

WASHINGTON STATE SUPREME COURT -  
RULING DENYING THE MOTION TO MODIFY COMMISSIONER'S  
RULING, No. 104227-2 - one page.

(denied, and denied a reference hearing)



WASHINGTON STATE COURT OF APPEALS, DIVISION III -  
RULING, No. 41141-9-III, pages 1-5

SCYPHERS, Writ

APPENDIX B

**FILED**  
**May 15, 2025**  
COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON

COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

In the Matter of the Personal Restraint	)	No. 41141-9-III
of:	)	
	)	
DOUGLAS DEAN SCYPHERS,	)	ORDER DISMISSING PERSONAL
	)	RESTRAINT PETITION
	)	
Petitioner.	)	

1 Douglas Scyphers seeks relief from personal restraint imposed in 2017 after a  
2 Spokane County jury found him guilty of multiple sex offenses committed against his  
3 daughter and felony bail jumping. This court affirmed Scyphers's convictions on appeal.  
4 *State v. Scyphers*, No. 35851-8-III (Wash. Ct. App. March 31, 2020) (unpublished),  
5 [https://www.courts.wa.gov/opinions/pdf/358518\\_unp.pdf](https://www.courts.wa.gov/opinions/pdf/358518_unp.pdf). His convictions became final  
6 upon issuance of the mandate on July 8, 2020. RCW 10.73.090(3)(b).

7 In December 2020, Scyphers filed his first timely personal restraint petition.  
8 There, he raised several claims of ineffective assistance of trial counsel. We dismissed  
9 his petition as frivolous, concluding Scyphers had failed to establish that his counsel's

1 representation was deficient and that he was prejudiced. *In re Pers. Restraint of*  
2 *Scyphers*, No. 37909-4-III (Wash. Ct. App. Aug. 23, 2021).

3 During the pendency of that first petition, Scyphers filed a second timely petition.  
4 There he argued: (1) he was entitled to relief because he had a constitutional right to  
5 indictment by a grand jury; (2) his consecutive sentences on counts V, VI, and VII were  
6 unlawful; and (3) that the trial court lacked subject matter jurisdiction because the  
7 statutes he was convicted of violating lacked “enacting clauses.” Because none of  
8 Scyphers’s arguments merited relief, we dismissed his second petition as frivolous. *In re*  
9 *Pers. Restraint of Scyphers*, No. 37953-1-III (Wash. Ct. App. Dec. 27, 2021).

10 In March 2022, Scyphers filed a CrR 7.8 motion in the superior court. Finding the  
11 matter time-barred, the superior court transferred the motion to this court for  
12 consideration as a personal restraint petition. In that petition, Scyphers sought to  
13 suppress the evidence found in his residence pursuant to a search warrant. He contended  
14 the search warrant was invalid and issued in violation of his right against unlawful search  
15 and seizure. We dismissed the petition as untimely and successive. *In re Pers. Restraint*  
16 *of Scyphers*, No. 38943-0-III (Wash. Ct. App. Jan. 11, 2023). Scyphers sought review in  
17 the Supreme Court, which was denied.

18 In October 2023, Scyphers filed another collateral attack in the superior court as a  
19 CrR 7.8 motion. The motion was rephrased but was otherwise substantially the same

1 challenge to the search warrant as his prior petition (No. 38943-0-III). The superior court  
2 again found Scyphers's motion untimely and successive and transferred it to this court for  
3 consideration as a personal restraint petition. Scyphers contended his motion was not  
4 subject to the time bar based on newly discovered evidence. He argued the new evidence  
5 showed the search warrant was fabricated by law enforcement and was falsely signed by  
6 Judge Michael Price. We again determined Scyphers was not entitled to relief and  
7 dismissed his collateral attack as successive and time barred. *See In re Pers. Restraint of*  
8 *Scyphers*, No. 39987-7-III (Wash. Ct. App. Dec. 20, 2023).

9 Scyphers originally filed the instant petition in the Supreme Court to avoid the  
10 successive petition rule. The Supreme Court then transferred the petition to this court  
11 under RAP 16.5(b).

12 Under the successive petition rule, the Court of Appeals is barred from  
13 considering the petition if the petitioner raises "similar grounds" to those raised in the  
14 previous petition, or the petitioner raises a new ground for relief and fails to show good  
15 cause for not having raised the new ground in the previous petition. RCW 10.73.140; *In*  
16 *re Pers. Restraint of Bell*, 187 Wn.2d 558, 562, 387 P.3d 719 (2017). A successive  
17 petition seeks "similar relief" if it renews claims heard and determined on the merits in a  
18 previous petition. *In re Pers. Restraint of Martinez*, 171 Wn.2d 354, 362, 256 P.3d 277  
19 (2011). An issue will not be deemed to have been "heard and determined on the

1 merits” if it was not sufficiently argued to command judicial consideration and  
2 discussion, and there is no reasonable basis to conclude that the merits were reviewed.  
3 *In re Pers. Restraint of Greening*, 141 Wn.2d 687, 700, 9 P.3d 206 (2000). If this  
4 court determines that a petition is successive, but timely, we must transfer the petition to  
5 the Supreme Court for consideration. *Bell*, 187 Wn.2d at 562. But, if the petition is both  
6 successive and untimely, we must dismiss it. *Id.* at 563.

