

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE**

IN THE MATTER OF THE  
PERSONAL RESTRAINT OF:

DONALD MORRIS LEE,

Petitioner.

No. 82771-5-I

ORDER OF DISMISSAL

Donald Lee filed a petition for a writ of mandamus at the Washington Supreme Court challenging his judgment and sentence in Snohomish County Superior Court No. 11-1-01772-3. Lee later requested that his petition be treated as a personal restraint petition, and the Supreme Court transferred the petition to this court for consideration.

Lee was convicted in 2012 of first degree child molestation, third degree rape of a child, and communication with a minor for immoral purposes after pleading guilty. In his original judgment and sentence, the box next to the statement "The defendant is a sex offender subject to indeterminate sentencing under RCW 9.9A.507" was not checked. On May 5, 2021, the superior court entered an order amending the judgment and sentence to check the box next to that statement. Lee asserts that the amendment "add[ed] severity & time to Lee's sentence" in violation of law and requests that this court "dismiss [the] amended 'J&S' with prejudice."

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No. 82771-5-I/3

superior court, not DOC's petition for review or attempted correction of Lee's sentence.

Lee fails to present an arguable basis for collateral relief in law or fact given the constraints of a personal restraint petition. His petition is clearly frivolous and must be dismissed. RAP 16.8.1(b) (petition will be dismissed without requesting a response if the issues presented are clearly frivolous or clearly barred); In re Pers. Restraint of Khan, 184 Wn.2d 679, 686-87, 363 P.3d 577 (2015) ("[A] personal restraint petition is frivolous where it fails to present an arguable basis for collateral relief either in law or fact, given the constraints of the personal restraint petition vehicle.").

Now, therefore, it is hereby

ORDERED that this personal restraint petition is dismissed under RAP 16.8.1(b).

Andrews, A.C.J.  
Acting Chief Judge

**IN THE SUPREME COURT OF THE STATE OF WASHINGTON**

In the Matter of the Personal Restraint of:

DONALD MORRIS LEE,

Petitioner.

No. 1 0 0 0 0 0 - 6

Court of Appeals No. 82771-5-I

RULING DENYING REVIEW

Donald Lee pleaded guilty in 2012 to first degree child molestation, third degree child rape, and communicating with a minor for immoral purposes. For the first degree child molestation conviction, Mr. Lee received an indeterminate prison sentence consisting of a minimum term of 130 months and a maximum of life pursuant to RCW 6.94A.507. On the judgment and sentence form, however, the trial court did not mark the box indicating Mr. Lee was a sex offender subject to indeterminate sentencing under RCW 9.94A.507. In May 2021, on the State's motion, the court amended the judgment and sentence to mark the box. Mr. Lee challenged the order of amendment by a petition for writ of mandamus in this court, but on his request, the court redesignated the writ petition as a personal restraint petition, and the court transferred the petition to Division One of the Court of Appeals. Finding no arguable basis for relief, the acting chief judge dismissed the petition as frivolous. *See In re Pers. Restraint of Khan*, 184 Wn.2d 679, 686-87, 363 P.3d 577 (2015) (standard of frivolousness). Mr. Lee filed a

motion for reconsideration, which was forwarded to this court for treatment as a motion for discretionary review. RAP 16.13(c).

Mr. Lee demonstrates no error in the acting chief judge's decision meriting this court's review. The trial court simply marked a box it had inadvertently left blank on the original judgment and sentence form to reflect the sentence for the first degree child molestation that the court had actually—and correctly—imposed: a minimum sentence within the standard range (130 months) and a maximum sentence at the statutory maximum of life for that crime. *See* RCW 9.94A.507(1)(a)(i), (3). Mr. Lee cites no statute or decision suggesting the court acted beyond its lawful authority in making such a correction. To the extent Mr. Lee argues, as he seems to, that the correction affected the validity of his plea because it altered his understanding of sentencing consequences, it did not. In his written plea statement, Mr. Lee was informed that for first degree child molestation, the trial court would impose a sentence under RCW 9.94A.507 consisting of the statutory maximum and a minimum sentence within the standard range. And when he entered his plea, the court informed him that the standard range for the child molestation represented a minimum term. And as indicated, the court imposed precisely that sentence.<sup>1</sup> The acting chief judge properly dismissed Mr. Lee's personal restraint petition.

