

No. 37753-5-II

COURT OF APPEALS  
DIVISION II  
OF THE STATE OF WASHINGTON

COURT OF APPEALS  
DIVISION II  
COUNTY OF KING  
STATE OF WASHINGTON  
CLERK  
LDR  
REPLY

IN RE PERSONAL RESTRAINT PETITION:  
Bruce Deymon Price  
PETITIONER.

Response To  
Department of  
CORRECTIONS

PETITIONER Bruce Price Superior Court cause  
No. 04-1-01555-5. Mr. Price was also sentence on  
cause No. 04-1-05697-9 Both cause No. sentence  
under Drug Offender Sentencing Alternative (DOSA)

### Due Process Violations

- 1.) DOC erred when they did not hold hearing within (5) working days of service of Allegation Notice a Direct violation of Mr. Price's rights stated on Allegations Notice
- 2.) DOC erred when they failed to provide a neutral and detached hearing officer. Linda Hooper was present on an appeal of a previous DOSA Revocation. Appeals Panel member Attachment (A) Exhibit #1
- 3.) DOC erred when they allowed Linda Hooper to hold hearing having previously being an Appeals Panel member on the same cause No. which I believe is a prejudicial misrepresentation in my case a governmental misconduct.

4.) DOC erred when they did not serve Mr. Price the proper Notice of Allegation Form DOC 09-244 Drug Offender Sentencing (DOSA 2) ALTERNATIVE NOTICE OF ALLEGATIONS, HEARING, RIGHTS, AND WAIVER. DOC Policy 670.655

5.) DOC erred when they did not label the hearing a DOSA Revocation Hearing a violation of Mr. Price Due process by not informing Mr. Price that this in fact was a Revocation Hearing prior to hearing.

6.) DOC erred when they did not follow DOC Policy 670.655 Documentation (Revocation) Check List (Attachment 1) of policy 670.655.

7.) DOC erred when they did not follow DOC Policy 460.130(J) Hearing Decision page 5 of 7 at IV.

8.) DOC erred when it did not afford Mr. Price an appeal process. DOC only reviewed the appropriateness of the sanction. Exhibit Attachment - B (Regional Appeal Decision).

9.) DOC erred when they allowed inadmissible police reports and statements which have not been proven and only remain allegations. Mr. Price was afforded the due process right to cross-examine the accusers of allegation because they were not available.

10.) DOC erred when it did not terminate Mr. Price from the DOSA program.

11.) DOC erred when they state that Mr. Price's JIS gave the directive to obey all laws. See Appendix (F) of JIS. Mr. Price is not a first-time offender and was ordered to comply with any crime related prohibitions at VI of Appendix (F). DOC erred for revoking Mr. Price's DOSA sentence for that reason without a conviction nor charge. Basis of revoke being based on unconfirmed allegations. Ms. Campan stated the incident did not happen. RCW 9.94A.030(4)(f) community supervision defined.

12.) What constitutes "obey all law"? In the court of law you must be convicted before a judge will find a defendant of an "obey all laws" condition.

13.) DOC CCO Carrillo was an adversary working against Mr. Price on 9-14-07 when she requested Secretary's warrant see DOC report of alleged violation page 4 of 6. This will prove that violation 1 & 2 were not at issue because Carrillo had Mr. Price sign a Offender Accountability Plan on August 21st 2007. Which Carrillo has avoided to add into the allegations to disprove her credibility. It clearly states the reason for Carrillo's not being honest is that Mr. Price did not have contact with law enforcement for a robbery and Mr. Price has no responsibility to notify Ms. Carrillo for having contact with law enforcement. It was CCO Carrillo's duty to produce the OAP in Mr. Price allegation to show this issue was taken care of on 8-21-07 and signed.

Ms. Carrillo Being an Adversary to Mr. Price Has Painted a picture untrue and only has told what would purposely make Mr. Price look bad. Giving the Hearing Officer Linda Hooper the impression that allegations 1 & 2 are the reason for Mr. Price's incarceration, when that is not the case. Ms. Carrillo was attempting to have Mr. Price arrested for failing to report contact with law enforcement and not reporting as directed on 9-11-07. Ms. Carrillo knew if Mr. Price had contact with law enforcement it would have been brought to Ms. Carrillo's attention via computer when a person on supervision has such contact. Ms. Carrillo chose to handle this issue on 9-21-07 by signing OAP with DOSA supervisor Kelly Stave present. This OAP is a necessary element to Mr. Price's defense and will prove also why Ms. Carrillo left this document out of Mr. Price's Allegation Discovery Packet. (See Exhibit #1 Attachment-C)

14.) DOC erred when it applied a some evidence standard of proof in Mr. Price's hearing it labeled a violation hearing when it actually was an invalid revocation made by Linda Hooper at the conclusion of hearing. For certain violations, DOC has the authority to administratively terminate the offender from the program. (Pers. Restraint of McKay, 157 Wn. App. 165.) What are the certain violations? This is relevant to Mr. Price's case (b) Revocation of a Dosa during the community custody portion can occur after three violation proceedings where there is a guilty finding. New felony behavior or egregious violations. Mr. Price has not had three violation proceedings, new felony behavior. A report alone is not sufficient to support a preponderance standard of proof. Mr. Price maintains his innocence while Ms. Campbell states the incidents did not take place.

