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SUPREME COURT
STATE OF WASHINGTON
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NO. 87717-3

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent

v.

CARL GREGORY WILLIAMS, Petitioner

FROM THE SUPERIOR COURT FOR CLARK COUNTY
CLARK COUNTY SUPERIOR COURT CAUSE NO. 07-1-00326-6

SUPPLEMENTAL BRIEF OF RESPONDENT

Attorneys for Respondent:

ANTHONY F. GOLIK
Prosecuting Attorney
Clark County, Washington

RACHAEL R. PROBSTFELD, WSBA #37878
Deputy Prosecuting Attorney

Clark County Prosecuting Attorney
1013 Franklin Street
PO Box 5000
Vancouver WA 98666-5000
Telephone (360) 397-2261

 ORIGINAL

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A. PROCEDURAL POSTURE

Williams filed the instant Personal Restraint Petition on August 7, 2012. A Ruling terminating review was filed on December 26, 2012. Williams filed a motion to modify the commissioner's ruling dismissing his petition and this Court granted his motion on April 4, 2013 and indicated it would be set for oral argument. Williams was released from prison on June 24, 2013 after having finished serving his prison sentence. This Court has requested supplemental briefing from the parties regarding whether this Court can grant effective relief in light of Williams' release from custody, and whether this case should be considered by the Court.

B. ARGUMENT

I. THIS COURT CANNOT GRANT EFFECTIVE RELIEF AS WILLIAMS HAS BEEN RELEASED FROM CUSTODY

Williams was released from prison on June 24, 2013 after serving his sentence. Williams is subject to DOC supervision on community custody. *See Appendix A.* Williams is on community supervision for a period of 36 months and is subject to multiple conditions including sex offender treatment, chemical dependency treatment, no contact with victims, DNA and HIV testing, no possession of controlled substances or

firearms, and to comply with DOC conditions and remain law abiding. *See Appendix A.* The basis of Williams' personal restraint petition is whether the good time calculation rate applied to his time spent in the Clark County Jail was properly applied as he received less good time than a defendant in another county jail may have. There is no possible effective remedy for this Court to award Williams as his request was the award of the additional days of credit he felt he was entitled to. Williams has completed his prison term and has been released; there is no ability for this court to give him additional credit for time served.

II. THIS CASE DOES NOT CONCERN A MATTER OF SUBSTANTIAL PUBLIC INTEREST

An appellate court need not review a moot issue. As discussed above, this Court cannot give Williams any effective relief, and therefore the issue is moot. *See State v. Turner*, 98 Wn.2d 731, 658 P.2d 658 (1983). An appellate court *may* review a moot issue if it involves "matters of continuing and substantial public interest." *In re Pers. Restraint of Cross*, 99 Wn.2d 373, 377, 662 P.2d 828 (1983) (citing *Sorenson v. Bellingham*, 80 Wn.2d 547, 558, 496 P.2d 512 (1972)). There is no requirement that a court review a moot issue.

However, a court may decide a moot issue if it involves "matters of continuing and substantial public interest." *Cross*, 99 Wn.2d at 377

(citing *Sorenson*, 80 Wn.2d at 558). The court should consider three factors in determining whether a sufficient public interest is involved. *Id.* Those three factors are: 1) the public or private nature of the question presented; 2) the desirability of an authoritative determination which will provide future guidance to public officers; and 3) the likelihood that the question will recur. *Id.*

In Williams' case, the three factors for determining whether a sufficient public interest is involved show that this issue does not involve a sufficient public interest to warrant this Court hearing the matter despite its mootness. Though this matter is arguably a public matter as it involves the application of statutes to a county jail's good time policies, as applied, this decision would rest on the facts as applied to one individual and one specific county. Though there is a likelihood this question will recur, it is likely to be able to obtain appellate review as any person sentenced to a prison term could potentially raise this issue. Most importantly, it is not necessary for this court to hear this issue to provide guidance to public officers.

There is no need for further guidance on the issue that Williams raises. This Court has already spoken on this issue. In *In re Pers. Restraint of Fogle*, 128 Wn.2d 56, 904 P.2d 722 (1995), the Court addressed equal protection and due process challenges mirroring the challenges raised by

Williams in the instant petition. The defendants in *Fogle* were incarcerated in either the Clark County Jail or the Pierce County Jail, pre-sentencing. *Fogle*, 128 Wn.2d at 60. The defendants were each awarded 15% good time credit for the time they spent in their respective county's jail pre-sentencing; they argued their good time credit award violated equal protection because they received less than they would have received had they been incarcerated at DOC and because the awards were less than they would have received if they had been eligible for the work program. *Id.* at 60-61. The defendants further alleged their awards in good time credit violated due process because the jails failed to establish procedures for pre-sentence prisoners to earn the statutory maximum in good time credit. *Id.* at 61, 65.

