NO. 1003404

SUPREME COURT OF THE STATE OF WASHINGTON

In re the Detention of

THOMAS QUINN,

Petitioner.

STATE'S ANSWER TO PETITION FOR REVIEW

ROBERT W. FERGUSON
Attorney General

KELLY A. PARADIS
Assistant Attorney General
WSBA #47175
800 Fifth Ave., Suite 2000
Seattle, WA 98104
Ph.: (206) 389-3001
OID #91094

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I. INTRODUCTION

Thomas Quinn seeks review of the Court of Appeals decision affirming his civil commitment as a sexually violent predator. His sole claim of error is that the trial court erred by making a pretrial determination that he was incarcerated for a recent overt act. This claim is premised entirely on Quinn's assertion that the trial court relied on "disputed" facts when making this determination.

There is nothing in the record to support this basic premise. Quinn did not dispute any of the factual allegations in the trial court. He instead argued only that because the factual allegations did not constitute a recent overt act, the State should have to prove a recent overt act to the jury. Quinn's arguments to the contrary are flatly contradicted by the record. They also completely ignore the fact that Quinn pled guilty to the charges resulting from those allegations and expressly agreed in his plea statement that the allegations could be considered as the factual basis for his plea.

Quinn acknowledges in his petition for review that a trial court can properly make a pretrial recent overt act determination if the factual basis of the recent overt act was "already proven in an underlying case or based on undisputed facts." Pet. for Review at 1-2. That is precisely what occurred in this case. The factual basis of Quinn's recent overt act was both established by his guilty plea and was undisputed in light of Quinn's failure to contest any of the allegations at the recent overt act hearing. And Quinn fails to even identify what facts, in particular, he disputes on appeal. Quinn's own briefing demonstrates why the ruling in this case was proper.

This case simply does not present the issues that Quinn asserts that it does, and this Court should reject Quinn's attempts to transform this case into something it is not. The unpublished decision involved a routine application of well-settled legal principles. It does not raise any constitutional question or issue of substantial public interest. Further, the analysis was correct. Quinn has been diagnosed with several mental disorders

including pedophilia and has multiple convictions for sexual offenses against children. In light of Quinn's history and mental condition, the Court of Appeals properly concluded that Quinn's possession of sexually explicit images of minors constituted a recent overt act. This Court should deny review.

II. COUNTERSTATEMENT OF THE ISSUES

A. Where Quinn did not object to the trial court determining whether his 2010 convictions constitute a recent overt act, did Quinn fail to preserve his challenge?

B. Where Quinn never disputed the factual allegations in the pretrial hearing, and he pled guilty to the charges resulting from those allegations, did the trial court properly rely on those allegations when making the recent overt act determination?

C. Where Quinn has a history of sexually molesting and assaulting children and has been diagnosed with several mental disorders including pedophilic disorder, did the trial court properly conclude that Quinn's possession of sexually explicit images of children constituted a recent overt act?

III. COUNTERSTATEMENT OF THE FACTS

A. Quinn's History of Sexual Violence

Quinn is a 49-year-old man with a history of sexual offenses against children. In 1993, Quinn entered an *Alford*[1] plea to two counts of child molestation in the first degree after seven-year-old twin sisters disclosed that he sexually molested them. CP at 441, 446, 474, 505. The girls reported that on at least two occasions, Quinn touched both of them in their "private parts" while he had his pants off and watched the *Playboy* channel. *Id.* at 505. They also reported that Quinn orally copulated them, made them touch his penis, and hit and spanked them. *Id.* Additionally, one girl disclosed that Quinn tried to kiss her on the lips, rubbed her vagina and buttocks, and told her to "keep it a secret." *Id.* The other girl said she saw this happen and that Quinn then took off his pants and "played with his penis." *Id.*

[1] *North Carolina v. Alford*, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed 2d 162 (1970). An "*Alford* plea" is "[a] guilty plea that a defendant enters as part of a plea bargain without admitting guilt." Alford plea, *Black's Law Dictionary* (11th ed. 2019).

