

November 17, 2023

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**  
**DIVISION II**

In the Matter of the Personal Restraint of:

RICKY DEAN MILLER,

Petitioner.

No. 58402-6-II

**ORDER DISMISSING PETITION**

Ricky D. Miller seeks relief from personal restraint imposed following his convictions under Kitsap County Superior Court cause number 13-1-00255-6. Miller filed this petition because he claims that the Department of Corrections (DOC) wrongly relied on his recorded statements in concluding he violated his community custody conditions and wrongly declined to appoint him counsel for the violation hearing.


The petitioner bears the burden of proving unlawful restraint by a preponderance of evidence. *In re Pers. Restraint of Williams*, 198 Wn.2d 342, 352, 496 P.3d 289 (2021). 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 352-53. Conclusory allegations, speculation, conjecture, and inadmissible hearsay are insufficient to warrant relief. *Id.*

DOC’s record included Miller’s recorded statements about using and selling illicit drugs. Miller claims that when the appeals board reviewed DOC’s violation finding, the board could not consider his recorded statements. But DOC policy requires the appeals board to examine all

hearing evidence. WAC 137-104-080(4). Additionally, DOC appropriately declined to appoint counsel for Miller during his violation hearing because Miller himself declined counsel, he presented no competency concerns, and his case was not complex. Therefore, Miller's petition is insufficient to show that he is subject to unlawful restraint. Thus, this petition must be 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). Miller's request for the appointment of counsel is denied.

  
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Acting Chief Judge, Prob Tem

cc: Ricky Dean Miller  
Kitsap County Clerk  
County Cause No. 13-1-00255-6  
Keith Hines, AAG