

# State high court reverses Tri-City man's escape conviction

By Kristin M. Kraemer, Herald staff writer

KENNEWICK -- A Tri-City man's conviction for failing to report back to jail after a 72-hour furlough has been thrown out because documents filed by prosecutors failed to allege that he "acted knowingly."

When Maurice Terrell Brown was charged in 2007 with second-degree escape, "the information did not adequately apprise Brown of the elements of the crime," the state Supreme Court ruled.

One essential element of escape is that the suspect acted knowingly, the high court said.

And even though a Superior Court judge later found that Brown knowingly failed to return to the Benton County jail within the allotted time, that requirement to prove the crime was omitted from initial documents filed in the case, said the Supreme Court's opinion.

As a result, the charge against Brown has been dismissed without prejudice, meaning Benton County prosecutors have the option to refile the charges.

Brown, 32, is in the Washington State Penitentiary in Walla Walla, according to the state Department of Corrections website.

Court documents show that Brown was in the jail in early 2007 awaiting trial for possession of a controlled substance.

During an April 1, 2007, court appearance before Superior Court Judge Vic VanderSchoor, Brown was granted leave from the jail for up to 72 hours so he could attend drug treatment, documents said. Brown was released, but didn't return until several months later.

That's when prosecutors charged Brown with escape. Brown ultimately waived his right to a jury trial and opted to have a judge consider the facts of the case.

Superior Court Judge Cameron Mitchell convicted Brown on Oct. 31, 2007, finding the evidence showed "Brown had been present when the furlough was granted and therefore knew that he was required to return to jail within 72 hours," the Supreme Court opinion said.

Brown was sentenced to three years and seven months in prison.

It was only when appealing his case before the state Court of Appeals that Brown argued the information was defective in failing to allege that he acted knowingly.

The Court of Appeals affirmed his conviction. A three-judge panel reportedly determined that the knowledge factor was not included in the court documents, but said Brown had failed to show he was prejudiced by the omission.

Brown then petitioned the Supreme Court, which decided the issue was worthy of review.

Prosecutors said they haven't yet decided if they will charge him again.

His criminal history includes felony convictions for forgery, possession of drugs and theft.

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