

Portenier, Marion (ATG)

From: ATG MI COR Oly CE Reader
Sent: Tuesday, March 07, 2017 1:43 PM
To: ATG MI COR Spo EF
Cc: Portenier, Marion (ATG)
Subject: FW: COURT OF APPEALS 75589-7-I Personal Restraint Petition of Demicko Thomas
Attachments: 2017-03-07 Eva Prince 100.PDF

Importance: High

From: Prince, Eva [<mailto:Eva.Prince@courts.wa.gov>]
Sent: Tuesday, March 07, 2017 1:19 PM
To: ATG MI COR Oly CE Reader; Dibble, Candie (ATG)
Subject: COURT OF APPEALS 75589-7-I Personal Restraint Petition of Demicko Thomas
Importance: High

RICHARD D. JOHNSON,
Court Administrator/Clerk

*The Court of Appeals
of the
State of Washington*

DIVISION I
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The attached order is being transmitted to counsel electronically. No hard copy will follow.

Thank you



Eva-Marie
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JA LL
DOCS 991403

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

IN THE MATTER OF THE PERSONAL RESTRAINT OF:)	
)	No. 75589-7-I
DEMICKO BILLIE THOMAS,)	
)	ORDER OF DISMISSAL
_____ Petitioner.)	

Demicko Thomas filed this personal restraint petition challenging the sanctions imposed by the Department of Corrections (DOC) following a prison disciplinary action. In order to obtain relief in this setting, Thomas must demonstrate that he is being "restrained under RAP 16.4(b) and that the restraint is unlawful under RAP 16.4(c)." In re Pers. Restraint of Grantham, 168 Wn.2d 204, 227 P.3d 285, 290 (2010) (quoting In re Pers. Restraint of Isadore, 151 Wn.2d 294, 298, 88 P.3d 390 (2004)). Because Thomas fails to meet this burden, his petition is dismissed.

On February 13, 2016, Thomas was infraacted for violating WAC 137-25-030 (509) (refusing a direct order by any staff member to proceed to or disperse from a particular area). Thomas was placed in administrative segregation and served three days of pre-hearing confinement. A hearing officer ultimately found Thomas guilty of the infraction and sanctioned Thomas with 20 days of lost dayroom privileges.

Thomas contends that DOC violated its own policies by not crediting him against his sanction with the time spent in pre-hearing confinement. WAC 137-28-280(1) provides that an offender may be temporarily confined to his or her cell or placed in administrative segregation pending a disciplinary hearing if the offender presents a security risk or a danger to others. WAC 137-28-280(2)(b) provides

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that "[i]f found guilty of the infraction and sanctioned to segregation, the offender shall receive credit against the sanction for time already served in segregation for that violation." But here, WAC 137-28-280(2)(b) does not apply because Thomas was sanctioned only with lost dayroom privileges, not segregation.

Because Thomas makes no showing that he is subject to an unlawful restraint, now, therefore, it is hereby

ORDERED that the personal restraint petition is dismissed under RAP 16.11(b).

Done this 7th day of March, 2017

Trickey, Act
Acting Chief Judge

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