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STATE OF WASHINGTON

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SUPREME COURT OF THE STATE OF WASHINGTON  
BY RONALD R. CARPENTER

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IN RE: PERSONAL RESTRAINT OF JAMES GRANTHAM

STATE OF WASHINGTON,	)	No. 82194-1
Respondent,	)	
	)	STATEMENT OF
v.	)	ADDITIONAL
	)	AUTHORITIES
JAMES GRANTHAM,	)	(RAP 10.8)
Petitioner.	)	

Pursuant to RAP 10.8, Petitioner, James Grantham, submits the following statement of additional authorities for the consideration of the Court in the above-captioned matter:

In re Pers. Restraint of Pullman, \_\_Wn.2d \_\_, S.Ct. No, 80834-1, Slip op. at 4 (decided Oct. 8, 2009):

Pullman challenges a DOC decision from which he has had "no previous or alternative avenue for obtaining state judicial review." In re Pers. Restraint of Cashaw, 123 Wn.2d 138, 149, 866 P.2d 8 (1994). To succeed in his petition Pullman must show that he is "under a 'restraint' "and that his restraint is unlawful. RAP 16.4.

(authority submitted to show Court's application of RAP 16.4 without requiring heightened threshold showing of "actual and substantial prejudice" or "gross miscarriage of justice");

Statement of Additional Authorities

Washington Appellate Project  
701 Melbourne Tower  
1511 Third Avenue  
Seattle, WA 98101  
(206) 587-2711

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RCW 72.09.130:

(1) The department shall adopt, by rule, a system that clearly links an inmate's behavior and participation in available education and work programs with the receipt or denial of earned early release days and other privileges. The system shall include increases or decreases in the degree of liberty granted the inmate within the programs operated by the department, access to or withholding of privileges available within correctional institutions, and recommended increases or decreases in the number of earned early release days that an inmate can earn for good conduct and good performance.

(2) Earned early release days shall be recommended by the department as a reward for accomplishment. The system shall be fair, measurable, and understandable to offenders, staff, and the public. At least once in each twelve-month period, the department shall inform the offender in writing as to his or her conduct and performance. This written evaluation shall include reasons for awarding or not awarding recommended earned early release days for good conduct and good performance. An inmate is not eligible to receive earned early release days during any time in which he or she refuses to participate in an available education or work program into which he or she has been placed under RCW 72.09.460.

(3) The department shall provide each offender in its custody a written description of the system created under this section.

(Emphasis added, demonstrating mandatory nature of rules

governing system allocating or denying earned early release credits);

In re Pers. Restraint of Johnston, 109 Wn.2d 493, 496-97, 745 P.2d 864 (1987):

Where, as here, a statute permits an inmate to earn good time credits, the inmate has a constitutionally protected liberty interest in those credits which prevents their deprivation absent observation of minimum due process requirements. Superintendent v. Hill, 472 U.S. 445, 453, 105 S.Ct. 2768, 86 L.Ed.2d 356 (1985); Wolff v. McDonnell, 418 U.S. 539, 557, 94 S.Ct. 2963, 41 L.E.2d 935 (1974).

(additional authority submitted in response to State's implicit argument that award and denial of earned early release credits occurs solely in State's discretion);

WAC 137-28-270 (Serious Infraction Procedure originally enacted and effective Aug. 15, 1995); WAC 137-28-290 (Preparations for hearing, effective Aug. 15, 1995); WAC 137-28-300 (Conduct of hearing, effective Aug. 15, 1995) (date of enactment submitted to distinguish claims insufficient notice of prison discipline infractions when earlier cases predated enactment of mandatory rules contained in WACs, such as in Johnston, 109 Wn.2d at 501).

DATED this 12th day of October 2009.

Respectfully submitted,



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NANCY P. COLLINS (WSBA 28806)  
Washington Appellate Project-91052  
Attorneys for Petitioner

**DECLARATION OF DOCUMENT FILING AND MAILING/ DELIVERY**

The undersigned declares under penalty of perjury under the laws of the State of Washington that on the below date, the original of the document to which this declaration is affixed/attached, was filed via e-mail in the **Supreme Court of the State of Washington** under **Case No. 82194-1**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to each attorney or party or record for  respondent **Peter Berney; Jay Geck - Office of the Attorney General**,  appellant and/or  other party, at the regular office/residence, e-mail or facsimile number as listed on ACORDS, or drop-off box at the prosecutor's/attorney general's office.

*grml*  
MARIA ARRANZA RILEY, Legal Assistant  
Washington Appellate Project

Date: October 12, 2009

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