This Court disagreed with the defendants in *Fogle*. *Fogle*, 128 Wn.2d at 63, 66. The Court found that the different rates of early release credit between the department of corrections and county jails do not violate equal protection or due process principles in light of unique local security and disciplinary needs. *Id.* at 64-66. The same reasoning applies to Williams' case. This Court has already provided guidance on this issue and therefore it need not further address this issue on a moot case.

C. CONCLUSION

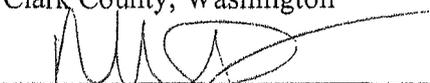
As this Court has previously decided a matter which mirrors the issues in this case in *Fogle, supra*, and as this matter is moot and the Court cannot grant any effective relief to Williams, this Court should not consider this case. Though the facts in *Fogle* are slightly different, the analysis applies to Williams' case, and to any other defendant who may make the same argument. A decision on this case would add little, if anything, to *Fogle, supra*.

DATED this 28th day of June, 2013.

Respectfully submitted:

ANTHONY F. GOLIK
Prosecuting Attorney
Clark County, Washington

By:


RACHAEL R. PROBSTFELD
WSBA #37878
Deputy Prosecuting Attorney

APPENDIX A

Washington State
Department of Corrections

Offender Management Network Information

DOC No.: 312782

Selected DOC No.: 312782 WILLIAMS, Carl Gregory

[Home](#) | [Assignments](#) | [Offender](#) | [Plans](#) | [Facility](#) | [Search](#) | [Administration](#)

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Sentence Information Menu

- [View J & S - Prison](#)
- [View J & S - Field](#)
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Field Offender: WILLIAMS, Carl Gregory (312782)

[View Offender Photo](#) | [Legal Face Sheet](#)

Gender: Male	DOB: 12/30/1972	Age: 40	Body Status: Active Field
RLC: LOW	Wrap-Around: No	Comm. Concern: Yes	Location: W Vancouver Special Needs Unit
SED: 06/23/2016			CC/CCO: Nikolaus, Cheryl A (SW63)
County SO Lvl:		ESR SO Lvl: Level 1 (01/22/2013)	

Conditions

Cause - County - Cause Prefix:

Count:

All

Include Closed Conditions

Select	Condition Name	Narrative	Imposing Authority	Status
<input type="checkbox"/>	Abide By DOC Conditions		Court Ordered	Active
<input type="checkbox"/>	Advise CCO-Change/Address		Court Ordered	Active
<input type="checkbox"/>	Advise CCO-Change/Employment		Court Ordered	Active
<input type="checkbox"/>	Advise CCO-Prescribed Meds		Court Ordered	Active
<input type="checkbox"/>	CCO-Report		Court Ordered	Active
<input type="checkbox"/>	Comply-Affirmative Acts		Court Ordered	Active
<input type="checkbox"/>	Controlled Substance-Consuma		Court Ordered	Active
<input type="checkbox"/>	Controlled Substance-Possess		Court Ordered	Active
<input type="checkbox"/>	DNA Testing		Court Ordered	Active
<input type="checkbox"/>	Evaluation/Chemical Dependency		Court Ordered	Active
<input type="checkbox"/>	Geographic Boundary		Court Ordered	Active
<input type="checkbox"/>	HIV Testing		Court Ordered	Active
<input type="checkbox"/>	Maintain Ed/Voc		Court Ordered	Active
<input type="checkbox"/>	Maintain Employment		Court Ordered	Active
<input type="checkbox"/>	No Contact- Victim(S)	Yes	Court Ordered	Active
<input type="checkbox"/>	No Contact-Minor Child		Court Ordered	Active
<input type="checkbox"/>	No Firearms/Deadly Weapon		Court Ordered	Active
<input type="checkbox"/>	Pay LFOs		Court Ordered	Active
<input type="checkbox"/>	Pay Supervision Fees		Court Ordered	Active
<input type="checkbox"/>	Polygraph		Court Ordered	Active
<input type="checkbox"/>	Residential Other	Yes	Court Ordered	Active

