

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

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DIVISION II
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STATE OF WASHINGTON
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In re the
Personal Restraint Petition of

CHRISTOPHER L. WILLIAMS,

Petitioner.

No. 48737-3-II

ORDER DISMISSING PETITION

Christopher L. Williams seeks relief from sanctions imposed following the Department of Corrections' determination that he violated WACs 137-25-030(503)¹, (507)², and (740).³ Williams's sanctions for these violations included 45 days loss of good conduct time. Williams argues that the procedures leading to his disciplinary sanctions violated his due process rights. Specifically, Williams contends that the Department (1) denied his request for witness statements, (2) failed to provide a written statement of the evidence relied on and the reasons for the disciplinary action, including a summary of the confidential information used against him, and (3) improperly found that

¹ "Extortion, blackmail, demanding or receiving money or anything of value in return for protection against others, or under threat of informing."

² "Committing an act that would constitute a felony and that is not otherwise included in these rules."

³ "Fraud, embezzlement, or obtaining goods, services, money, or anything of value under false pretenses."

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he committed violations absent any evidence in support. Additionally, Williams appears to argue that WAC 137-25-030(507) is unconstitutionally vague.

I. DUE PROCESS

To obtain relief, Williams must show that he is under unlawful restraint. RAP 16.4(a); *In re Pers. Restraint of Grantham*, 168 Wn.2d 204, 212-13 (2010). In the context of prison disciplinary proceedings, this standard requires a reviewing court to determine whether the Department's action was so arbitrary and capricious as to deny the petitioner a fundamentally fair proceeding. *In re Pers. Restraint of Reismiller*, 101 Wn.2d 291, 294 (1984). In doing so, this court looks at whether the petitioner received the due process protections afforded him under *Wolff v. McDonnell*, 418 U.S. 539 (1974). These protections include: (1) written notice of the charged violations; (2) the opportunity to present documentary evidence and call witnesses when not unduly hazardous to institutional safety and correctional goals; and (3) a written statement of the evidence relied on and the reasons for the disciplinary action. *Dawson v. Hearing Committee*, 92 Wn.2d 391, 397 (1979) (citing *Wolff*, 418 U.S. at 563-66). In addition, there must be at least some evidence to affirm the discipline. *Grantham*, 168 Wn.2d at 216; *see also In re Pers. Restraint of Gronquist*, 138 Wn.2d 388, 397 n.7 (1999) (factual determinations of prison officials must stand if there is some evidence in the record to support their disciplinary decisions).

Here, the Department provided Williams with written notice of his disciplinary hearing, which notice informed Williams of his right to request witness statements. Petition Exhibit 8. Williams does not identify any evidence, beyond his own conclusory allegation, that he had requested witness statements or that the Department improperly

denied such a request. But bald assertions and conclusory allegations are insufficient to entitle a petitioner to relief. RAP 16.7(a)(2)(i); *In re Pers. Restraint of Rice*, 118 Wn.2d 876, 886 (1992). Accordingly, Williams fails to demonstrate that the Department denied his due process right to present witness statements at his disciplinary hearing.

Williams also fails to identify any evidence supporting his assertion that the Department failed to provide a written statement of the evidence relied on by the hearing officer in finding Williams guilty of his alleged violations, including a summary of the confidential information used against him. Williams's written disciplinary hearing minutes and findings state that the disciplinary hearing officer relied on written reports and confidential information in finding Williams guilty of his alleged violations. Petition Exhibit 9. And Williams has attached to his petition a copy of his serious infraction report, which report summarizes the confidential information relied upon by the hearing officer, as well as an investigative report with confidential information redacted from it. Petition Exhibits 10-11. These attached documents belie Williams's contention that the Department failed to provide him with a written statement of the evidence relied on and the reasons for the disciplinary action against him. Accordingly, Williams fails to demonstrate that the Department violated his due process rights on this ground.

Finally, Williams's serious infraction report and the confidential investigative report clearly provide "some evidence" supporting the hearing officer's findings of guilt as to each of Williams's violations. *Grantham*, 168 Wn.2d at 216; Petition Exhibits 10-11. Accordingly, Williams fails to demonstrate that the Department violated his due process rights on this basis.

II. WAC 137-25-030(507)

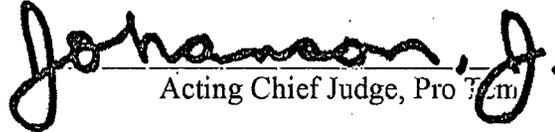
Next, Williams contends that WAC 137-25-030(507) is unconstitutionally vague because its language is insufficient to put a person on notice that the rule prohibits conduct constituting the crime of identity theft. He is incorrect.

“Due process requires that prior notice of proscribed conduct be provided before punishment may be imposed for failing to comply.” *In re Pers. Restraint of Krier*, 108 Wn. App. 31, 39 (2001). This principle applies to rules prohibiting certain conduct in the prison setting. *In re Krier*, 108 Wn. App. at 39. To show that WAC 137-25-030(507) is unconstitutionally vague, Williams must demonstrate that the rule’s language is not sufficiently definite such that “ordinary people can understand what conduct is proscribed.” *City of Spokane v. Douglass*, 115 Wn.2d 171, 178 (1990). WAC 137-25-030(507) provides that “[c]ommitting an act that would constitute a felony and that is not otherwise included in these rules” constitutes a serious infraction. This language is sufficiently definite to put an ordinary person on notice that conduct constituting the felony offense of identity theft is prohibited under the prison rules. RCW 9.35.020. Therefore, Williams fails to meet his burden of demonstrating that WAC 137-25-030(507) is unconstitutionally vague.

Accordingly, it is hereby

ORDERED that this petition is dismissed under RAP 16.11(b).

DATED this 25th day of August, 2016.


Acting Chief Judge, Pro Tem

cc: Christopher L. Williams
Pierce County Clerk
County Cause No(s). 98-1-02548-6
Timothy N. Lang, Department Of Corrections
Robert W. Ferguson, Attorney General
Marko Pavela, Assistant Attorney General - Corrections Division