

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

Filed
Washington State
Court of Appeals
Division Two

In the Matter of the Personal Restraint of:

JAMES DAVID TAUTFEST,

Petitioner.

No. 54127-1-II

March 20, 2020

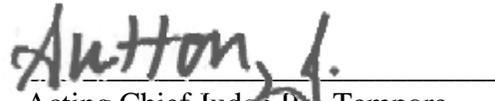
ORDER DISMISSING PETITION

James Tautfest seeks relief from personal restraint imposed following the decision by the Department of Corrections that he had violated the conditions of his community custody and that, as a result, he was returned to confinement. In 2013, under Clark County cause number 12-1-02268-2, Tautfest pleaded guilty to one count of unlawful possession of a controlled substance—methamphetamine and two counts of second degree identity theft. Tautfest was sentenced to 50 months of confinement, to be followed by 12 months of community custody. Tautfest contends that he began his 12-month term of community custody on April 27, 2017, and that it ended on April 27, 2018, before his alleged absconding from community custody on May 23, 2018. Thus, Tautfest contends that he was no longer on community custody on May 23, 2018. But Tautfest misperceives his terms of his community custody. When he was released from confinement to community custody on April 26, 2017, it was to first, serve a 12-month term of community custody imposed in two prior judgments and sentences,¹ second, to serve community custody in

¹ Concurrent terms of community custody imposed in Clark County cause number 10-1-00545-5 and Cowlitz County cause number 10-1-00980-6.

lieu of his early release time under cause number 12-1-02268-2, and then to serve the 12-month term of community custody under cause number 12-1-02268-2. Thus, when Tautfest absconded on May 23, 2018, he was still on community custody, so the Department was authorized to return him from his community custody in lieu of his early release time to serve the remainder of that time in total confinement.² RCW 9.94A.633(2)(a) and 9.94A.728. Accordingly, it is hereby

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


Acting Chief Judge Pro Tempore

cc: James D. Tautfest
Holger Sonntag

² The Department argues that Tautfest's petition is moot because his sentence under cause number 12-1-02268-2 has expired and he is now serving a term of confinement under a subsequent judgment and sentence. But because that later sentence did not start until his completion of the term of confinement under cause number 12-1-02268-2, had his return to confinement from community custody been improper, the start date for the later sentence could have changed, so Tautfest's petition is not moot.