Mr. Lee also moves in this court for an order compelling his trial attorney to turn over his client file. But he does not provide enough information on this matter to allow this court to act. He may seek such relief in superior court. *See State v. Padgett*, 4 Wn. App. 2d 851, 424 P.3d 1235 (2018); CrR 4.7(h)(3); RPC 1.16(d).

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<sup>1</sup> This information is not contained in the materials Mr. Lee provides with his current petition. It is gleaned from materials provided in connection with a previous personal restraint petition filed in the Court of Appeals. No. 81997-6-I.

The motion for discretionary review and the motion to compel are denied.

  
DEPUTY COMMISSIONER

August 27, 2021

FILED  
 SUPREME COURT  
 STATE OF WASHINGTON  
 11/3/2021  
 BY ERIN L. LENNON  
 CLERK

## THE SUPREME COURT OF WASHINGTON

In re the Personal Restraint of

DONALD MORRIS LEE,

Petitioner.

No. 100000-6

### ORDER

Court of Appeals  
 No. 82771-5-I

Department II of the Court, composed of Chief Justice González and Justices Madsen, Stephens, Yu and Whitener (Justice Montoya-Lewis sat for Justice Madsen), considered this matter at its November 2, 2021, Motion Calendar and unanimously agreed that the following order be entered.

#### IT IS ORDERED:

That the Petitioner's motion to modify the Deputy Commissioner's ruling and "Motion to Disbar Judge" are denied.

DATED at Olympia, Washington, this 3rd day of November, 2021.

For the Court

González C.J.  
 CHIEF JUSTICE

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE

IN THE MATTER OF THE  
PERSONAL RESTRAINT OF:

DONALD MORRIS LEE,

Petitioner.

No. 82689-1-1

ORDER OF DISMISSAL

Donald Lee was convicted in 2012 of first degree child molestation, third degree rape of a child, and communication with a minor for immoral purposes after pleading guilty in Snohomish County Superior Court No. 11-1-01772-3. It appears that Lee's initial early release date was in April 2021 and that, in January 2021, the Indeterminate Sentencing Review Board reviewed Lee's status, denied him release, and added 36 months to Lee's minimum term.

In this personal restraint petition,<sup>1</sup> Lee contends he is under unlawful restraint

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<sup>1</sup> Lee is currently confined at Stafford Creek Corrections Center in Grays Harbor County. Lee initiated this personal restraint petition by filing a "praecipe" to which he attached a Snohomish County Superior Court order dismissing, for lack of jurisdiction, a petition for a writ of habeas corpus that Lee filed in that court. Lee also attached a later Grays Harbor County Superior Court order dismissing, on its merits, a petition for a writ of habeas corpus that Lee filed in that court. It does not appear that Lee filed a notice of appeal with regard to either the Snohomish County order or the Grays Harbor County order. In a subsequent filing, Lee requested that this court "file as a PRP if necessary." Because Lee filed his praecipe as an original action in the Court of Appeals, this court treats it as a personal restraint petition. See RAP 16.1(a) ("The rules in [Title 16 RAP] establish the procedure for original actions in the . . . Court of Appeals."); RAP 16.3(a) (rules governing personal restraint petitions "establish a single procedure for proceedings in the appellate court to obtain relief from restraint"). Additionally, because Lee did not appeal either superior court's order, Lee's request for a determination as to

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No. 82689-1-I/3

indeterminate sentence. Cf. RCW 9.94A.431(2) (trial court not bound by recommendations in plea agreement); RCW 9.94A.507(1)(a)(i) (providing that an offender who is not a persistent offender and who is convicted of first degree child molestation "shall be sentenced" to an indeterminate sentence thereunder).