## Argument.

MR. PRICE IS AN UNTRAINED AT LAW PETITIONER MAKING IT POSSIBLE FOR DOC TO CONTINUE CONFINEMENT UNDER A CLEARLY INVALID DOSA REVOKE IN VIOLATION OF DUE PROCESS; BUT, PREJUDICE TO MR. PRICE MAY BE OVERCOME BY THIS COURTS APPOINTMENT OF COUNSEL TO PROPERLY PRESENT AND ARGUE THIS CASE. MR. PRICE FURTHER ARGUES THE ALLEGATIONS SHOULD NOT HAVE BEEN CONSIDERED SINCE THEY HAVE NOT BEEN ADMITTED NOR PROVEN.

THE HEARING OFFICER LIND HOOPER'S CONCLUSION IS ENTIRELY CONCLUSORY AND AMOUNTS TO LITTLE MORE THEN EXPRESSION OF DISSATISFACTION OF MR. PRICE'S "NOT TAKING RESPONSIBILITY HIS BEHAVIOR AND SHOWING NO REMORSE FOR VIOLATIONS," AS SHE STATES. FOR REVOKING MR. PRICE'S DOSA SENTENCE.

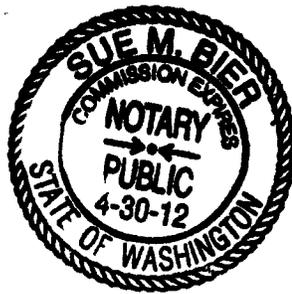
FURTHER AS THE UNITED STATES SUPREME COURT NOTED IN MORRISSEY, SOCIETY HAS A STAKE IN WHATEVER MAY BE THE CHANCE OF RESTORING THE OFFENDER TO NORMAL AND USEFUL LIFE WITHIN THE LAW. DOSA SENTENCES REDUCE DRUG AND DRUG FELONY RECIDIVISM, AND THUS BENEFIT SOCIETY AND REHABILITATED INDIVIDUALS AS A WHOLE, THROUGH REDUCED CRIME AND LOWER COSTS. THESE ARE IMPORTANT BENEFITS IMPLICATING A STATE INTEREST IN ENSURING THAT DOSA REVOCATIONS ARE FOUNDED UPON VERIFIED FACTS AND ACCURATE KNOWLEDGE. MR. PRICE'S DOSA SHOULD BE REINSTATED AND VIOLATION 1 & 2 DISMISSED.

CONCLUSION -

FOR THE REASONS STATED IN MR. PRICE'S  
PETITIONS THE COURT SHOULD GRANT RELIEF SOUGHT  
AND ANY OTHER RELIEF THE COURT MAY FIND  
TO BE JUST.

Respectfully SUBMITTED ON THIS 19<sup>TH</sup> DAY OF AUGUST,  
2008.

Bruce Price



Sue M Biel  
Notary  
4-30-12  
Expires



TO: [REDACTED] DENNIS SPICE, PAT LOVE, [REDACTED] Appeals Panel Member  
FROM: LAURA DYER, Correctional Records Specialist/Designee  
DATE: 09/22/06

**Offender Name:** BRUCE PRICE      **Offender #:** 964159

**Location of Hearing:** STAFFORD CREEK CORRECTIONS CTR      **Region:** SOUTHWEST      **Date of Hearing:** 09/11/06

**Hearing Officer:** SHERYL JACKSON

**Type of Hearing:**     Community Custody       Work Release  
 Pre-Release       Other (specify) **DOSA 762 REVOCATION HEARING**

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**Offender's appeal is based upon: (Check all that apply)**

Lack of evidence       Maintains innocence  
 Due process violation       Lack of timeliness  
 Sanction too harsh       Other (specify)

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**A review of the hearing tape is indicated?**       YES  NO  
If yes, a copy of the tape is included

**A Review of Confidential Informant(s) Statement is indicated.**       YES  NO  
If yes, the information is included.

**Sanction Imposed:** 762 REDUCED TO 557 AND LOSS OF 60 DAYS GOOD TIME AND ANY MANDITORY LOSS OF EARNED TIME.

**Offender's Present Location:** STAFFORD CREEK CORRECTIONS CENTER

**Comments:**

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**CCO notified by e-mail of pending appeal?**       YES  NO **Date:** 09/22/06  
**Genie Updated?**       YES  NO  
**Appeal Decision Due Date:** 18 OCT 06

Blank Appeal Panel Coversheet 02-08-06

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Social Security Numbers are considered confidential information and will be redacted in the event of such a request.  
This form is governed by Executive Order 00-03, RCW 42.17, and RCW 40.14.

