

*The Court of Appeals
of the
State of Washington*

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
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September 17, 2015

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CASE #: 73688-4-I
Personal Restraint Petition of Carlos John Williams

Counsel:

Enclosed please find a copy of the Order Dismissing Personal Restraint Petition entered by this court in the above case today.

Pursuant to RAP 16.14(c), "the decision is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in Rule 13.5A."

This court's file in the above matter has been closed.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

law

enclosure

1/6/11 (6)
Pending
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**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

IN THE MATTER OF THE PERSONAL RESTRAINT OF:)	
)	No. 73688-4-I
CARLOS JOHN WILLIAMS,)	
_____)	ORDER OF DISMISSAL
Petitioner.)	

Carlos Williams is confined pursuant to a 1996 conviction for attempted first degree rape, five counts of first degree rape, first degree kidnapping, first degree robbery, four counts of first degree burglary and taking a motor vehicle without permission. He 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, Williams 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 Williams fails to meet this burden, his petition is dismissed.

On October 19, 2014, Williams was infraacted for violating WAC 137-25-030 (659) (sexual harassment), WAC 137-25-030 (704) (assault on a staff member) and WAC 137-25-030 (613) (abusive sexual contact with staff). The infraction report, written by physician's assistant Jennifer Ambrose, states:

At approximately 1000 am on 10/09/2014 in the HSB exam room, IM Williams was being seen for a sick call medical appointment. On arrival to the room, patient started off the appointment that I have the "California look" and that my clothing looked expensive. The conversation was quickly changed by myself to his chief medical complaint. On examining his hand, patient then proceeded to grab my hand tightly, as if he was trying to hold it. I removed his hand immediately. Williams then placed his hand, palm down, on the top of my mid thigh which again, was immediately removed by myself.

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As we were discussing his treatment, he then leaned forward touching the side of my face with [his] hand. I stepped back, telling the patient that was inappropriate. He then stated "you are very attractive and I am very attracted to you, I've been doing 20 years which [is] why it is hard not to notice." Again, I directly told the patient that was inappropriate. The statements and physical sexual contact made by IM Williams made me feel very uncomfortable, threatened and intim[id]ated which violated medical appropriateness. His actions were unwarranted and unsolicited [sic] to what the patient was being seen for medically.

Williams was placed in administrative segregation pending investigation of the incident. A hearing officer found Williams guilty of the 659 and 704 infractions and dismissed the 613 infraction. The hearing officer sanctioned Williams with 30 days of administrative segregation, 5 days isolation, 90 days of visitation restriction, 14 days of lost good conduct time, and 46 days of lost earned time.

Review of prison disciplinary proceedings is limited to a determination of whether the action taken was so arbitrary and capricious as to deny the inmate a fundamentally fair proceeding. In re Pers. Restraint of Reismiller, 101 Wn.2d 291, 294, 678 P.2d 323 (1984). A disciplinary proceeding is not arbitrary and capricious if the inmate was afforded the applicable minimum due process protections and the decision was supported by at least some evidence. In re Pers. Restraint of Krier, 108 Wn. App. 31, 38, 29 P.3d 720 (2001). Due process requires that an inmate facing a disciplinary hearing receive adequate notice of the alleged violation, an opportunity to present documentary evidence and call witnesses when not unduly hazardous to institutional safety and correctional goals, and a written statement of the evidence relied upon and the reasons for the disciplinary action. In re Pers. Restraint of Gronquist, 138 Wn.2d 388, 396-97, 978 P.2d 1083 (1999). The evidentiary requirements of due process are satisfied if there is "some evidence" in the record to support a prison disciplinary decision.

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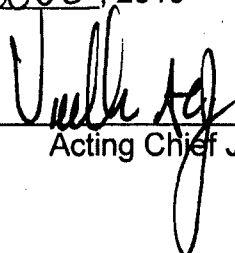
In re Pers. Restraint of Johnston, 109 Wn.2d 493, 497, 745 P.2d 864 (1987), (quoting Superintendent, Mass. Correctional Inst. v. Hill, 472 U.S. 445, 455-56, 86 L. Ed. 2d 356, 105 S. Ct. 2768 (1985)). There must be "some reasonable connection between the evidence and the inmate in order to support actions taken by the prison disciplinary board." In re Pers. Restraint of Anderson, 112 Wn.2d 546, 549, 772 P.2d 510 (1989). It is not the role of this court to re-weigh the evidence considered by the hearing officer. Johnston, 109 Wn.2d at 497.

Williams claims he was denied due process at the hearing because DOC staff did not allow him to gather and present witness statements. However, the record shows that although Williams initially requested witness statements from a nurse and a corrections officer, he later waived his right to the requested statements at the hearing. Williams also claims that there was insufficient evidence to uphold the guilty findings, pointing to minor discrepancies between the incident report and a later administrative segregation review discussing the incident. But Williams pled guilty to the 659 infraction, and Ambrose's report constitutes "some evidence" sufficient to support the 704 infraction.

Because Williams makes no showing that he was denied a fundamentally fair proceeding or that the finding of guilt was based on less than constitutionally sufficient evidence, the petition is dismissed. Now, therefore, it is hereby

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

Done this 17th day of September, 2015



Acting Chief Judge

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FILED
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