In 2005, Quinn entered an *Alford* plea to one count of assault in the third degree and one count of unlawful imprisonment for an offense against a 15-year-old girl. CP at 114, 474, 508. The girl reported that Quinn grabbed her from a communal laundry room and pulled her into his apartment. *Id.* at 508, 541. Once inside, Quinn groped her over her clothes and then put his hands inside her underwear and attempted vaginal penetration. *Id.* Quinn was sentenced to 22 months in prison and was released in 2006. *Id.* at 508, 115.

B. Quinn's 2010 Guilty Plea for Two Counts of Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct

Four years after his release to the community, police discovered that Quinn was in possession of sexually explicit images of minors. CP at 493-96. He subsequently pled guilty to two counts of possession of depictions of a minor engaged in sexually explicit conduct (in the first and second degree). *Id.* at 459-78. In the statement on guilty plea, Quinn wrote—in his own words—as follows:

> In Snohomish County, WA on October 5, 2010 the following happened:
>
> (1) I did knowingly possess a photograph that depicted a minor engaged in actual or simulated urination.
>
> (2) I knowingly possessed another picture that depicted actual or simulated genitals and unclothed pubic and rectal areas of a minor and unclothed breast of a female minor for the purpose of sexual stimulation of the viewer.

Id. at 465. The statement on guilty plea then expressly provided, "In addition to the statement above, I agree that the court may review the Affidavit of Probable Cause previously filed in this case to establish a factual basis for my plea." *Id.*

The affidavit of probable cause provided additional details about the events leading to these charges. CP at 493-96. During a search of Quinn's bedroom, police discovered seven photographs in Quinn's desk that "clearly depicted nude prepubescent girls in sexual poses." *Id.* at 494. The girls' vaginas and undeveloped breasts were visible in the photos. *Id.* The photos were "folded up and contained wear and tear that made

them appear to have been opened and viewed numerous times." *Id.*

The affidavit of probable cause also stated that police later discovered five more photos that appeared to show "a prepubescent girl posed in sexual ways, exposing her vagina, anus, and undeveloped breasts." CP at 494-95. Another showed a prepubescent girl standing and urinating. *Id.* at 495. Police also found other items in Quinn's bedroom, including three pairs of girls' underwear; dozens of scraps of paper bearing female names, phone numbers, and social networking site screen names; and countless children's toys, stickers, magazines, stuffed animals, and costumes. *Id.* Two of the pairs of girls' underwear were found under Quinn's mattress. *Id.*

The affidavit of probable cause also noted that police conducted a forensic examination of Quinn's computer, which revealed folders with numerous photos of children, including images of young children wrestling and photos of a prepubescent girl's clothed vaginal area. CP at 495. There were also photos of

neighborhood children that appeared to have been taken from Quinn's apartment. *Id.*

C. Sexually Violent Predator Civil Commitment Proceedings

In 2017, while Quinn was incarcerated for the 2010 convictions, the State petitioned to civilly commit him as a sexually violent predator. CP at 651-62.

In a pretrial deposition, Quinn testified about the facts underlying his 2010 convictions. He admitted that he possessed sexually explicit photos of children, girls' underwear, and children's toys, but he attempted to offer explanations for this conduct. *See* CP 98, 129-36. He said that he was holding onto the sexually explicit images of children for a friend. *Id.* at 98, 129-30. He said that the girls' underwear and children's toys belonged to a woman and her child who had stayed with him previously. *Id.* at 134-35. He said he hid the girls' underwear under his mattress because he "didn't want to get into any trouble." *Id.* at 135. And he said that he had girls' names, phone

numbers, and Internet sites because he was helping a friend monitor chat rooms. *Id.* at 139-42.

