

September 27, 2023

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the
Personal Restraint of:

NAOMI SUE WHITE EAGLE,

Petitioner.

No. 58170-1-II

ORDER DISMISSING PETITION
AND DENYING MOTION FOR
APPOINTMENT OF COUNSEL

Naomi Sue White Eagle seeks relief from personal restraint imposed following her convictions under Pierce County Superior Court cause number 16-1-00416-6. In this personal restraint petition (PRP), White Eagle requests compassionate release;¹ monetary damages; and other relief unrelated to her restraint, such as retraining of staff, based on allegations that her conditions of confinement violate several constitutional provisions and her civil rights. Specifically, she contends that her conditions of confinement are unlawful because the Department of Corrections (DOC) has failed to provide adequate medical treatment, failed to comply with COVID protocols, and engaged in discriminatory and retaliatory action. She also challenges a prison disciplinary infraction and contends that the DOC staff is preventing her from conferring with other inmates on legal issues. This PRP is dismissed.

¹ White Eagle requests compassionate release under 18 U.S.C. 3582 and related federal statutes. But these statutes are federal sentencing statutes that do not apply to White Eagle's Washington sentence. Because White Eagle was sentenced under Washington law, she must request compassionate release under state law, RCW 9.94A.728.

Regarding her claims related to her conditions of confinement, the relief requested is outside of the scope of relief available in a PRP. *See In re Pers. Restraint of Williams*, 171 Wn.2d 253, 256, 250 P.3d 112 (2011) (“[I]t is well settled that a demand for monetary damages is not actionable by personal restraint petition.”); *In re Pers. Restraint of Sappenfield*, 138 Wn.2d 588, 595, 980 P.2d 1271 (1999) (scope of relief in a PRP is limited to the removal of the illegal restraint).²

Regarding her challenge to her prison disciplinary infraction, White Eagle argues that her October 27, 2022 disciplinary infraction violated double jeopardy because it was a rehearing on a July 6, 2022 infraction. Because prison disciplinary proceedings are not criminal in nature, double jeopardy does not apply. *In re Pers. Restraint of Higgins*, 152 Wn.2d 155, 163-64, 95 P.3d 330 (2004). Accordingly, this argument fails.³

Regarding her allegation that DOC staff is preventing her from working with another inmate on her legal matters, White Eagle is correct that DOC policy 590.500(II)(A) and (B) permits inmates to confer with other inmates when researching and preparing legal proceedings in the law library when the schedule allows. But White Eagle does not provide

² Notably, this court has already dismissed one PRP in which White Eagle directly challenged her conditions of confinement based on allegations that the DOC has failed to adequately address her medical needs. Ord. Dismissing Pet., *In re Pers. Restraint of White Eagle*, No. 57600-7-II (Wash. Ct. App. Feb. 27, 2023). And White Eagle currently has two additional PRPs pending before this court that appear to directly challenge her conditions of confinement. PRP, *In re Pers. Restraint of White Eagle*, No. 58590-1-II (Wash. Ct. App. Mar. 13, 2023); PRP, *In re Pers. Restraint of White Eagle*, No. 59050-6-II (Wash. Ct. App. July 12, 2023).

³ In her second supplemental filing White Eagle raises additional issues related to the disciplinary infraction. This supplemental filing was accepted as a supplement to the record, not a supplemental PRP. Ruling, *In re Pers. Restraint of White Eagle*, No. 58170-1-II (Wash. Ct. App. July 11, 2023). Accordingly, this court will not consider any new issues raised in this supplemental filing.

any support for her assertion that she has requested to be able to work with another inmate or that any such request has been denied. Thus, this argument fails.

Accordingly, it is hereby

ORDERED that this petition is dismissed under RAP 16.11(b), and White Eagle's motion for appointment of counsel is denied.



Acting Chief Judge

cc: Naomi Sue White Eagle
Candie M. Dibble, AAG
Pierce County Clerk
County Cause No(s). 16-0-00416-6