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SUPREME COURT  
STATE OF WASHINGTON

2008 OCT 27 P 4: 34

NO. 80834-1

BY RONALD R. CARPENTER

SUPREME COURT OF THE STATE OF WASHINGTON LERK

In re the Personal Restraint Petition of:

JAY PULLMAN,

Petitioner.

SECOND STATEMENT  
OF SUPPLEMENTAL  
AUTHORITY

Pursuant to RAP 10.8, respondent Department of Corrections submits the following supplemental authority related to the Department's argument regarding appropriate procedural due process.

*Wilkinson v. Austin*, 545 U.S. 209, 225–29, 125 S. Ct. 2384, 162 L. Ed. 2d 174 (2005) (“The [Ohio] Policy provides that an inmate must receive notice of the factual basis leading to consideration for OSP placement and a fair opportunity for rebuttal. . . . Requiring officials to provide a brief summary of the factual basis for the classification review and allowing the inmate a rebuttal opportunity safeguards against the inmate’s being mistaken for another or singled out for insufficient reason. In addition to having the opportunity to be heard at the Committee stage, Ohio also invites the inmate to submit objections prior to the final level of review. This second opportunity further reduces the possibility of an erroneous deprivation. \* \* \* Ohio is not, for example, attempting to remove an inmate from free society for a specific parole violation, *see, e.g., Morrissey*, 408 U.S., at 481, 33 E. Ed. 2d 484, 92 S. Ct. 2593, or to revoke good-time credits for specific, serious misbehavior, *see, e.g., Wolff*, 418 U.S., at 539, 41 L. Ed. 2d 935, 94 S. Ct. 2963, where more formal, adversary-type procedures might be useful. Where the inquiry draws more on the experience of prison administrators, and where the State’s interest implicates the safety of other inmates and prison personnel, the informal,

nonadversary procedures set forth in *Greenholtz*, 442 U.S. 1, 60 L. Ed. 2d 668, 99 S. Ct. 2100 (1983), and *Hewitt v. Helms, supra*, 74 L. Ed. 2d 675, 103 S. Ct. 864 (1979), provide the appropriate model.”).

RESPECTFULLY SUBMITTED this 27th day of October 2008.

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#### CERTIFICATE OF SERVICE

I certify that I served a copy of the Statement of Supplemental Authority on all parties or their counsel of record as follows:

US Mail Postage Prepaid

TO:

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EXECUTED this 27th day of October 2008 at Olympia,  
Washington.

  
Wendy R. Scharber