

March 22, 2023

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In re the Matter of the
Personal Restraint Petition of

MICHAEL R. WEST,

Petitioner.

No. 57946-4-II

ORDER DISMISSING PETITION
AND DENYING MOTION FOR
APPOINTMENT OF COUNSEL

In this personal restraint petition (PRP), Michael R. West seeks relief from personal restraint imposed following a June 3, 2022 community custody violation that resulted in additional confinement.¹ Because West fails to present an arguable basis for relief either in law or fact, this claim is frivolous and this petition must be dismissed.² *In re Pers. Restraint of Khan*, 184 Wn.2d 679, 686-87, 363 P.3d 577 (2015).

West contends that the additional confinement imposed as a result of the community custody violation resulted in double jeopardy because it was an additional punishment for the same offense. This claim fails.

Appellate courts review claims of double jeopardy de novo. *State v. Jackman*, 156 Wn.2d 736, 746, 132 P.3d 136 (2006). One of the protections ensured by the double jeopardy clause is that a person will not be punished twice for the same offense. *State v.*

¹ This is West's first PRP. West originally filed this PRP with the Supreme Court. *In re Personal Restraint of West*, No. 101748-1 (Clerk's Letter, Feb. 24, 2023). The Supreme Court transferred this PRP to this court under RAP 16.5. *In re Personal Restraint of West*, No. 101748-1 (Clerk's Letter, Feb. 24, 2023).

² To the extent West is also claiming that there were sentencing errors and that there was a breach of a plea agreement, he does not identify the nature of these alleged errors or the convictions or sentences that he is challenging sufficiently to permit review of those claims.

Gocken, 127 Wn.2d 95, 100, 896 P.2d 1267 (1995). Confinement imposed for violating the terms of a prior sentence is a continuing consequence of the existing conviction, so it does not create an additional punishment for the same offense and does not violate double jeopardy by punishing the defendant twice for the same offense. *State v. Watson*, 160 Wn.2d 1, 9, 154 P.3d 909 (2007).

West also claims that the additional confinement violated double jeopardy and due process by extending an expired sentence. To support this claim, West attaches a portion of the judgment and sentence from Pierce County Superior Court cause number 14-1-04394-7 showing that he was sentenced to 29 months – a sentence that had arguably expired by the time the community custody violation sanction was imposed approximately eight years later. But the Department of Corrections' confinement order lists the cause numbers for the sentences under which West was then confined, and this list does not include cause number 14-1-04394-7. Because the record shows that community custody violation did not affect his sentence under cause number 14-1-04394-7, this claim fails.

Because West fails to present an arguable basis for relief, this PRP is frivolous. *Khan*, 184 Wn.2d at 686-87. Accordingly, it is hereby ORDERED that this petition is dismissed under RAP 16.11(b), and West's motion for appointment of counsel is denied.



Acting Chief Judge, Pro Tem

cc: Michael R. West
Pierce County Clerk
County Cause No(s). 18-1-01122-3; 14-1-04394-7; 14-1-01392-4
Mary Robnett, Pierce County Prosecuting Attorney