<input type="checkbox"/>	Sex Offender Registration	Court Ordered	Active
<input type="checkbox"/>	Sex Offender/Living	Court Ordered	Active
<input type="checkbox"/>	Treatment-Chemical Dependency	Court Ordered	Active
<input type="checkbox"/>	Treatment-Sex Offender	Court Ordered	Active

Add

View

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LFO

Washington State
Department of Corrections

Offender Management Network Information

DOC No.: 312782

Selected DOC No.: 312782 WILLIAMS, Carl Gregory

Home Assignments Offender Plans Facility Search Administration

Home > Offender > Reviews Information > View J & S - Field

Most Recent Search: 1 Date Logged In as Monte Miller

Sentence Information Menu

View J & S - Prison

View J & S - Field

Conditions

Earned Time

Problem J & S

Field Offender: WILLIAMS, Carl Gregory (312782)

View Offender Photo | Legal Face Sheet

Gender: Male DOB: 12/30/1972 Age: 40 Body Status: Active Field
 RLC: LOW Wrap Around: No Comm. Concern: Yes Location: W Vancouver Special Needs Unit
 SED: 06/23/2016 County SO Lvl: CSR SO Lvl: Level 1 (01/22/2013)
 CC/CCO: Nickalaus, Cheryl A (SW61)

View J & S - Field

Period Of Jurisdiction
03/07/2008 - Current

Display
 Include Closed Causes Enable Scrolling

Sentence Drilldown:
Cause, Count, & Supervision Type

Details:
 Sch. End Date Calculations StatMax Calculations
 Full Time Graphical Sentence View

Cause	Count	Supervision Type	Consecutive Supervision	Status	Supervision Length	Time Start Date	Sch. End Date	Stat Max
Offender Overall								
				Active	-	06/24/2013	06/23/2016	-
AS-071003266-Clark-CCP				Active	0Y, 36M, 0D	06/24/2013	06/23/2016	01/31/2018
1- Child Molestation 2				Active	0Y, 36M, 0D	06/24/2013	06/23/2016	01/31/2018
		Community Custody Range - CCP		-	0Y, 36M, 0D	06/24/2013	06/23/2016	-
		Additional Range - CCP		-	0Y, 0M, 0D	06/24/2013	-	-
2- Child Molestation 2				Active	0Y, 36M, 0D	06/24/2013	06/23/2016	01/31/2018
		Community Custody Range - CCP		-	0Y, 36M, 0D	06/24/2013	06/23/2016	-
		Additional Range - CCP		-	0Y, 0M, 0D	06/24/2013	-	-
3- Child Molestation 2				Active	0Y, 36M, 0D	06/24/2013	06/23/2016	01/31/2018
		Community Custody Range - CCP		-	0Y, 36M, 0D	06/24/2013	06/23/2016	-
		Additional Range - CCP		-	0Y, 0M, 0D	06/24/2013	-	-
4- Child Molestation 3				Active	0Y, 36M, 0D	06/24/2013	01/31/2015	01/31/2015
		Community Custody Range - CCP		-	0Y, 36M, 0D	06/24/2013	01/31/2015	-
		Additional Range - CCP		-	0Y, 0M, 0D	06/24/2013	-	-
5- Child Molestation 3				Active	0Y, 36M, 0D	06/24/2013	01/31/2015	01/31/2015
		Community Custody Range - CCP		-	0Y, 36M, 0D	06/24/2013	01/31/2015	-
		Additional Range - CCP		-	0Y, 0M, 0D	06/24/2013	-	-
6- Child Molestation 3				Active	0Y, 36M, 0D	06/24/2013	01/31/2015	01/31/2015
		Community Custody Range - CCP		-	0Y, 36M, 0D	06/24/2013	01/31/2015	-
		Additional Range - CCP		-	0Y, 0M, 0D	06/24/2013	-	-
7- Over 18 And Deliver To Someone Under 18 And 3 Years Junior				Active	0Y, 12M, 0D	06/24/2013	06/24/2014	11/20/2017
		Community Custody Range - CCP		-	0Y, 12M, 0D	06/24/2013	06/24/2014	-
		Additional Range - CCP		-	0Y, 0M, 0D	06/24/2013	-	-

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Sent: Friday, June 28, 2013 10:51 AM
To: OFFICE RECEPTIONIST, CLERK
Subject: Carl Williams 87717-3

Attached is the Supplemental Respondent's Brief and a Declaration of Mailing on the Carl Williams Case, 87717-3.

Connie Utterback
Legal Secretary - Appeals Unit
Clark County Prosecutor's Office

Phone: 1-360-397-2261 X5961
Email: Connie.Utterback@clark.wa.gov

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