

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In the Matter of the Personal Restraint of:

D'MARCO LA'CALVIN MOBLEY,

Petitioner.

No. 1 0 2 2 6 3 - 8

Court of Appeals No. 85052-1-I
RULING DENYING REVIEW

Incarcerated person D'Marco La'Calvin Mobley was disciplined for introducing or transferring an unauthorized drug. The infraction was based on an observation (appearing on surveillance video) of Mobley handing a piece of paper to another incarcerated person, Daniel Rinker. A later search of Rinker's cell uncovered grid lined paper that tested positive for Spice, a paper infused with synthetic cannabinoids. Mobley himself tested positive for THC in a urinalysis. Mobley challenged the disciplinary action by personal restraint petition in Division One of the Court of Appeals, but finding no basis for relief, the acting chief judge dismissed the petition. Mobley now seeks this court's discretionary review. RAP 16.14(c).

To obtain this court's review, Mobley must show that the acting chief judge's decision conflicts with a decision of this court or with a published Court of Appeals decision, or that Mobley is raising a significant constitutional question or an issue of substantial public interest. RAP 13.5A(a)(1), (b); RAP 13.4(b). He does not make this showing. He argues he was deprived of his due process rights when the acting chief

judge dismissed his petition as frivolous rather than refer it to a panel of judges on the merits pursuant to RAP 16.11(b). But dismissal on the basis of frivolousness is appropriate if there is no arguable basis for relief in law or in fact. *In re Pers. Restraint of Khan*, 184 Wn.2d 679, 686-87, 363 P.3d 577 (2015). Mobley identifies no flaw in the hearing procedures amounting to a violation of the minimum due process protections applicable to prison disciplinary proceedings, and despite the denials by Mobley and Rinker, “some evidence” supported the infraction finding, as required. *See In re Pers. Restraint of Grantham*, 168 Wn.2d 204, 215-16, 227 P.3d 285 (2010). The acting chief judge properly found no arguable basis for relief.

The motion for discretionary review is denied.


DEPUTY COMMISSIONER

September 20, 2023