7 Generally, a petitioner has one year from the time the judgment becomes final to  
8 file a personal restraint petition under RCW 10.73.090(1) unless he can prove the  
9 judgment and sentence is facially invalid, was entered without competent jurisdiction, or  
10 the petition is based solely on one or more of the exceptions found in RCW 10.73.100(1)-  
11 (6). *In re Pers. Restraint of McKiernan*, 165 Wn.2d 777, 781, 203 P.3d 375 (2009).

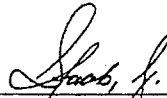
12 As stated above, Scyphers’s convictions became final on July 8, 2020, and he filed  
13 the instant petition in the Supreme Court on April 9, 2025, well beyond the one-year time  
14 limit. In the instant petition, Scyphers does not address the time bar, nor does he make an  
15 argument that one of the exceptions applies. Because it is Scyphers’s burden to establish  
16 an exception to the one-year time bar and he has failed to do so, we deem his petition  
17 untimely.

18 Additionally, Scyphers admits the petition is successive but contends his previous  
19 petitions were not heard and determined on the merits. Scyphers is incorrect as we

No. 41141-9-III  
*PRP of Scyphers*

1 previously rejected his arguments related to the search warrant in our prior dismissal  
2 order. *See In re Pers. Restraint of Scyphers*, No. 38943-0-III (Wash. Ct. App. Jan. 11,  
3 2023).

4 Accordingly, we dismiss Scyphers's petition as time-barred and successive. RAP  
5 16.11(b); RCW 10.73.090(1); RCW 10.73.140. The court waives the filing fee based on  
6 Scyphers's indigence. RAP 16.8(a). The court also denies Scyphers's request for  
7 appointed counsel. *In re Pers. Restraint of Gentry*, 137 Wn.2d 378, 390, 972 P.2d 1250  
8 (1999); RCW 10.73.150(4).

  
\_\_\_\_\_  
TRACY A. STAAB  
ACTING CHIEF JUDGE

WASHINGTON STATE SUPREME COURT - COMMISSIONER'S  
RULING, No. 104227-2 - pages 1-3.

(denied as untimely)

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
6/17/2025  
BY SARAH R. PENDLETON  
CLERK

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

In the Matter of the Personal Restraint of:

DOUGLAS DEAN SCYPHERS,

Petitioner.

No. 104227-2

Court of Appeals No. 41141-9-III

RULING DENYING REVIEW

In 2017 Douglas Scyphers was convicted in Spokane County Superior Court of bail jumping and multiple sex offenses. His judgment and sentence became final on direct appeal in 2020. In 2022 Scyphers filed a motion in superior court collaterally challenging his judgment and sentence, which the court transferred to Division Three of the Court of Appeals for treatment as a personal restraint petition. Finding the petition untimely, the acting chief judge dismissed it. This court denied review. No. 101656-5 (Mar. 15, 2023). Scyphers filed another collateral challenge in superior court in July 2023, which the court again transferred to the Court of Appeals. That court again dismissed the petition, and this court again denied review. No. 102688-9 (Feb. 28, 2024). Scyphers then filed the current personal restraint petition in this court in April 2025, which the court transferred to the Court of Appeals. Finding the petition untimely and improperly successive, the acting chief judge dismissed it. Scyphers now seeks this court's discretionary review. RAP 16.14(c).

Scyphers filed his personal restraint petition more than one year after his judgment and sentence became final. The petition is therefore untimely unless the judgment and sentence is facially invalid or was entered without competent jurisdiction,

or unless Scyphers asserts solely grounds for relief exempt from the time limit under RCW 10.73.100. RCW 10.73.090; *In re Pers. Restraint of Stoudmire*, 141 Wn.2d 342, 348-49, 5 P.3d 1240 (2000). Scyphers relies on the exemption for newly discovered evidence. RCW 10.73.100(1). As his “new” evidence, he provides letters from Judge Price of the superior court in which the judge seems to suggest he did not sign the search warrant used to search Scyphers’s home and computers, though it bore Judge Price’s signature. It is not entirely clear in the letters, however, what materials Scyphers supplied to the judge in making his inquiry, and nowhere does the judge state specifically that he did not sign the particular warrant involved in this case, nor does he dispute that the signature appearing on the warrant is his. But in any event, these letters do not qualify as newly discovered evidence exempting Scyphers’s petition from the time limit. Whether Judge Price signed the warrant was discoverable before trial in the exercise of reasonable diligence. *See In re Pers. Restraint of Kennedy*, 200 Wn.2d 1, 13, 513 P.3d 769 (2022) (elements of newly discovered evidence claim). Moreover, the letters were written in December 2021 and January 2022. Diligence is required both in discovering the new evidence and in filing a petition. *In re Pers. Restraint of Frazier*, 4 Wn.3d 1, 21, 558 P.3d 451 (2024). A petition filed in 2025 is not a diligent filing in relation to evidence discovered by early 2022.

Furthermore, Scyphers has challenged the search warrant twice before, and in the last petition he filed, in July 2023, he also provided copies of Judge Price’s letters. That petition, too, did not represent a diligent filing in relation to when Scyphers received the letters. And the Court of Appeals then found that the materials Scyphers provided in support of his petition did not qualify as newly discovered evidence. Scyphers demonstrates no good cause for raising this issue again. RAP 16.4(d).

In sum, the acting chief judge properly dismissed Scyphers’s personal restraint petition as untimely.

The motion for discretionary review is denied.

  
DEPUTY COMMISSIONER

June 17, 2025

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