For the foregoing reasons, Lee fails to present an arguable basis for collateral relief in law or fact given the constraints of a personal restraint petition. His petition is clearly frivolous and must be dismissed.<sup>2</sup> RAP 16.8.1(b) (personal restraint petition will be dismissed without requesting a response if the issues presented are clearly frivolous or clearly barred); In re Pers. Restraint of Khan, 184 Wn.2d 679, 686-87, 363 P.3d 577 (2015) ("[A] personal restraint petition is frivolous where it fails to present an arguable basis for collateral relief either in law or fact, given the constraints of the personal restraint petition vehicle.").

Now, therefore, it is hereby

ORDERED that this personal restraint petition is dismissed under RAP 16.8.1(b).

Andrus, A.C.J.  
Acting Chief Judge

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<sup>2</sup> This court has considered both Lee's initial "praecipe" and attachments, as well as the additional materials Lee filed on June 15, 2021.



**IN THE SUPREME COURT OF THE STATE OF WASHINGTON**

In the Matter of the Personal Restraint of:

DONALD MORRIS LEE,

Petitioner.

No. 1 0 0 0 9 3 - 6

Court of Appeals No. 82689-1-I

**RULING DENYING REVIEW**

Donald Lee pleaded guilty in 2012 to first degree child molestation, third degree child rape, and communicating with a minor for immoral purposes. For the first degree child molestation conviction, Mr. Lee received an indeterminate prison sentence consisting of a minimum term of 130 months and a maximum of life pursuant to RCW 6.94A.507. But on the judgment and sentence form, the trial court did not mark the box indicating Mr. Lee was a sex offender subject to indeterminate sentencing under RCW 9.94A.507. In May 2021, on the State's motion, the court amended the judgment and sentence to mark the box. Meanwhile, in January 2021, as the early release date on Mr. Lee's minimum term was approaching, the Indeterminate Sentence Review Board added 36 months to his minimum term. Mr. Lee challenged the failure to release him on his early release date by personal restraint petition in Division One of the Court of Appeals. Finding no arguable basis for relief, the acting chief judge dismissed the petition as frivolous. *See In re Pers. Restraint of Khan*, 184 Wn.2d 679, 686-87, 363 P.3d 577 (2015) (standard of frivolousness). Mr. Lee filed documents in the Court of

Appeals disputing the acting chief judge's decision, which were forwarded to this court for treatment as a motion for discretionary review. RAP 16.13(c).

Mr. Lee demonstrates no error in the acting chief judge's decision meriting this court's review. He seems to argue that in seeking to amend the judgment and sentence to make clear that Mr. Lee was subject to an indeterminate sentence for the child molestation conviction, the State breached the plea agreement. But the trial court simply marked a box it had inadvertently left blank on the original judgment and sentence form to reflect the sentence for the first degree child molestation that the court had actually—and correctly—imposed: a minimum sentence within the standard range (130 months) and a maximum sentence at the statutory maximum of life for that crime. *See* RCW 9.94A.507(1)(a)(i), (3). Mr. Lee demonstrates no breach of the plea agreement. In his written plea statement, Mr. Lee was informed that for first degree child molestation, the trial court would impose a sentence under RCW 9.94A.507 consisting of the statutory maximum and a minimum sentence within the standard range. And when he entered his plea, the court informed him that the standard range for the child molestation represented a minimum term. The court imposed precisely that sentence. In sum, the acting chief judge properly dismissed Mr. Lee's personal restraint petition.

Mr. Lee also moves in this court for an order compelling his trial attorney to turn over his client file. But he does not provide enough information on this matter to allow this court to act. He may seek such relief in superior court. *See State v. Padgett*, 4 Wn. App. 2d 851, 424 P.3d 1235 (2018); CrR 4.7(h)(3); RPC 1.16(d).

The motion for discretionary review and the motion to compel are denied.

  
DEPUTY COMMISSIONER

September 30, 2021

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
12/1/2021  
BY ERIN L. LENNON  
CLERK

## THE SUPREME COURT OF WASHINGTON

In re the Personal Restraint of

DONALD MORRIS LEE,

Petitioner.