Prior to trial, the State moved for an order determining that, as a matter of law, Quinn's convictions for possession of sexually explicit images of children qualify as a "recent overt act." CP at 425-36. If a person is incarcerated for an act that constitutes a recent overt act on the day the sexually violent predator petition is filed, the State need not prove any other recent overt act at trial. *In re Det. of Brown*, 154 Wn. App. 116, 122-23, 225 P.3d 1028 (2010). A "recent overt act" is "any act, threat, or combination thereof that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm in the mind of an objective person who knows the history and mental condition of the person engaging in the acts or behaviors." RCW 71.09.020(13).

The State argued that Quinn's possession of sexually explicit images of children satisfied that definition. CP at 428-36, 278-80. In support of this motion, the State provided

documentation for Quinn's 2010 convictions, specifically, the statement on guilty plea, affidavit of probable cause, and judgment and sentence. *Id.* at 458-96. It also provided documentation for Quinn's 1993 convictions, reports from two forensic psychologists, and Quinn's testimony from the pre-trial deposition. *Id.* at 439-57, 497-563, 320-419.

In response, Quinn argued that his possession of sexually explicit images of children "arguably" did not amount to a recent overt act because "these acts were ongoing for 4-5 years and did not result in any type of sexually violent behavior." CP at 424. Quinn did not contest the facts relied on by the State, nor did he argue that the trial court could not rely on the documents provided by the State when making its determination on this issue. *See id.* at 420-24. Quinn also did not dispute that it was proper for the trial court to make a pretrial recent overt act determination. *See id.* Indeed, he expressly acknowledged that "the focus of this inquiry is whether [his] conviction . . . constitutes a recent overt act." *Id.* at 423.

The trial court held a hearing on the State's motion in February 2019. VRP (Vol. 2). At the hearing, Quinn again acknowledged that it was the trial court's role to determine whether or not his conduct constituted a recent overt act. *See id.* at 11. He repeated the arguments in his briefing did not dispute the factual allegations or argue that the trial court should not consider the documentation submitted by the State. *See id.* at 11-13.

At the end of the hearing, the trial court agreed with the State that an objective person knowing Quinn's history and mental condition would reasonably apprehend harm of a sexually violent nature from Quinn's possession of sexually explicit photos of children. VRP (Vol. 2) at 13-18. Thus, it concluded that Quinn's 2010 convictions constituted a recent overt act as a matter of law. *Id.*; CP at 277. The trial court entered findings of fact, conclusions of law, and an order granting the State's motion. CP at 273-77.

The case proceed to the initial commitment trial in March 2019 where the jury found beyond a reasonable doubt that Quinn is a sexually violent predator. CP at 19. Thereafter, the trial court entered an order committing Quinn to the custody of the Department of Social and Health Services at the Special Commitment Center for control, care, and treatment. *Id.* at 18.

Quinn appealed to Division One, challenging the trial court's determination that his possession of sexually explicit images of children constituted a recent overt act. For the first time on appeal, he argued that the trial court's ruling was improper because it was based on "disputed" and "unadjudicated" facts. *See* Slip op. at 1. The State argued that Quinn failed to preserve this argument, but nevertheless, Division One exercised its discretion to reach the merits of Quinn's appeal. *Id.* at 5 n. 16. Relying on well-settled case law, Division One concluded that the trial court's ruling was proper because "a trial court can consider the entire record of an alleged SVP's established convictions" when making the recent overt act

determination. *Id.* at 1. Quinn now seeks discretionary review in this Court.

IV. REASONS WHY REVIEW SHOULD BE DENIED

Quinn seeks review under RAP 13.4(b), but he does not cite any particular subsection of that rule. Pet. for Review at 1, 15. His petition should thus be denied because he fails to establish that any of the exclusive grounds for review are satisfied. In any event, for the reasons discussed below, review is unwarranted under any of subsection of RAP 13.4(b).

