

SUPREME COURT OF WASHINGTON

In the Matter of the Personal Restraint of Amel W. Dalluge

177 P.3d 675 (Wash. 2008) · No. No. 79841-9 · Decided January 17, 2008

SUMMARY

The Washington Supreme Court considered whether the Department of Corrections retained authority to enforce community-custody conditions and sanction an offender for misconduct committed while the offender was confined in jail. The court held that tolling the period of community custody during confinement did not suspend the department's supervisory authority or the offender's obligation to comply with custody conditions. The court affirmed dismissal of Amel Dalluge's personal restraint petition.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Chambers, J.; Charles W. Johnson, J.; Susan Owens, J.; Mary E. Fairhurst, J.; James M. Johnson, J.; Bobbe J. Bridge, Justice Pro Tem; Sanders, J.; Gerry L. Alexander, C.J.; Barbara A. Madsen, J.
JURISDICTION	Washington
DECIDED	January 17, 2008
DOCKET	No. 79841-9
DISPOSITION	affirmed
PROCEDURAL POSTURE	Dalluge sought review of the dismissal of his personal restraint petition challenging the Department of Corrections' authority to sanction him for violating community-custody conditions while he was confined in jail.
STANDARD OF REVIEW	Personal restraint petitioners generally must show constitutional error causing actual and substantial prejudice or nonconstitutional error resulting in a complete miscarriage of justice; when direct review is unavailable, the petitioner may prevail by showing unlawful restraint under RAP 16.4. The statutory-interpretation issue is reviewed de novo.
PRECEDENTIAL VALUE	Published en banc opinion of the Washington Supreme Court; precedential.
PARTIES	Amel W. Dalluge v. Washington State Department of Corrections

TOPICS

statutory interpretation

post-conviction relief

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Department of Corrections retained statutory authority to enforce community-custody conditions and sanction an offender for misconduct committed while the offender was confined in jail and the period of community custody was tolled.
2. Whether the personal restraint petition was moot.
3. Whether the dismissal of Dalluge's unsupported equal-protection and notice claims should be disturbed.

HOLDINGS

1. Tolling the period of community custody during an offender's confinement does not toll the Department of Corrections' supervisory authority or its ability to enforce community-custody conditions. The Department therefore had statutory authority to sanction Dalluge for jailhouse misconduct that violated those conditions.
2. The court denied the Department's motion to dismiss as moot because the issue presented a continuing and substantial public interest, guidance would assist public officers, and the issue was likely to recur.
3. The court declined to disturb dismissal of Dalluge's equal-protection and notice claims because he supported neither claim with argument or citation and appeared to have abandoned them.

KEY QUOTATIONS

"We disagree and hold that the department had the statutory power to sanction Dalluge for his jailhouse misconduct." (177 P.3d at 675-676)

"Based on all these statutes, we conclude that the legislature intended the department to retain supervisory power and responsibility while offenders on community supervision are confined." (177 P.3d at 677)

"We conclude that the department had the statutory authority to sanction Dalluge for violating the terms of community custody while he was confined." (177 P.3d at 678)

FACTUAL BACKGROUND

Dalluge was released from prison to community custody and was subsequently taken to the Grant County jail after allegedly threatening officers with pieces of a broken telephone. His jailhouse conduct resulted in convictions for assault, malicious mischief, and weapons offenses. The Department of Corrections also found that the conduct violated his community-custody conditions and imposed 60 days of confinement, served concurrently with pretrial confinement.

PROCEDURAL HISTORY

While serving community custody, Dalluge was jailed after an altercation and was later convicted of assault, malicious mischief, and weapons offenses. The Department of Corrections separately found that he violated the community-custody condition requiring him to obey all laws and imposed 60 days of confinement. After an unsuccessful internal appeal, Dalluge filed a personal restraint petition. The chief judge dismissed the petition, and the Washington Supreme Court granted review, denied the Department's mootness motion, and affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Pers. Restraint of Dalluge, 152 Wash. 2d 772, 100 P.3d 279 (2004)
- In re Pers. Restraint of Lord, 152 Wash. 2d 182, 188, 94 P.3d 952 (2004)
- In re Pers. Restraint of Cook, 114 Wash. 2d 802, 812, 792 P.2d 506 (1990)
- In re Pers. Restraint of Isadore, 151 Wash. 2d 294, 299, 88 P.3d 390 (2004)
- In re Pers. Restraint of Garcia, 106 Wash. App. 625, 628, 24 P.3d 1091, 33 P.3d 750 (2001)
- In re Pers. Restraint of Cashaw, 123 Wash. 2d 138, 149, 866 P.2d 8 (1994)
- Dep't of Ecology v. Campbell & Gwinn, LLC, 146 Wash. 2d 1, 9-11, 43 P.3d 4 (2002)
- United States v. Camarata, 828 F.2d 974, 981 (3d Cir. 1987)
- State v. Keller, 98 Wash. 2d 725, 728, 657 P.2d 1384 (1983)
- Sorenson v. City of Bellingham, 80 Wash. 2d 547, 558, 496 P.2d 512 (1972)
- State ex rel. Yakima Amusement Co. v. Yakima County, 192 Wash. 179, 73 P.2d 759 (1937)
- In re Pers. Restraint of Myers, 105 Wash. 2d 257, 261, 714 P.2d 303 (1986)
- State v. Johnson, 119 Wash. 2d 167, 171, 829 P.2d 1082 (1992)
- In re Pers. Restraint of LaChapelle, 153 Wash. 2d 1, 7, 100 P.3d 805 (2004)
- State v. J.P., 149 Wash. 2d 444, 450, 69 P.3d 318 (2003)
- Koenig v. City of Des Moines, 158 Wash. 2d 173, 182, 142 P.3d 162 (2006)
- Sebastian v. Dep't of Labor & Indus., 142 Wash. 2d 280, 285, 12 P.3d 594 (2000)
- Troxell v. Rainier Pub. Sch. Dist. No. 307, 154 Wash. 2d 345, 361, 111 P.3d 1173 (2005)
- John H. Sellen Constr. Co. v. Dep't of Revenue, 87 Wash. 2d 878, 883, 558 P.2d 1342 (1976)
- State v. Chapman, 140 Wash. 2d 436, 450, 998 P.2d 282 (2000)
- Hangartner v. City of Seattle, 151 Wash. 2d 439, 452-453, 90 P.3d 26 (2004)
- In re Estate of Sherwood, 122 Wash. 648, 655-656, 211 P. 734 (1923)
- City of Seattle v. Fontanilla, 128 Wash. 2d 492, 498, 909 P.2d 1294 (1996)
- In re Pers. Restraint of Caudle, 71 Wash. App. 679, 680, 863 P.2d 570 (1993)
- State v. Chester, 133 Wash. 2d 15, 21, 940 P.2d 1374 (1997)
- State v. Hornaday, 105 Wash. 2d 120, 127, 713 P.2d 71 (1986)
- City of Spokane v. Taxpayers of Spokane, 111 Wash. 2d 91, 97, 758 P.2d 480 (1988)

- Zedner v. United States, 547 U.S. 489, 510, 126 S. Ct. 1976, 164 L. Ed. 2d 749 (2006) (Scalia, J., concurring)
- Conn. Nat'l Bank v. Germain, 503 U.S. 249, 253-254, 112 S. Ct. 1146, 117 L. Ed. 2d 391 (1992)

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