No. 100093-6

### ORDER

Court of Appeals  
No. 82689-1-I

Department II of the Court, composed of Chief Justice González and Justices Madsen, Stephens, Yu and Whitener, considered this matter at its November 30, 2021, Motion Calendar and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the Petitioner's motion to modify the Deputy Commissioner's ruling is denied.

DATED at Olympia, Washington, this 1st day of December, 2021.

For the Court

  
CHIEF JUSTICE

32

11-1-01772-3  
ORMJS 243  
Order Modifying Judgment and Sentence  
#0242963



FILED

2021 MAY -5 AM 11:45

HEIDI PERCY  
COUNTY CLERK  
SNOHOMISH CO. WASH

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SNOHOMISH

THE STATE OF WASHINGTON,

Plaintiff,

v.

LEE, DONALD MORRIS, 356696

Defendant.

No. 11-1-01772-3

ORDER AMENDING JUDGMENT AND  
SENTENCE

THIS MATTER having come on regularly before the undersigned Judge of the above court on the motion of plaintiff to amend the Judgment and Sentence entered in the above entitled matter on 05/04/21

AND THE COURT having considered the records and files herein and being fully advised;

NOW THEREFORE, IT IS HEREBY ORDERED that in Paragraph 2.1 of the Judgment and Sentence entered in the above entitled matter on May 8, 2012, be and the same hereby is amended to read in part as follows:

☒ The defendant is a sex offender subject to indeterminate sentencing under RCW 9.94A.507.

All other provisions of the Judgment and Sentence remain in force and effect.

DONE IN OPEN COURT this 4<sup>th</sup> day of May, 2021.

JUDGE BRUCE I. WEISS

Presented by:

MARTINA WONG, WSBA# 49218  
Deputy Prosecuting Attorney

Approved for entry; copy received:

CASSIE CORDELL TRUEBLOOD, WSBA #: 37829  
Attorney for Defendant

DONALD MORRIS LEE  
Defendant

MAY 05 2021  
Date  
CC PA  
Clerk  
CC SCSO  
CC Jail  
DPA Stmt Y/N

1 (62)

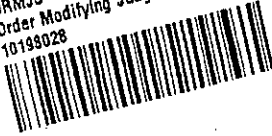
31/38

FILED

2021 APR 28 AM 11:37

HEIDI PERCY  
COUNTY CLERK  
SNOHOMISH CO. WASH

11-1-01772-3  
ORMJS 238  
Order Modifying Judgment and Sentence  
10198028



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SNOHOMISH

THE STATE OF WASHINGTON,

Plaintiff,

v.

LEE, DONALD MORRIS,

Defendant.

No. 11-1-01772-3

ORDER AMENDING JUDGMENT AND  
SENTENCE

THIS MATTER having come on regularly before the undersigned Judge of the above court on the motion of plaintiff to amend the Judgment and Sentence entered in the above entitled matter on 12/30/2030 9:30:00 AM,

AND THE COURT having considered the records and files herein and being fully advised;

NOW THEREFORE, IT IS HEREBY ORDERED that in Paragraph 2.1 of the Judgment and Sentence entered in the above entitled matter on May 8, 2012, be and the same hereby is amended to read in part as follows:

[X] The defendant is a sex offender subject to indeterminate sentencing under RCW 9.94A.507.

All other provisions of the Judgment and Sentence remain in force and effect.

DONE IN OPEN COURT this 25<sup>th</sup> day of April, 2021.

JUDGE BRUCE I. WEISS

Presented by:

MARTINA WONG, WSBA# 49218  
Deputy Prosecuting Attorney

Approved for entry; copy received:

/s/ Cassie Trueblood #37829  
CASSIE CORDELL TRUEBLOOD, WSBA #: 37829  
Attorney for Defendant

DONALD MORRIS LEE  
Defendant

#073652

APR 28 2021  
Date  
CC PA  
Clerk AB  
CC Jail  
CC SCSO  
DPA Stmt Y (N)

5 (C1) 50

**Additional material  
from this filing is  
available in the  
Clerk's Office.**