EXHIBIT #1 ATTACHMENT-A

BRUCE PRICE 964159  
Page 1 of 1



STATE OF WASHINGTON

DEPARTMENT OF CORRECTIONS

P.O. BOX 41100 • Olympia, Washington 98504-1100

REGIONAL APPEALS PANEL DECISION

FROM: DOC Regional Appeals Panel, NORHTWEST Region, SEATTLE WA

TO: BRUCE DEYMON PRICE

DOC #: 964159

Date: November 9, 2007

On October 3, 2007 a DOC Hearing was conducted by Hearing Officer Linda Hooper at MCC and the Hearing Officer found you guilty of assaulting and harassing Vanessa Campeau which are violations of the conditions of your supervision/custody. The Hearing Officer issued a Hearing and Decision Summary on October 3, 2007 and imposed the following sanction(s) upon you: revocation of your DOSA sentences.

On October 10, 2007; October 30, 2007, and November 7, 2007 your appeals were received in which you requested a review of the Hearing Officer's decision and/or sanction. You specifically appealed:

- X The finding(s) of guilt
X The sanction(s) imposed
Other, as explained below:

In your appeal you list a variety of issues you are asking to have reviewed. You state that you should not have been found guilty because the victim testified that you did not assault or harass her. You also make the argument in several ways that you were not subject to DOSA revocation because you were not subject to a fail to obey all laws condition because you are not a first time offender; that you have not been convicted or even charged with a crime; that DOSA sentences can only be revoked for failing to complete treatment; that DOSA sentences can only be revoked if there have been 2 prior hearings.

The DOC Regional Appeals Panel has investigated your appeal request and finds that:

- Other as explained below:
You were found guilty based upon sufficient evidence.
There was insufficient evidence for a finding of guilt as explained below.
A procedural error was made as explained below.
A guilty finding was made based on unconfirmed allegations as explained below.

The Hearings Appeal Panel reviewed the material from your hearing including the discovery packet, the Hearing Officer's written report, and your three appeal submissions. A recent DOC management decision has limited the scope of the appeal panel to reviewing the appropriateness of the sanction imposed. If you choose to challenge other aspects of the hearing process such as guilty findings or other issues you would need to use other avenues such as a personal grievance.

In regards to the sanction in your case, much of your appeal focused on the sanction of revocation of DOSA which you received. You are incorrect in your statements that the only violation that can result in revocation is failure to complete treatment. The Court issued a variety of directives to you in granting the privilege of a DOSA sentence. One of those was that you obey all laws. Another Court order was that you "...comply with other conditions that may be imposed by the court or DOC during community custody". When you are in the community serving your DOSA community custody time you are subject to potential revocation for any violation of your supervision requirements.

It is correct that the DOC had a DOSA grid at one time which is no longer in effect that gave a general guide to Hearing Officer's to consider in dealing with DOSA offender violations. It did not preclude that a DOSA sentence could be revoked at a first or second hearing, but did mandate that it would be revoked at a third hearing. The ultimate decision as to revoke a DOSA sentence or impose some alternative sanction has always been the responsibility of the Hearing Officer. The decision is made based primarily on the seriousness of the violations the offender has been found guilty of, and what level of community risk is demonstrated by the behavior the offender was found to have committed.

In your case the Hearing Officer entered guilty findings on the two violations based on her belief that that a preponderance of the evidence indicated you were guilty. She then imposed the sanction of revocation of your DOSA sentences based on

EXHIBIT # ATTACHMENT B

the high level of risk your conduct poses to the community, your lack of taking any responsibility for your behavior or showing any remorse for your violations.

The panel concurs with the Hearing Officer's decision to impose the sanction of DOSA revocation.

