

No. _____

**COURT OF APPEALS FOR THE STATE OF
WASHINGTON DIVISION I**

IN RE THE PERSONAL RESTRAINT OF

Amber F. Kim,

Petitioner.

PETITIONER'S MOTION FOR EXPEDITED REVIEW

ACLU OF WASHINGTON
FOUNDATION

Adrien Leavitt, WSBA #44451
La Rond Baker, WSBA #43610
P.O. Box 2728
Seattle, WA 98111
(tel) (206) 624-2184
(fax) 206-624-2190
aleavitt@aclu-wa.org
baker@aclu-wa.org

Attorneys for Petitioner

I. IDENTITY OF PETITIONER

Petitioner Amber Kim seeks the below relief.

II. RELIEF REQUESTED

Amber Kim requests the Court consider her Personal Restraint Petition (“PRP”) on an expediated basis pursuant to RAP 17.4(b).

III. FACTS RELEVANT TO MOTION FOR EXPEDITED REVIEW

Amber Kim is a transgender woman incarcerated in a men’s prison at the Washington State Department of Corrections (“DOC”). She is currently held in solitary confinement. For over three years, Ms. Kim served her sentence at the Washington Corrections Center for Women (“WCCW”). However, in June of 2024, DOC transferred Ms. Kim to a men’s prison due to a single, non-violent infraction issued after Ms. Kim was caught having consensual sex with her roommate. Now, DOC is forcing Ms. Kim to live in a single-sex prison that does not align with her gender identity and placing her at imminent risk of violence.

Prior to her placement at WCCW, Ms. Kim spent over 10 years incarcerated in men’s prisons. During that time, she experienced harassment, physical violence, and attempted sexual assaults. At WCCW, Ms. Kim did not experience harassment or violence. She engaged positively in the community around her, including continuing her college education—earning a 3.98 grade point average—and working, first in food service and later as a tutor and classroom assistant.

In March of 2024, Ms. Kim was found guilty of a “504” infraction¹ after being caught having consensual sexual contact with her roommate. In early April of 2024, DOC conducting a housing review for Ms. Kim, a procedure specific to transgender inmates pursuant to DOC policy. During that housing review, DOC determined that Ms. Kim’s placement at WCCW should be maintained. Five weeks later, DOC reversed its decision. Despite

¹ A 504 violation is defined as “[e]ngaging in a sex act with another person(s) that is not otherwise included in these rules, except in an approved extended family visit.” 504 violations encompass consensual sex as well as other forms of physical intimacy. WAC 137-25-030.

no new infractions, DOC determined that Ms. Kim was a safety concern and that she should be transferred out of WCCW. On June 21, 2024, Ms. Kim was transferred out of WCCW and moved to Monroe Correctional Center (“Monroe”).

Once Ms. Kim arrived at Monroe, she learned that DOC intended to place her back at the Twin Rivers Unit (“TRU”)—a unit that primarily holds sex offenders, former gang members, and a small number of transgender women—where she was previously incarcerated and experienced ongoing harassment and threats of violence. *Id.* at ¶ 68-69. Now, Ms. Kim elects to live in solitary confinement rather than endure the physical and psychological harm that would become her everyday reality if housed in men’s general population. While solitary confinement keeps her physically safe, she experiences the significant emotional harm of solitary confinement.

IV. ARGUMENT FOR EXPEDITED REVIEW

In an emergency, a petitioner may request expedited consideration of a motion. RAP 17.4(b). The petitioner must

show that “adequate relief cannot be given if the motion is considered in the normal course.” *Id.* The motion must include an affidavit “stating the type of notice given” and an explanation why the petition should be decided on an emergency basis. *Id.*

Ms. Kim is currently subjected to cruel conditions of confinement in violation of the Washington State Constitution. Const. art. I, § 14. Her placement at a men’s prison creates an objectively significant risk of serious harm and these conditions are not necessary to accomplish any legitimate penological goal. *See Matter of Williams*, 198 Wn.2d 342, 363, 496 P.3d 289 (2021). If Ms. Kim’s PRP is consider in the “normal course,” the risk of Ms. Kim suffering irreversible harm is extremely high. Every day, Ms. Kim suffers profound harm in solitary confinement at a men’s prison. If placed in general population at a men’s prison, Ms. Kim will face significant risk of harassment and violence. Because Ms. Kim is currently experiencing these cruel conditions of confinement, expedited review is warranted.

V. CONCLUSION

This Court should grant Ms. Kim's motion for expedited review because, each day, she is subjected to cruel conditions of confinement due to her placement at a men's prison. Expedited review is appropriate for this Court to adjudicate Ms. Kim's claim under article I, section 14.

VI. CERTIFICATE OF COMPLIANCE WITH RAP 18.17

This document contains 708 words per RAP 18.17(c)(9), excluding the parts of the document exempted from the word count by RAP 18.17(c).

RESPECTFULLY SUBMITTED December 17, 2024.

ACLU OF WASHINGTON FOUNDATION

By: /s/ Adrien Leavitt

Adrien Leavitt, WSBA #44451
La Rond Baker, WSBA #43610
PO Box 2728
Seattle, WA 98111
aleavitt@aclu-wa.org
baker@aclu-wa.org

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I certify that on this 17th day of December, 2024, I electronically filing this document through the Washington State Appellate Courts Secure Portal and I caused a true and correct copy of this document to be served on all parties by the method listed below:

VIA EMAIL

Washington State Attorney General's Office
serviceATG@atg.wa.gov

Signed this 17th day of December, 2024 at Seattle, WA.

/s/ Tracie Wells
Tracie Wells, Paralegal
ACLU OF WASHINGTON
FOUNDATION
P.O. Box 2728
Seattle, Washington 98111
(206) 624-2184

AMERICAN CIVIL LIBERTIES UNION OF WASHIN

December 17, 2024 - 1:23 PM

Filing Personal Restraint Petition

Transmittal Information

Filed with Court: Court of Appeals Division I

Appellate Court Case Number: Case Initiation

The following documents have been uploaded:

- PRP_Affidavit_Declaration_20241217130710D1482093_9699.pdf
This File Contains:
Affidavit/Declaration - Other
The Original File Name was 2024-12-15 -- Amber Kim PRP - Amber Kim Declaration - Signed Final.pdf
- PRP_Motion_20241217130710D1482093_0039.pdf
This File Contains:
Motion 1 - Accelerated Review
The Original File Name was 2024-12-17 -- Amber Kim PRP - Motion for Expedited Review - Final.pdf
- PRP_Other_20241217130710D1482093_4266.pdf
This File Contains:
Other - Declaration of Adrien Leavitt
The Original File Name was 2024-12-17 -- Amber Kim PRP - Adrien Leavitt Declaration - Exhibits Final - Redacted.pdf
- PRP_Personal_Restraint_Petition_20241217130710D1482093_1893.pdf
This File Contains:
Personal Restraint Petition
The Original File Name was 2024-12-17 -- Amber Kim PRP - PRP - FINAL.pdf

A copy of the uploaded files will be sent to:

- baker@aclu-wa.org
- serviceATG@atg.wa.gov
- twells@aclu-wa.org

Comments:

Sender Name: Adrien Leavitt - Email: aleavitt@aclu-wa.org

Address:

PO BOX 2728

SEATTLE, WA, 98111-2728

Phone: 206-595-5215

Note: The Filing Id is 20241217130710D1482093