A. Quinn Failed to Preserve the Sole Issue Presented in This Appeal

Quinn's sole argument is that it was improper for the trial court to make the recent overt act determination. *See* Pet. for Review at 1-2, 7-8, 14-15. He claims that the trial court's ruling violated due process, deprived him of his right to a trial by a unanimous jury, and relieved the State of its burden of proof because it was based on "contested" factual allegations. *See id.* None of these arguments were asserted in the trial court, and thus, Quinn failed to preserve this challenge for appeal.

"A party has the obligation to assert its claims, legal positions, and arguments to the trial court to preserve the alleged error on appeal." *Ashcraft v. Wallingford*, 17 Wn. App. 853, 860, 565 P.2d 1224 (1977). "The general rule in Washington is that a party's failure to raise an issue at trial waives the issue on appeal unless the party can show the presence of a 'manifest error affecting a constitutional right.'" *State v. Robinson*, 171 Wn.2d 292, 304, 253 P.3d 84 (2011) (internal quotation marks omitted) (quoting *State v. Kirwin*, 165 Wn.2d 818, 823, 203 P.3d 1044 (2009)). The purpose of issue preservation is "to encourage 'the efficient use of judicial resources.'" *Id.* (quoting *State v. Scott*, 110 Wn.2d 682, 685, 757 P.2d 492 (1988)). "Issue preservation serves this purpose by ensuring that the trial court has the opportunity to correct any errors, thereby avoiding unnecessary appeals." *Id.* at 304-05.

Here, Quinn did not object to the trial court making a pretrial ruling about whether his convictions for possession of sexually explicit images of children constituted a recent overt act.

Although Quinn argued that the State should have to prove a recent overt act to the jury at trial, this argument appeared to be based on Quinn's claim that the State's evidence was insufficient to show that his 2010 convictions qualified. *See* CP at 423-24. Moreover, Quinn expressly acknowledged in his briefing and at the hearing that it was the trial court's role to make a pretrial determination about the 2010 convictions. *See id.* at 423; VRP (Vol. 2) at 11. This is reflected in the trial court's oral ruling when the court stated: "[A]s *the parties* have identified, it is the Court's responsibility to determine whether Mr. Quinn's possession of child pornography represents a recent overt act." VRP (Vol. 2) at 13-14 (emphasis added).

In addition, as discussed more fully below, Quinn never contested any of the factual allegations relied on by the State. Nor did he claim that the trial court could not rely on the documentation provided by the State when making the recent overt act determination.

In short, Quinn failed to preserve the arguments he now makes on appeal. He also fails to establish that his challenge falls within the narrow exceptions that permit courts to reach claims not properly preserved below. *See* RAP 2.5(a). This Court should deny review of Quinn's unpreserved arguments.

B. The Trial Court Did Not Resolve Contested Factual Issues

Quinn's challenge also fails on its merits. His entire claim of error rests on the false premise that the trial court relied on "contested, disputed factual allegations." Pet. for Review at 12. Quinn does not identify any factual allegations that he allegedly disputed but instead just provides a citation to the trial court's entire ruling. *See id.* at 12, 13 (citing CP at 274-76; VRP (Vol. 2) at 14-17). In any event, Quinn's claim that the trial court relied on contested facts is belied by the record.

1. Quinn never contested any factual allegations in the trial court

Contrary to his claims on appeal, Quinn did not "expressly dispute" any factual allegations in the trial court. *See* Pet. for

Review at 12. In response to the State's motion, Quinn argued only that his conduct did not constitute a recent overt act because it was "ongoing for 4-5 years and did not result in any type of sexually violent behavior." CP at 424; *see also* VRP (Vol. 2) at 13. Essentially, Quinn's argument was focused solely on whether the underlying conduct satisfied the statutory definition of a "recent overt act." It was not focused on whether Quinn *actually engaged* in the conduct itself. At no point in the briefing or argument did Quinn's attorney dispute any of the underlying factual allegations or argue that the court should not consider the documentation submitted by the State. *See* CP at 420-24; VRP (Vol. 2). Nor did Quinn's attorney ever request a hearing for the trial court to resolve any allegedly disputed facts. *See id.*

