

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

MARK JONATHAN GOSSETT,

Petitioner.

SECOND
SUPPLEMENTAL
RESPONSE OF THE
DEPARTMENT OF
CORRECTIONS

The Respondent, Department of Corrections (Department or DOC), through its attorneys, ROBERT W. FERGUSON, Attorney General, and AARON WILLIAMS, Assistant Attorney General, hereby responds to the Supplemental Reply Brief (SRB) of Petitioner, which contained new “additional facts” and new evidence to which the Department has had no opportunity to respond.

I. SECOND SUPPLEMENTAL RESPONSE

In his Supplemental Reply brief, Petitioner, Mark Gossett, proffered “additional facts” and new evidence pertaining to the visitation status of Mr. Gossett’s adult children. SRB at 1; Appendix A, letter; Appendix B, Declaration of Lauren Gossett. Mr. Gossett claims that his nineteen-year-old daughter Lauren applied for visitation in February of 2018 and received a denial letter on March 9, 2018 stating “[t]here is a DOC Imposed Prohibited Contact order in place at this time”. SRB at 1; Appendix A. He

claims that this means his claims regarding visitation with his adult children are not moot. SRB at 1-2.

According to Belinda Stewart, the Department's Corrections Program Administrator for the DOC Visitation Program, Ms. Lauren Gossett's on-line application was denied at the lowest level outside of Ms. Stewart's knowledge. Exhibit 1, Second Declaration of Belinda D. Stewart at ¶ 6. The problem occurred because the earlier prohibited contact order had not yet been purged from the computer system. Exhibit 1 at ¶ 6. The error was inadvertent and not intentional. Exhibit 1 at ¶ 6. Had Ms. Gossett appealed the denial, it would have reached the Assistant Secretary level where the error would have been corrected. Exhibit 1 at ¶ 7. To Ms. Stewart's knowledge, Ms. Gossett did not submit an appeal. Exhibit 1 at ¶ 7.

When the new allegations were brought to Ms. Stewart's attention after Petitioner filed his SRB, she researched the issue, removed the prohibited contact code as it applies to his adult children, and approved Ms. Gossett's application. Exhibit 1 at ¶ 8. The Department then sent an email dated March 29, 2018 to Ms. Gossett informing her that her visitation application was now approved. Exhibit 1 at ¶ 8; Attachment A, email to Lauren Gossett. Ms. Stewart does not foresee any future visitation issues for Mr. Gossett's other adult children provided they otherwise qualify for

visitation after a background check. Exhibit 1 at ¶ 9. Because no further relief is necessary, Mr. Gossett's adult visitation claims are moot.

Furthermore, even if the adult visitation claims were not moot, dismissal of these claims would be appropriate pursuant to RAP 16.4(d), which states, in the relevant part, "[r]estrictions. The appellate court will only grant relief by a personal restraint petition if other remedies which may be available to petitioner are inadequate under the circumstances and if such relief may be granted under RCW 10.73.090, or .100." Because Mr. Gossett had another remedy in the form of a visitation denial appeal that likely would have resolved the error, he had adequate remedies available to him other than pursuing these claims through his Petition.

II. CONCLUSION

Accordingly, the Respondent respectfully requests that Mr. Gossett's RAP 16.4(c)(6) conditions of confinement Personal Restraint Petition be denied.

RESPECTFULLY SUBMITTED this 30th day of March, 2018.

ROBERT W. FERGUSON
Attorney General

s/ Aaron Williams
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CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed the foregoing SECOND SUPPLEMENTAL RESPONSE OF THE DEPARTMENT OF CORRECTIONS with the Clerk of the Court using the electronic filing system and I hereby certify that I have mailed by United States Postal Service the document to the following non electronic filing participant:

SKYLAR T BRETT
LAW OFFICES OF LISE ELLNER
PO BOX 18084
SEATTLE WA 98118

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED this 30th day of March, 2018, at Olympia, Washington.

s/ Katrina Toal _____
KATRINA TOAL
Legal Assistant 3
Corrections Division
PO Box 40116
Olympia WA 98504-0116
(360) 586-1445
KatrinaT@atg.wa.gov

Exhibit 1

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

MARK JONATHAN GOSSETT,

Petitioner.

