a mixed petition. *Williams*, 200 Wn.2d at 632.

Accordingly, it is hereby

ORDERED that this petition is dismissed under RAP 16.11(b). Ruiz’s request for the appointment of counsel is denied.



Acting Chief Judge, Pro Tem

cc: Carlos M. Ruiz
Gregory K. Ziser, AAG
Pierce County Clerk
County Cause No: 07-1-06399-6