Quinn's claims to the contrary are not borne out by the record. His citations on this point are merely to his deposition transcript, not to any briefing or argument by his attorney. Pet. for Review at 12-13 (citing CP at 377, 381-84). But Quinn's answers in a deposition are not legal argument, and the briefing

and argument submitted by his attorney in no way suggested that any facts were in dispute. *See* CP at 420-24; VRP (Vol. 2) at 11-13. Moreover, even the deposition testimony itself fails to support this claim, as Quinn expressly *admitted* in the deposition that he possessed the items in question. *See* CP at 377-88. His explanations for *why* he possessed the items does not establish any dispute about *whether* he possessed them. In short, the record does not support Quinn's claim that he "disputed the critical facts on which the court relied." Pet. for Review at 12-13.

2. Quinn pled guilty to the charges resulting from the factual allegations and admitted in his plea statement that the allegations could be relied on to establish the factual basis for his plea

Additionally, Quinn's suggestion that the facts were disputed because "no jury had ever found [that he] committed the conduct necessary for a recent overt act" is misleading. Pet. for Review at 12. The reason that Quinn's 2010 case did not proceed to a jury trial is because Quinn pled guilty to the charges. A plea agreement has the same effect as a jury determination. *See Woods v. Rhay*, 68 Wn.2d 601, 605, 414 P.2d 601 (1966) (A

guilty plea "is a confession of guilt and the result equivalent to a conviction.").

Critically, in his plea statement, Quinn admitted in his own words that he possessed sexually explicit images of children. CP at 465. He also expressly agreed that the affidavit of probable cause—which contained other factual allegations relied on by the trial court—could be considered to establish the factual basis for his plea. *Id.* Quinn provides no reason why the trial court in this sexually violent predator proceeding could not also rely on the affidavit of probable cause as providing the factual basis for Quinn's 2010 convictions.

In short, not only did Quinn fail to contest any of the factual allegations in the trial court, but he also pled guilty to the underlying conduct. He thus fails to show that the trial court relied on "disputed" factual allegations. Consequently, the trial court's ruling was proper because—by Quinn's own admission—a trial court can make a pretrial recent overt act determination if "the factual basis of the recent overt act [was]

either already proven in an underlying case or based on undisputed facts." Pet. for Review at 1-2; *see also id.* at 10 (claiming that "the State may avoid a jury trial on this element if it presents undisputed facts that meet the element of a recent overt act as a matter of law"). Put simply, the trial court did not err.

C. The Decision in this Case is Consistent with Well-Settled Precedent From this Court and with Decisions From the Court of Appeals

Review of this unpublished decision is also unwarranted because it is entirely consistent with well-settled precedent from this Court and with other decisions from the Court of Appeals. Quinn provides no basis for this Court to depart from those cases.

1. This Court's decision in *Marshall* establishes that the trial court—not the jury—determines whether an individual is currently incarcerated for a recent overt act

Seventeen years ago, in *Marshall v. State*, 156 Wn.2d 150, 158, 125 P.3d 111 (2005), this Court set forth the applicable test to determine whether an individual is currently incarcerated for an act that qualifies as a "recent overt act." In doing so, it

expressly stated that this inquiry "is for the court, not a jury." *Marshall*, 156 Wn.2d at 158.

Over the years, dozens of decisions have confirmed this holding. *See, e.g.*, *In re Det. of Leck*, 180 Wn. App. 492, 508, 334 P.3d 1109 (2014); *Brown*, 154 Wn. App. at 123; *Froats v. State*, 134 Wn. App. 420, 431, 140 P.3d 622 (2006); *In re Det. of Hovinga*, 132 Wn. App. 16, 23, 130 P.3d 830 (2006). The decision in this case is no exception. As the Court of Appeals expressly recognized, "whether an act qualifies as a recent overt act, as defined in.09.020(13), is a question for the court to decide." Slip op. at 4 (footnote omitted).