SECOND
DECLARATION OF
BELINDA D.
STEWART

I, BELINDA D. STEWART, make the following declaration:

1. I have knowledge of the facts herein, am over eighteen years of age, and am competent to testify to such facts.
2. I am currently employed as a Corrections Program Administrator for the Department of Corrections (Department or DOC). I have held this position since October, 2012. I have worked for the Department since October, 1992. Previously, I worked for the state of Oklahoma and collectively have over 35 years of state service employment.
3. As part of my job duties, I am responsible for the administration of the offender visiting, religion, volunteer, mail room, legal access and grievance programs. In regard to my duties with offender visiting programs, I am responsible for establishing and maintaining programs, practices and policies which address offender visitation consistent with legitimate penological objectives. In order to accomplish this task, I regularly evaluate the Department's visitation programs and

practices. I also oversee a staff of six full-time Office Assistant 3 (OA3) positions and a Statewide Visit Specialist (CS3) position at DOC headquarters.

4. I have reviewed Department records involving the participation of inmate Mark Gossett, DOC #317246, in the DOC visitation program. I am also aware that Mr. Gossett claims that he is being prevented from visiting his adult children because the application of one of his adult daughters, Lauren Gossett, was recently denied.

5. Department records show Lauren Gossett applied for visitation with her father in February of 2018 and received a denial letter from the Department on March 9, 2018 stating, “[t]here is a DOC Imposed Prohibited Contact order in place at this time”. It also stated, “[i]f you believe this denial is in error, you may submit a written appeal to the Statewide Visit Specialist explaining the circumstances”.

6. Ms. Lauren Gossett’s on-line application was denied at the lowest level outside of my knowledge. The problem occurred because the earlier prohibited contact order had not yet been purged from the computer system at the time she applied. The error was inadvertent and unintentional.

7. Had Ms. Gossett appealed the denial, it would have reached the Assistant Secretary level where the error would have been corrected. To

my knowledge, Lauren Gossett has not submitted an appeal of her visitation denial as of the date of this declaration.

8. After Mr. Gossett filed his Supplemental Reply in this matter and the issue with the application of Lauren Gossett came to my attention, I researched the issue, removed the prohibited contact code from the Department's database as it applies to his adult children, and approved Ms. Gossett's application. My office has sent an email to Lauren Gossett informing her that her visitation application has now been approved. Attachment A to this declaration is a true and correct copy of my office's March 29, 2018 email to Lauren Gossett. We regret any inconvenience the error in processing the visitation application may have caused Ms. Gossett or her father.

9. I do not foresee any future visitation issues for Mr. Gossett's other adult children provided they otherwise qualify for visitation after a background check.

EXECUTED this 29th day of March, 2018 at Tumwater, Washington.


BELINDA D. STEWART
Corrections Program Administrator

Attachment A

From: DOC Visit Appeals
Sent: Thursday, March 29, 2018 10:38 AM
To: 'Legossett98@gmail.com' <Legossett98@gmail.com>
Subject: DOC 317246

Hello Lauren Gossett,

After further consideration you have been granted visitation privileges with Mark Gossett, DOC 317246. Please ensure you are familiar with visit guidelines which can be found at:

<http://www.doc.wa.gov/corrections/incarceration/visiting/prison-visits.htm>

And selecting the appropriate facility.

Thank you,

HQ Visit Unit
sm

CORRECTIONS DIVISION ATTORNEY GENERAL'S OFFICE

March 30, 2018 - 9:04 AM

Transmittal Information

Filed with Court: Court of Appeals Division II
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Appellate Court Case Title: Personal Restraint Petition of Mark Gossett
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Comments:

Second Supplemental Response of Department of Corrections

Sender Name: Katrina Toal - Email: katrinat@atg.wa.gov

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