

FILED
Jun 13, 2017
Court of Appeals
Division III
State of Washington

COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

In the Matter of the Application
for Relief From Personal Restraint
of:

WALDO E. WALDRON-RAMSEY,
Petitioner.

)
)
) **CERTIFICATE OF FINALITY**
)
)

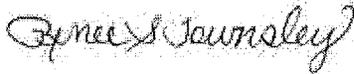
) No. 32726-4-III

) Spokane County No. 86-1-00745-9
)
)

_____)
The State of Washington to: The Superior Court of the State of Washington,
in and for **Spokane** County

This is to certify that the Order Dismissing Personal Restraint Petition of the Court of Appeals of
the State of Washington, Division III, filed on **May 24, 2016** became final on **May 31, 2017**.

In testimony whereof, I have hereunto set my hand and affixed the seal
of said Court at **Spokane**, this **13th** day of **June, 2017**.



Clerk of the Court of Appeals, State of Washington
Division III

cc: Waldo E. Waldron-Ramsey
John C. Ditman
Hon. Timothy Fennessy
(Hon. Gregory D. Sypolt's case)

FILED
May 24, 2016
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

In the Matter of the Personal Restraint)	32726-4-III
of:)	
)	
)	
WALDO E. WALDRON-RAMSEY,)	ORDER DISMISSING PERSONAL
)	RESTRAINT PETITION
Petitioner.)	
)	

Waldo Emerson Waldron-Ramsey seeks relief from personal restraint imposed following his 1989 Spokane County conviction for first degree murder. On August 29, 2014, Mr. Waldron-Ramsey filed a "Motion for Relief from Judgment or Order" in the superior court, arguing that the Department of Corrections (Department) was improperly deducting money from his account to satisfy a \$2,361 cost bill imposed by this court in 2011. The superior court transferred the motion to this court for consideration as a personal restraint petition under CrR 7.8(c)(2). Mr. Waldron-Ramsey objects to the transfer to this court.

Since 2011, the Department has been deducting money from Mr. Waldron-Ramsey's prison account to satisfy appellate costs of approximately \$2,360. See State's Attachment A. Mr. Waldron-Ramsey objects to the deductions, arguing that the "DOC

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has no authority to deduct money from the defendant's prison account for the purpose of paying appellate costs." Petitioner's Brief at 1. Specifically, Mr. Waldron-Ramsey argues that the Department is constrained by RCW 72.09.020 and RCW 72.11.010 to only deduct for debts ordered by the superior court as legal financial obligations (LFO). He asserts that "legal financial obligations" are limited to costs ordered by the superior court, not an appellate court. In the absence of an LFO order from the superior court, Mr. Waldron-Ramsey asks this court to grant his petition, order the Department to return all deductions, and enjoin it from deducting any more money from his account.

ANALYSIS

To be entitled to relief, Mr. Waldron-Ramsey must show that he was unlawfully restrained due to an error of constitutional magnitude that substantially prejudiced him, or due to a fundamental defect of a nonconstitutional nature that caused a complete miscarriage of justice. *In re Pers. Restraint of Finstad*, 177 Wn.2d 501, 506, 301 P.3d 450 (2013); *In re Pers. Restraint of Cook*, 114 Wn.2d 802, 812, 792 P.2d 506 (1990). However, "when a petition raises issues that were afforded no previous opportunity for judicial review,...the petitioner need not make the threshold showing of actual prejudice or complete miscarriage of justice." *In re Pers. Restraint of Grantham*, 168 Wn.2d 204, 214, 227 P.3d 285 (2010). It is enough if the petitioner can demonstrate unlawful restraint under RAP 16.4.

An inmate is unlawfully restrained if the Department collects funds from the inmate's account illegally. *In re Pers. Restraint of Pierce*, 173 Wn.2d 372, 377, 268 P.3d 907 (2011)(citing *In re Pers. Restraint of Sappenfield*, 138 Wn.2d 588, 595, 980 P.2d 1271 (1999)). Thus, if Mr. Waldron-Smith can show that the Department lacked the authority to deduct funds from his account, he would meet his burden of proving unlawful restraint under RAP 16.4.

RCW 72.11.020 provides that the secretary of the Department has the authority "to disburse money from such [convicted] person's personal account for the purpose of satisfying a court-ordered legal financial obligation." A "legal financial obligation" is defined as "a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations." *In re Pierce*, 173 Wn.2d at 378 (quoting former RCW 9.94A.030(27)). A legal financial obligation may include victim restitution, court costs, court appointed attorney fees and costs, fines, or payment to a county or interlocal drug fund. *Id.* A legal financial obligation also includes "*any other legal financial obligation that is assessed as a result of a felony conviction.*" *Id.*(quoting RCW 72.11.010(1))(emphasis added).

The courts of appeal and Supreme Court may order a person convicted of a crime to pay appellate costs. RCW 10.73.160(1). These costs include expenses incurred for producing a report of proceedings and clerk's papers and recoupment of fees for court-

appointed counsel. RCW 10.73.160(2). The rules of appellate procedure require that the party seeking costs must submit a "cost bill". RAP 14.4. Significantly, for this petition, an award of a cost bill "shall become part of the trial court's judgment and sentence." *State v. Nolan*, 98 Wn. App. 75, 79, 988 P.2d 473 (1999).

Consistent with this statutory scheme, the Office for the Administrator of the Courts established an electronic database interface with the Department. *See* State's Exhibit 2 (Declaration of Daniel M. Lewis (DOC Trust Accounting Manager)). Mr. Lewis explained, "[a]ll the LFO deductions are connected with a superior court cause number under which the offender was sentenced." *Id.* Mr. Lewis also noted that the \$2,361,21.00 debt referred to by Mr. Waldron-Ramsey as a "cost bill" was categorized as a "legal financial obligation" for Department deductions by the Spokane County clerk. The request for payment of costs ordered by the court of appeals was sent by the Spokane Superior Court clerk since the order ("cost bill") became part of Mr. Waldron-Ramsey's judgment and sentence. Thus, under the statutory scheme, these costs are legal financial obligations authorized by RCW 72.11.010, .020, and RCW 10.73.160. Mr. Waldron-Ramsey fails to meet his burden to prove unlawful restraint within the meaning of RAP 16.4.

The petition is dismissed as frivolous pursuant to RAP 16.11(b). His motion objecting to the CrR 7.8 transfer is denied. His request for appointed counsel is also

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denied. *In re Pers. Restraint of Gentry*, 137 Wn.2d 378, 390, 972 P.2d 1250 (1999);
RCW 10.73.150(4).


ROBERT LAWRENCE-BERREY
ACTING CHIEF JUDGE