Quinn argues that the Court of Appeals erred "[b]y allowing the trial court to resolve a contested element of commitment instead of a jury." Pet. for Review at 7. But his argument that the jury—not the trial court—should have made this determination is directly contrary to this well-established case law. And Quinn provides no argument that those decisions

were improperly decided or that they are incorrect and harmful. Thus, this argument should be rejected.

2. Decisions from this Court and the Court of Appeals instruct trial courts to consider "the factual circumstances of the individual's history and mental condition"

Trial courts determine whether an individual is currently incarcerated for an act that qualifies as a recent overt act by applying a two-step analysis. *Marshall*, 156 Wn.2d at 158. The trial court first makes an inquiry into "the factual circumstances of the individual's history and mental condition." *Id.* Second, the court makes a legal inquiry "as to whether an objective person knowing the factual circumstances of the individual's history and mental condition would have a reasonable apprehension that the individual's act would cause harm of a sexually violent nature." *Id.*

Decisions from this Court and the Court of Appeals establish that trial courts can consider a range of evidence when conducting the factual inquiry under the first prong. For example, in *Marshall*, this Court considered the facts alleged in the

charging document and proved at the rape trial as well as Marshall's history of offenses and mental condition. 156 Wn.2d at 159. Similarly, in *State v. McNutt*, 124 Wn. App. 344, 350-51, 101 P.3d 422 (2004), the Court of Appeals considered McNutt's mental diagnoses and offending history as well as the factual allegations resulting in an *Alford* plea. Likewise, in *In re Detention of Hovinga*, 132 Wn. App. 16, 24, 130 P.3d 830 (2006), the Court of Appeals considered not only the facts underlying the act for which Hovinga was incarcerated but also his history and mental condition.

The decision of the Court of Appeals in this case is wholly consistent with those decisions. It held that when conducting the factual inquiry into the person's history and mental condition, a trial court "can consider the entire record of an alleged SVP's established convictions" and "is free to consider more than a verdict form or stipulated facts in a plea agreement." Slip op. at 1, 8.

Quinn claims that "[s]everal Court of Appeals cases hold that the State may avoid a jury trial on this element if it presents undisputed facts to meet the element of a recent overt act as a matter of law." Pet. for Review at 10. He further claims that the Court of Appeals erred in this case by "impermissibly extend[ing] the reasoning of those cases" and "authorizing the trial court to rely on contested, disputed factual allegations." *Id.* at 12. These claims fail for two reasons.

First, Quinn fails to establish that trial courts are limited to considering only undisputed facts when making a recent overt act determination. Quinn cites four cases in support of this proposition. Pet. for Review at 10 (citing *Leck*, 180 Wn. App. at 509-10; *Brown*, 154 Wn. App. at 127-28; *Hovinga*, 132 Wn. App. at 24; *In re Det. of*, 193 Wn. App. 1038, 2016 WL 1643060, *9-10 (2016) (unpublished)). But while some of those decisions involved courts relying solely on undisputed facts, none of them expressly prohibit courts from considering other facts or stand for the proposition that it would ever be the jury's role to

determine whether an individual is currently incarcerated for a recent overt act. Further, Quinn's argument is inconsistent with *McNutt*, which noted that even an *Alford* plea "does not change the nature of the trial court's inquiry into [an offender's] history." 124 Wn. App. at 350.

Second, and more importantly, the Court of Appeals did not "authorize" trial courts to rely on disputed facts in this case. The court's opinion held only that a trial court can consider "the entire record of [a sexually violent predator's] *established convictions* when weighing this question." Slip op. at 1 (emphasis added); *see also id.* at 8-9. The Court of Appeals had no reason to address whether trial courts can rely on disputed facts because, as discussed earlier, the trial court did not rely on disputed facts in this case.

