

WASHINGTON SUPREME COURT

In re the Personal Restraint of Addleman

151 Wash. 2d 769 (2004) · No. 73857-2 · Decided June 10, 2004

SUMMARY

The Washington Supreme Court reviews a personal restraint petition challenging the Indeterminate Sentence Review Board’s extension of Addleman’s minimum sentence. The court holds that the Board reasonably attempted to consider Sentencing Reform Act ranges, did not unlawfully retaliate against Addleman for protected speech by considering his slang dictionary, and did not abuse its discretion in finding that he was not rehabilitated. The petition is denied.

CASE DETAILS

COURT	Washington Supreme Court
WRITING FOR THE COURT	Chambers, J.; Ireland, J.; Bridge, J.; Owens, J.; Fairhurst, J.; Madsen, J.
JURISDICTION	Washington
DECIDED	June 10, 2004
DOCKET	73857-2
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Addleman filed a personal restraint petition challenging the Indeterminate Sentence Review Board's 2002 extension of his minimum sentence. The Washington Supreme Court granted review and denied the petition.
STANDARD OF REVIEW	The petitioner bears the burden of showing unlawful restraint. The court reviews whether the ISRB acted unlawfully or abused its discretion, including by failing to follow its procedural rules, failing to consider SRA standard ranges, or acting without consideration of and in disregard of the facts.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion
PARTIES	Lincoln Lane Addleman, Jr. v. Indeterminate Sentence Review Board

TOPICS

- state post-conviction relief
- sentence modification
- sentencing
- parole
- administrative law

PRACTICE AREAS

criminal procedure

post-conviction relief

sentencing

administrative law

constitutional law

QUESTIONS PRESENTED

1. Whether the ISRB unlawfully extended Addleman's minimum sentence because the extension was substantially longer than the standard range under the Sentencing Reform Act of 1981.
2. Whether the ISRB abused its discretion by relying on Addleman's slang dictionary in violation of his First Amendment rights.
3. Whether the ISRB abused its discretion by failing to follow its procedural rules, failing to consider applicable SRA standard ranges, or relying on insufficient evidence of nonrehabilitation.

HOLDINGS

1. The ISRB must make reasonable attempts to set minimum sentences consistently with the SRA, but it has no duty to parole a prisoner whom it determines has not completed rehabilitation before the maximum term expires.
2. A prisoner challenging an ISRB decision as retaliation for protected speech must show that the action was in fact retaliatory and that the alleged retaliatory action advanced no legitimate penological goals. Addleman failed to establish his claim under that standard.
3. The ISRB did not abuse its discretion because Addleman failed to show that it violated its procedural rules, failed to consider the SRA standard ranges, or acted without consideration of and in disregard of the facts.

KEY QUOTATIONS

"The ISRB must make reasonable attempts to set its minimum sentences consistent with the SRA but has no duty to parole an unrehabilitated prisoner." (151 Wash. 2d at 775)

"Based on the evidence presented, the ISRB concluded that Addleman presents too great a risk to be released to the community at this time." (151 Wash. 2d at 778)

FACTUAL BACKGROUND

Addleman pleaded guilty in 1979 to first degree statutory rape and was sentenced under Washington's former indeterminate sentencing system to a maximum term of life imprisonment. The ISRB repeatedly extended his minimum term, most recently by 175 months in 2002 after considering his criminal history, treatment records, psychological evaluations, interview, and a slang dictionary containing sexualized and degrading descriptions of women and named correctional personnel. The ISRB determined that Addleman had not been rehabilitated and presented too great a risk to be released to the community.

PROCEDURAL HISTORY

Addleman pleaded guilty in 1979 to first degree statutory rape and received a maximum life sentence, with the minimum term initially set by the Board of Prison Terms and Paroles. After earlier litigation resulted in a new

hearing because the Board had considered Addleman's litigation and grievance history, the ISRB conducted hearings in 2000 and 2002. At the 2002 hearing, the ISRB found Addleman was not rehabilitated and extended his minimum sentence by 175 months. The Washington Supreme Court reviewed the extension and denied Addleman's personal restraint petition.

DISPOSITION

writ_denied

CASES CITED

- In re Pers. Restraint of Addleman, 139 Wn.2d 751, 991 P.2d 1123 (2000)
- Farr v. Blodgett, 810 F. Supp. 1485 (E.D. Wash. 1993)
- Crawford-El v. Britton, 523 U.S. 574, 588 n.10, 118 S. Ct. 1584, 140 L. Ed. 2d 759 (1998)
- In re Pers. Restraint of Cashaw, 123 Wn.2d 138, 147-50, 866 P.2d 8 (1994)
- Foster v. Wash. State Bd. of Prison Terms & Parole, 878 F.2d 1233, 1235 (9th Cir. 1989)
- Frazier v. Manson, 703 F.2d 30, 36 (2d Cir. 1983)
- Greenholtz v. Inmates of Neb. Penal & Corr. Complex, 442 U.S. 1, 7, 99 S. Ct. 2100, 60 L. Ed. 2d 668 (1979)
- Meachum v. Fano, 427 U.S. 215, 224, 96 S. Ct. 2532, 49 L. Ed. 2d 451 (1976)
- In re Pers. Restraint of Myers, 105 Wn.2d 257, 268, 714 P.2d 303 (1986)
- Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle, 429 U.S. 274, 283-84, 97 S. Ct. 568, 50 L. Ed. 2d 471 (1977)
- Hargis v. Foster, 312 F.3d 404, 409 (9th Cir. 2002)
- Barnett v. Centoni, 31 F.3d 813, 814-16 (9th Cir. 1994)
- Rizzo v. Dawson, 778 F.2d 527, 532 (9th Cir. 1985)
- Thaddeus-X v. Blatter, 175 F.3d 378, 394 (6th Cir. 1999)
- In re Pers. Restraint of Locklear, 118 Wn.2d 409, 418, 823 P.2d 1078 (1992)
- Addleman v. Bd. of Prison Terms & Paroles, 107 Wn.2d 503, 511, 730 P.2d 1327 (1986)
- In re Pers. Restraint of Whitesel, 111 Wn.2d 621, 628, 763 P.2d 199 (1988)
- Ben-Neth v. Indeterminate Sentencing Review Bd., 49 Wn. App. 39, 42, 740 P.2d 855 (1987)

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