

February 27, 2023

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the Personal Restraint of:

NAOMI SUE WHITE EAGLE,

Petitioner.

No. 57600-7-II

ORDER DISMISSING PETITION

Naomi Sue White Eagle seeks relief from personal restraint imposed following her convictions under Pierce County Superior Court cause number 16-1-00416-6. White Eagle filed this petition because she claims that the Department of Corrections (DOC) has delayed in providing her with gender dysphoria treatment and that this delay has violated the Eighth Amendment to the United States Constitution. DOC responds that it has provided all necessary treatment. DOC documentation shows that it is currently providing medical and mental health care to ensure gender affirming treatment, providing requested clothing and housing for White Eagle, and providing a pre-surgical consultation in July 2023.

To obtain relief through a personal restraint petition, petitioners challenging the conditions of their confinement must show they are being unlawfully restrained under RAP 16.4. *In re Pers. Restraint of Williams*, 198 Wn.2d 342, 352, 496 P.3d 289 (2021). No party disputes that White Eagle is under DOC restraint. Thus, the issue is whether that restraint is unlawful. Unlawful restraint occurs when the conditions or manner of the restraint are “in violation of the Constitution of the United States or the Constitution or laws of the State of Washington.” RAP 16.4(c)(6).

The petitioner bears the burden of proving unlawful restraint by a preponderance of evidence. *Williams*, 198 Wn.2d at 352. The petitioner must state the “facts upon which the claim of unlawful restraint of petitioner is based and the evidence available to support the factual allegations.” RAP 16.7(a)(2). Therefore, the petitioner must state with particularity facts that, if proven, would entitle the petitioner to relief. *Williams*, 198 Wn.2d at 352. Conclusory allegations, speculation, conjecture, and inadmissible hearsay are insufficient to warrant relief. *Id.* at 352-53.

Here, White Eagle does not allege particular facts to support her allegation that DOC has denied her gender dysphoria treatment. DOC has provided evidence to the contrary. White Eagle does not show a violation of her constitutional rights. Therefore, White Eagle’s petition is insufficient to show that she is subject to unlawful restraint. Thus, this petition is dismissed as frivolous. *In re Pers. Restraint of Khan*, 184 Wn.2d 679, 686-87, 363 P.3d 577 (2015).

Accordingly, it is hereby

ORDERED that this petition is dismissed under RAP 16.11(b). White Eagle’s request for appointment of counsel is denied.



Acting Chief Judge, pro tem

cc: Naomi Sue White Eagle
Pierce County Clerk
County Cause No. 16-1-00416-6
Candie Dibble, AAG