3. The unpublished decision involved a straightforward application of established legal principles and reached the right conclusion

The trial court and the Court of Appeals correctly concluded that Quinn's convictions for possession of sexually

explicit images of minors constituted a recent overt act. Quinn's possession of such materials creates a reasonable apprehension of harm of a sexually violent nature in the mind of an objective person who knows of Quinn's history and mental condition.

Quinn has been diagnosed with pedophilic disorder, antisocial personality disorder, an intellectual disability, and substance use disorders. CP at 274. He is an untreated sex offender who has declined to participate in treatment and has poor impulse control. VRP (Vol. 2) at 17. He has multiple prior convictions for sexual offenses against children. He pled guilty to two counts of child molestation in the first degree for offenses against seven-year-old girls. CP at 274. He also pled guilty to assault in the third degree, and unlawful imprisonment for offenses against a 15-year-old girl. *Id.*

With respect to the recent overt act, Quinn pled guilty to two counts of possession of depictions of a minor engaged in sexually explicit conduct, which are acts of a criminal sexual nature against children. CP at 276. He expressly admitted to

possessing a photo "that depicted a minor engaged in actual or simulated urination" and a photo "that depicted actual or simulated genitals and unclothed pubic and rectal areas of a minor and unclothed breast of a female minor for the purpose of sexual stimulation of the viewer." *Id.* The photos were folded up and worn, making it appear as though they had been viewed numerous times. *Id.* at 275. Additionally, Quinn possessed even more sexually explicit images of children along with girls' underwear, dozens of scraps of paper bearing female names and social networking screen names, and numerous children's toys. *Id.* He also had taken photographs of neighborhood children from his window. *Id.*

Even if this Court were to disregard any allegedly disputed facts and limit its analysis to the admissions in Quinn's plea agreement, the conclusion of the trial court and the Court of Appeals would still be proper. Quinn's admissions that he possessed images of children for his own sexual gratification, together with the undisputed facts about Quinn's prior offenses

and mental condition, independently support the conclusion that he committed a recent overt act.

Quinn claims that "there was no evidence that possessing two images of pornography triggered him to act in a sexually violent manner." Pet. for Review at 13. But as the Court of Appeals properly recognized, that is not the correct legal standard. Slip op. at 9. The relevant inquiry is whether Quinn's possession of such materials creates a reasonable apprehension of harm of a sexually violent nature in the mind of an objective person who knows of Quinn's history and mental condition. Both the trial court and Court of Appeals correctly concluded that Quinn's possession of sexually explicit images of children qualified as a recent overt act.

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V. CONCLUSION

For the foregoing reasons, this Court should deny Quinn's petition for review.

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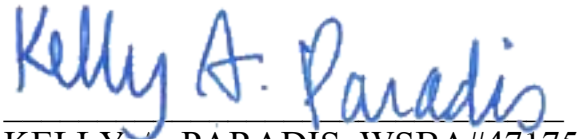
RESPECTFULLY SUBMITTED this 28th day of December, 2021.

ROBERT W. FERGUSON
Attorney General



KELLY A. PARADIS, WSBA#47175
Assistant Attorney General
Attorney for Respondent

NO. 1003404

SUPREME COURT OF THE STATE OF WASHINGTON

In re the Detention of: Thomas Quinn, Petitioner.	DECLARATION OF SERVICE

I, Malia Anfinson, declare as follows:

On this 28th day of December, 2021, I sent via electronic mail true and correct copy of State's Answer to Petition for Review and Declaration of Service, addressed as follows:

Nancy Collins nancy@washapp.org
Washington Appellate Project
wapofficemail@washapp.org

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 28th day of December, 2021, at Seattle, Washington.

MALIA ANFINSON

WASHINGTON STATE ATTORNEY GENERAL'S OFFICE - CRIMINAL JUSTICE DIVISION

December 28, 2021 - 11:57 AM

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