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The Court of Appeals
of the
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Division III

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March 28, 2025

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CASE # 407608
Personal Restraint Petition of Cole L. Healy
SPOKANE COUNTY SUPERIOR COURT No. 2210124632

Dear Counsel and Mr. Healy:

Enclosed is a copy of the Order Dismissing Personal Restraint Petition filed by this Court today in the above-referenced case.

In accordance with RAP 16.14(c) and RAP 13.5 A, review of this Order may be obtained only by filing a Motion for Discretionary Review in the Washington State Supreme Court within 30 days after the filing of this Order. A copy must be filed with the Court of Appeals.

The address for the Washington State Supreme Court is Temple of Justice, P. O. Box 40929, Olympia, WA 98504-0929.

Sincerely,

Tristen L. Worthen
Clerk/Administrator

TLW:bls
Enclosure
c: Hon. Rachelle Anderson **E-MAIL**

FILED
Mar 28, 2025
COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON

COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

In the Matter of the Personal Restraint of: **COLE L. HEALY,** **Petitioner.**	**No. 40760-8-III** **ORDER DISMISSING PERSONAL RESTRAINT PETITION**

Cole Healy seeks relief from claimed unlawful restraint imposed for his Spokane County conviction for Assault of a Child in the Second Degree. This is Mr. Healy's first personal restraint petition seeking relief. For the reasons stated below, the law requires this court to dismiss Mr. Healy's petition.

Background Facts

Mr. Healy committed the offense in May 2022. He pleaded guilty on January 26, 2023, and was sentenced on February 23, 2023, to a term of confinement followed by 18 months of community custody with conditions. Mr. Healy did not appeal; therefore, the matter became final when the judgement and sentence was filed on February 23, 2023. RCW 10.73.090(3)(a). On September 20, 2024, while still in total confinement, Mr.

Healy filed two separate motions in superior court seeking "modification of the order of community custody." One motion was framed as a motion for order to show cause and the other was brought pursuant to CrR 7.8. Both motions referenced RCW 9.94A.703(2), (5)(a), RCW 10.73.100(6) and CrR 7.8 as support for relief. Finding the motion timely,[1] but lacking a substantial showing of entitlement to relief, the superior court transferred the motion to this court for consideration as a personal restraint petition under CrR 7.8(c)(2). The superior court's order also included a notation that Mr. Healy's relief was requested per RCW 9.94A.703(5)(a)[2] but noting the "defendant is still in total confinement." Mr. Healy was released from total confinement and began serving his community custody on December 18, 2024.

Because Mr. Healy has other remedies available to him, his petition is procedurally barred. Additionally, his PRP is frivolous because he fails to provide any evidence to support his allegations.

Analysis

Mr. Healy largely asserts that he was mistreated while in total confinement, and as

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[1] Although Mr. Healy filed his petition more than one year after his conviction became final, his petition is timely because it falls within the exception under RCW 10.73.100(6) as a motion for modification of conditions of community custody pursuant to RCW 9.94A.703 and 9.94.709.

[2] The order contained a typographical error, erroneously citing to RCW 9.94A.702(5)(a).

a result he requests his community custody be modified. More specifically, Mr. Healy requests "that the Washington Department of corrections not be allowed to supervise [him] nor have carte blanche authority/ability to censor [him] by way of incarceration."

Procedural Bar

Mr. Healy complains of "deliberate indifference to serious medical needs," "gross medical negligence," "intentional infliction of emotional distress," and "criminal mistreatment" and as a result he requests modification of the community custody portion of his sentence as recompense. Under RAP 16.4(d), the appellate court will only grant relief by personal restraint petition (or habeas corpus) if other remedies which may be available to the petitioner are inadequate under the circumstances. A remedy is not inadequate merely because it is attended with delay, expense, annoyance, or even some hardship. *City of Kirkland v. Ellis*, 82 Wn. App. 819, 920 P.2d 206 (1996).

As Mr. Healy seems to acknowledge when he asserts that he "will be pursuing legal remedies against DOC as a whole and against each individual employee," he has avenues for relief by way of civil causes of action for his complaints. Additionally, with respect to modification of his community custody conditions, now that Mr. Healy has been released from total confinement, he can avail himself of the modification procedure under RCW 9.94A.703(5)(a) which was not previously available to him. Because Mr. Healy has other avenues for relief, his personal restraint petition is procedurally barred. RAP 16.4(d); RAP 16.11(b).

Frivolous Nature of PRP

In addition to being procedurally barred, Mr. Healy's PRP is also frivolous. While Mr. Healy cites RCW 9.94A.703(2), (5)(a); RCW 10.73.100(6); and CrR 7.8, he fails to offer any substantive argument or analysis in support of his contentions. To avoid dismissal, the petitioner must support claims with facts and not merely bald or conclusory allegations. *In re Pers. Restraint of Cook*, 114 Wn.2d 802, 813-14, 792 P.2d 506 (1990); *see also State v. Farmer*, 116 Wn.2d 414, 432, 805 P.2d 200 (1991) ("issues not supported by argument and citation to authority will not be considered on appeal."); *In re Rosier*, 105 Wn.2d 606, 616, 717 P.2d 1353 (1986) ("[N]aked castings into the constitutional sea are not sufficient to command judicial consideration and discussion."). Mr. Healy's petition fails to satisfy these legal requirements. This court will dismiss a petition as frivolous if it "fails to present an arguable basis for relief in law or in fact, given the constraints of the personal restraint petition vehicle." *In re Pers. Restraint of Khan*, 184 Wn.2d 679, 686-87, 363 P.3d 577 (2015).

For the reasons stated above, the court summarily dismisses the petition as procedurally barred and frivolous. RAP 16.8.1(b).

Staab, J.

TRACY A. STAAB
ACTING CHIEF JUDGE