

# IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

## DIVISION II

In re the  
Personal Restraint Petition of  
  
DAVID A. TROUPE,  
  
Petitioner.

No. 47184-1-II

ORDER DISMISSING PETITION

FILED APPEALS  
COURT OF APPEALS  
DIVISION II  
2015 JUN 25 AM 11:22  
STATE OF WASHINGTON  
BY DEPEBY

David A. Troupe has filed a personal restraint petition complaining of disciplinary sanctions imposed after the Department of Corrections (DOC) found him guilty of two separate infractions. The first infraction occurred after a hearing officer found him guilty of inflicting self-harm in violation of former WAC 137-25-030(713) (2014) and imposed 10 days of isolation.<sup>1</sup> The second infraction occurred after a hearing officer found him guilty of again inflicting self-harm and of possessing a weapon, threatening another, and committing sexual harassment in violation of former WAC 137-25-030(713), (602), (506), and (659). The sanctions for this infraction included 10 days of isolation, 30 days of segregation, and the loss of 233 days of earned time. Troupe now contends that he was infraacted twice for the same incident in violation of his due process rights, that the supporting incident reports were incomplete and inadequate, and that he was not allowed to attend his disciplinary hearing.

<sup>1</sup> DOC has since amended WAC 137-25-030 by removing (713) from the list of serious infractions. WSR 14-12-095 (effective July 1, 2014).

*Sealed*

To obtain relief, Troupe must show that he is under restraint and that the restraint is unlawful. RAP 16.4. Restraint is unlawful if the conditions or manner of restraint are in violation of the state or federal constitutions. RAP 16.4(c)(6).

To be entitled to relief for a due process violation, a prisoner must show that a protected liberty interest is at issue. *Sandin v. Conner*, 515 U.S. 472, 483-84 (1995); *Wolff v. McDonnell*, 418 U.S. 539, 556-57 (1974). Inmates in Washington do not have a protected liberty interest in maintaining favorable custody classifications. *In re Pers. Restraint of Dowell*, 100 Wn.2d 770, 772-75 (1984); *see also In re Pers. Restraint of Gronquist*, 138 Wn.2d 388, 397-98 (due process protections are triggered by prison disciplinary hearings that result in the loss of good time credit but not by hearings that result in disciplinary segregation or loss of privileges), *cert. denied*, 528 U.S. 1009 (1999). Nor do inmates have a liberty interest in accruing earned early release time. *In re Pers. Restraint of Galvez*, 79 Wn. App. 655, 659 (1995).

Troupe does not have a liberty interest in any of the sanctions imposed for his two infractions. Moreover, DOC has expunged the first infraction. Because the remaining infraction, and the loss of earned time, does not represent a loss of a liberty interest, Troupe's claim that his disciplinary proceedings violated his right to due process and subjected him to unlawful restraint fails. Accordingly, it is hereby

ORDERED that this petition is dismissed under RAP 16.11(b), and the petitioner's request for the appointment of counsel is denied.

DATED this 25<sup>th</sup> day of June, 2015.

  
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Acting Chief Judge, Pro Tem

cc: David A. Troupe

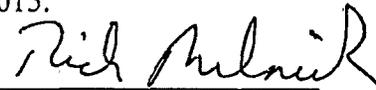
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cc: David A. Troupe

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Dept. of Corrections  
Pierce County Cause No. 99-1-02498-4  
Timothy N. Lang, Department Of Corrections  
Jean E. Meyn, Assistant Attorney General, Corrections Division

