Tristen L. Worthen
Clerk/Administrator

(509) 456-3082
TDD #1-800-833-6388

The Court of Appeals
of the
State of Washington
Division III

500 N Cedar ST
Spokane, WA 99201-1905

Fax (509) 456-4288
http://www.courts.wa.gov/courts

March 28, 2025

Timothy Norman Lang
Office of the Attorney General
1125 Washington St SE
Olympia, WA 98501-2283
tim.lang@atg.wa.gov

Keith Aguero Hines
Washington Attorney General
PO Box 40100
Olympia, WA 98504-0100
keith.hines@atg.wa.gov

Shannon Bruce Morley
#405958
500 SE Washington Ave.
Chehalis, WA 98532

CASE # 405958
Personal Restraint Petition of Shannon Bruce Morley
DOUGLAS COUNTY SUPERIOR COURT No. 111002091

Dear Counsel and Mr. :

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. Brian Huber **E-MAIL**
(Hon John Hotchkiss's case)

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: **SHANNON BRUCE MORLEY,** **Petitioner.**	**No. 40595-8-III** **ORDER DISMISSING PERSONAL RESTRAINT PETITION**

Shannon Morley seeks relief from claimed unlawful restraint imposed as part of his 2010 and 2013 judgments and sentences. Morley claims that the Department of Corrections (DOC) improperly extended his term of community custody imposed under two separate superior court cause numbers. As explained below, Morley's claim is without merit.

On August 3, 2010, the Cowlitz County Superior Court sentenced Morley to a prison-based Drug Offender Sentencing Alternative (DOSA) sentence, requiring Morley to spend 27.75 months in prison and 27.75 months on community custody. DOC later revoked Morley's DOSA and he was returned to total confinement. Following his prison

sentence for the 2010 matter, Morley was ordered to serve 12 months on community custody.

In 2013, the Douglas County Superior Court sentenced Morley to 81 months in prison to be followed by 12 months of community custody.

DOC released Morley to community custody on April 19, 2020. Morley was required to serve 12 months (365 days) of community custody on both the Cowlitz County and Douglas County matters. As part of his conditions of release, Morley was required to report to and be available for contact with his assigned Community Corrections Officer. He also was required to report to DOC within one business day of release from any confinement. Since April 2020, however, Morley has repeatedly failed to report to DOC or has been incarcerated on non-DOC matters.

In June 2024, Morley was being held in the Spokane County Jail on an unrelated new charge. He entered a guilty plea on the Spokane County matter on August 27, 2024, and was released from jail the next day. According to DOC, Morley has not reported to DOC since his release on August 28, 2024.

To prevail on a personal restraint petition, a petitioner must show that he is under restraint and that the restraint is unlawful. RAP 16.4. To show restraint is unlawful, a petitioner must demonstrate he was actually and substantially prejudiced as a result of constitutional error or that the trial suffered from a fundamental defect of a

nonconstitutional nature that resulted in a complete miscarriage of justice. *In re Pers. Restraint of Swagerty*, 186 Wn.2d 801, 807, 383 P.3d 454 (2016). The petitioner bears the burden of demonstrating prejudice: that more likely than not he was prejudiced by the error. *In re Pers. Restraint of Brockie*, 178 Wn.2d 532, 539, 309 P.3d 498 (2013). A petitioner must make this showing by a preponderance of the evidence. *In re Pers. Restraint of Yates*, 177 Wn.2d 1, 17, 296 P.3d 872 (2013).

If the issues raised are deemed frivolous, the court will dismiss the petition. RAP 16.11(b). Frivolous in this context means that the petition "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)

On August 5, 2024, while in custody at the Spokane County Jail on the new charge, Morley filed the instant petition. He contends DOC violated his due process rights when it extended his community custody time on the Cowlitz County and Douglas County matters by three years.

Under RCW 9.94A.171(2), "[a]ny term of community custody shall be tolled by any period of time during which the offender has absented himself or herself from supervision." Additionally, "[s]ubject to a number of inapplicable exceptions, RCW 9.94A.740(3)(a) states that any period of community custody shall be tolled during any period of time the offender is in confinement." *In re Post-Sentence Review of Combs*,

176n Wn. App. 112, 120, 308 P.3d 763 (2013).

Here, in the Cowlitz County matter, Morley has successfully completed 295 of 365 days of community custody, leaving 69 days left to serve. On the Douglas County matter, Morley has successfully completed 296 of 365 days of community custody, leaving 68 days left to serve. Morley first absconded from supervision on both matters in October 2020. He failed to report at least eight times in the Cowlitz County matter and at least nine times in the Douglas County matter. Each time Morley failed to report, his community custody time tolled and he did not earn credit for the time he was absent from supervision. He also did not earn credit for any time he spent in custody on new charges or matters unrelated to the Cowlitz and Douglas County matters. Although it has been five years since he was released to community custody, Morley has yet to serve all 365 days of his community custody sentence imposed in each matter. Thus, Morley's claim that DOC extended his community custody time is without merit.

Accordingly, the court dismisses Morley's petition as frivolous. RAP 16.11(b).

The court waives the filing fee based on Morley's indigence. RAP 16.8(a). The court also denies Morley's request for appointed counsel. *In re Pers. Restraint of Gentry*, 137 Wn.2d 378, 390, 972 P.2d 1250 (1999); RCW 10.73.150(4).[1]

Staab, J.

TRACY A. STAAB
ACTING CHIEF JUDGE

[1] Because this court dismisses Morley's petition as frivolous, DOC's motion to dismiss the petition under the doctrine of fugitive disentitlement is moot. The fugitive disentitlement doctrine presumes that a defendant in a criminal matter who files a direct appeal then flees the jurisdiction forfeits his right to appeal. *See City of Seattle v. Klein*, 161 Wn.2d 554, 559, 166 P.3d 1149 (2007). But this is not a direct appeal. Morley seeks relief from claimed unlawful restraint imposed by DOC. In Washington, the fugitive disentitlement doctrine has never been applied in this context.

From: Hines, Keith (ATG)
To: ATG MI COR Oly CE Reader; ATG MI COR OLY LA EF
Subject: FW: 405958 Personal Restraint Petition of Shannon Bruce Morley
Date: Friday, March 28, 2025 2:57:13 PM
Attachments: - - 405958 - Public - Order - Dismissing - 3 28 2025 - - - Staab, Tracy.pdf

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From: Spence, Barb <Barb.Spence@courts.wa.gov>
Sent: Friday, March 28, 2025 2:56:49 PM (UTC-08:00) Pacific Time (US & Canada)
To: Hines, Keith (ATG) <Keith.Hines@ATG.WA.GOV>; Lang, Tim N (ATG) <tim.lang@atg.wa.gov>; ATG MI COR Oly CE Reader <CORreader@atg.wa.gov>
Cc: bhuber@co.douglas.wa.us <bhuber@co.douglas.wa.us>
Subject: 405958 Personal Restraint Petition of Shannon Bruce Morley

[EXTERNAL]

Attached is a copy of a document in the above referenced case. Please consider this as the original for your files, a copy will not be sent by regular mail.

Any documents filed with this Court should be submitted via our E-filing Portal: https://ac.courts.wa.gov/

Please do not respond to this email. For any questions, please contact the court directly.