**AND THEREFORE**

The decision of the Hearing Officer is:

- Reversed and vacated
- Reversed and remanded for a new hearing. You will be notified of the hearing date, when scheduled.
- Modified as follows:
- X SANCTION IS Affirmed



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DOC REGIONAL APPEALS PANEL MEMBER Cly A. Evans

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DATE November 9, 2007



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DOC REGIONAL APPEALS PANEL MEMBER Dave Gilkey

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DATE November 9, 2007

***Nanci Parks***

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DOC REGIONAL APPEALS PANEL MEMBER Nanci Parks

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DATE November 9, 2007

09-235draft

Distribution: **ORIGINAL** - Hearing File    **COPY** - Offender, CCO, Hearing Officer, Hearing Officer 2, Work or Pre-Release Sup., Facility / Unit Evidence Custodian, Field File, Hearings Manager

**EXHIBIT ATTACHMENT - B**



TO: CLY EVANS, DAVE GILKEY, NANCI PARKS, Regional Appeals Panel Member  
FROM: Ronda DeBower, Correctional Records Specialist/Designee  
DATE: October 11, 2007

<del>Offender Name: PRICE, BRUCE DEYMON</del>			<del>DOB: 03/13</del>		
Location of Hearing: MCC		Region: NW		Date of Hearing: 10/3/07	
Hearing Officer: Linda Hooper					
Type of Hearing:	<input checked="" type="checkbox"/> Community Custody	<input type="checkbox"/> Work Release			
	<input type="checkbox"/> Pre-Release	<input type="checkbox"/> Other (specify)			
Offender's appeal is based upon: (Check all that apply)					
<input type="checkbox"/> Lack of evidence	<input type="checkbox"/> Maintains innocence				
<input type="checkbox"/> Due process violation	<input type="checkbox"/> Lack of timeliness				
<input checked="" type="checkbox"/> Sanction too harsh	<input type="checkbox"/> Other (specify)				
A review of the hearing tape is indicated? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
If yes, a copy of the tape is included					
A Review of Confidential Informant(s) Statement is indicated. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
If yes, the information is included.					
Sanction Imposed: <del>REVOKE ALL 3 DOSAS: PC 04-1-01555-5, 04-1-01555-5 AND 04-1-05697-9</del>					
Offender's Present Location: MCC-WSR					
Comments:					
CCO notified by e-mail of pending appeal?			<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	Date:
Genie Updated?			<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	
Appeal Decision Due Date: Nov. 12. 2007					

Blank Appeal Panel Coversheet 02-08-06

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EXHIBIT ATTACHMENT-B

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Page 1 of 1

DT37 0 964159  
IFT OTST037  
PRICE, BRUCE DEYMAN

OFFENDR CHRONO SCREEN  
COMMUNITY CONCERNS: Y

09/18/07 14.34.25  
PAGE 005

LOCATION: D03 MCC WSR MINIMUM  
OFFICER/CNSLR: C522 LARSON, DARLENE

ADMIT/INTAKE DATE: 09/14/2007

VICTIM WRAP AROUND/SENSITIVE: N

08/20/07 OP 28 IN OFFICE - PER CCS MILLER, ARRESTED AND DETAINED IN OFFICE FOR  
LAKEWOOD PD. AFTER 2.5 HRS. LAKEWOOD PD HERE AND TRANSPORTED TO  
PC JAIL. 08/20/07 K CARRILLO

08/20/07 TC 3A RECVD CALL FROM VANESSA CAMPEAU CLAIMING THAT PRICE HAS  
ATTEMPTED TO CALL HER "COLLECT" FROM PIERCE COUNTY JAIL. ADVISED  
HER THAT HE IS BEING HELD ON MISD DV/ASSAULT IV - \$1,000 CASH  
BAIL ONLY. ~~WILL TYPE OAP AND TAKE TO PCJ TOMORROW FOR HIM TO~~  
08/20/07 K CARRILLO

08/20/07 TC 36 CALLED PRICE'S AUNT, WHO INDICATED SHE OR HER HUSBAND WILL PICK  
UP PRICE'S PROPERTY. 08/20/07 K CARRILLO

08/20/07 OC 40 MS. NATALIE PRICE IN TO P/UP PROPERTY. COPY OF ID TAKEN AND  
PLACED IN FILE. 08/21/07 K CARRILLO

08/21/07 AR 04 REPORTED BY WSP - OFFENDER ARRESTED ON 08/20/2007 FOR 0  
ASSAULT-4 GROSS MISDEMEANOR BY PIERCE COUNTY SHERIFF'S OFFICE  
08/21/07 S YSTEM

08/23/07 TP 04 RECVD VOICEMAIL - OFFENDER RELEASED FROM PCJ 08/23/07 K  
CARRILLO

PF7-BKWRD ENTER-FRWRD (PUT CURSOR ON DATE, GO TO UPDTE) PF11-ADD

EXHIBIT # 1 ATTACHMENT - C