NO. 92501-1

**SUPREME COURT OF THE STATE OF WASHINGTON**

In re the Detention of:

JOHN MARCUM,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

# STATE'S ANSWER TO PETITION FOR REVIEW

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## I. INTRODUCTION AND IDENTITY OF RESPONDENT

The Court of Appeals correctly interpreted the plain language of RCW 71.09.090(4) and held that the legislature has expressed quite clearly that a sexually violent predator (SVP) seeking a new trial must show a substantial change due to "continuing participation in treatment" since the person's last commitment trial, "or less restrictive alternative revocation proceeding". An SVP who is terminated from treatment and fails at conditional release is obviously not ready for unconditional release. Because Marcum was unable to manage himself in a highly structured *conditional* release, the statute astutely requires him to show his condition has since improved due to treatment before he can claim readiness for *unconditional* release. Marcum's statutory interpretation reduces the incentive of SVPs to continue to participate in treatment once they obtain a new trial, which is contrary to the intent of the statute. Further, Marcum misapplies *In re Detention of Jones*, 149 Wn. App. 16, 201 P.3d 1066 (2009), which was decided *before* the legislature added the phrase "or less restrictive alternative revocation proceeding" to RCW 71.09.090(4)(a). Thus, the Court of Appeals decision in *Marcum* is not in conflict with *Jones,* and there is no basis for review.

The Court of Appeals correctly held that the legislature has directed trial courts to measure change from the last proceeding, which in

this case was Marcum's 2011 less restrictive alternative (LRA) revocation proceeding, rather than from the original commitment trial. The State respectfully requests that this Court deny review.

## II. RESTATEMENT OF THE ISSUES

Marcum seeks discretionary review of the Court of Appeals decision in *Marcum.* For the reasons stated below, this Court should deny review because none of the issues warrant review under RAP 13.4(b). However, if the Court accepts review, the issues for review would be:

A. **Where RCW 71.09.090(4)(a) explicitly states that an SVP shows probable cause for a new trial only when evidence exists of a substantial change in condition since his "last commitment trial, or less restrictive alternative revocation proceeding", did the Court of Appeals correctly interpret the plain language of the statute by requiring Marcum to present evidence of change since his LRA was revoked in May 2011?**

B. **Where, pursuant to RCW 71.09.090(4)(a), Marcum was required to present evidence that his condition had changed due to continuing participation in treatment since the LRA revocation in May 2011, and Marcum had refused to participate in treatment after the revocation, was he entitled to an unconditional release trial?**

C. **Where the State's expert opined, based on a broad array of information, that Marcum's mental condition makes him more likely than not to sexually reoffend if unconditionally released, did the State meet its prima facie burden of showing Marcum continued to meet criteria as a sexually violent predator?**

## III. STATEMENT OF THE CASE

In 2001, Marcum was civilly committed as an SVP. CP 16. Marcum has been convicted of four sexually violent offenses against

young boys. CP 3-6. He reported sexually assaulting twenty-one boys between the ages of five and thirteen. CP 16. He entered sex offender treatment and successfully progressed to the point where he was released to an LRA at a Secure Community Transition Facility (SCTF) in 2009. CP 17, 84-94.

Approximately nineteen months after transitioning to an LRA, Marcum lacked motivation and stopped transitioning. CP 122. The Clinical Team warned Marcum that his lack of motivation was harming his physical condition, job search, and sex offender treatment. *Id.* Over the next several months, Marcum's treatment provider, Dr. Vincent Gollogly, and SCTF staff gave Marcum directives designed to address these areas; however, Marcum did not follow them. *Id.* The Clinical Team explicitly warned Marcum that if he did not apply himself and improve, it would recommend he return to total confinement due to his minimal cooperation with supervision and treatment. *Id.*

Several months later, Dr. Gollogly reported that Marcum was still not receptive to feedback. CP 122-23. Marcum refused to work and displayed an overall negative attitude towards the transition process. CP 122-27. He violated treatment rules and ignored directives from the transition team. *Id.* Rather than accept responsibility for his behavior, Marcum blamed the SCTF for his poor transitioning. CP 123. Dr. Gollogly

decided that he could not help Marcum any further due to his "attitude, frustration and irritability regarding his transitional programming at the SCTF." *Id.* In February 2011, Dr. Gollogly terminated Marcum from treatment. CP 122-23.

The State moved to revoke Marcum's LRA. CP 79-82. Marcum stipulated to revocation. CP 129-32. Marcum's counsel certified that Marcum wanted his LRA revoked and that his "attitude towards his current placement has deteriorated to the point where nothing will change his mind[.]" CP 131.

On May 12, 2011, the trial court revoked Marcum's LRA and returned him to total confinement at the Special Commitment Center (SCC). CP 133-35. The court found that Dr. Gollogly terminated Marcum from treatment due to his "attitude regarding his transitional programming at the SCTF, as well as his violation of a rule prohibiting trading goods with other treatment participants[.]" CP 134. Marcum has refused to participate in any sex offender treatment since his return to the SCC in May 2011. CP 17, 23.

In May 2012, the trial court found that Marcum continued to meet criteria as an SVP based on the 2012 annual review submitted by the Department of Social and Health Service (DSHS). CP 13-15. In April 2013, DSHS submitted another annual review to the trial court

pursuant to RCW 71.09.070(1). CP 16-28. The evaluator, Dr. Regina Harrington, considered a broad range of information in evaluating Marcum's mental condition and risk. CP 16-17. She considered historical data about Marcum's offending and treatment history, including the nature of his mental disorders and their impact on his ability to control his behavior. CP 16-20. She considered research-supported static and dynamic risk factors. CP 17. She also considered her clinical interview of Marcum and his treatment progress, including the fact that he continued to refuse to participate in treatment at the SCC. CP 20-22. Based upon all this information, Dr. Harrington concluded that Marcum continues to meet the definition of an SVP. CP 24.

## IV. REASONS WHY REVIEW SHOULD BE DENIED

A petition for review will be accepted by this Court only:

(1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or

(2) If the decision of the Court of Appeals is in conflict with another decision of the Court of Appeals; or

(3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or

(4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

RAP 13.4(b). The trial court and the Court of Appeals correctly interpreted the plain language of RCW 71.09.090 and concluded that

Marcum's evidence failed to meet the statutory standard for a new trial. Moreover, the State presented ample evidence that Marcum's mental condition continued to make him likely to reoffend. Marcum has not established a basis for review of either issue. This Court should deny review.

## A. Statutory Framework: Annual Review Show Cause Hearing

### 1. Overview and Standard of Proof

An individual determined to be an SVP[1] is committed to the custody of DSHS for control, care, and treatment in a secure facility until: (1) the person's condition has so changed that he no longer meets the definition of an SVP; or (b) conditional release to an LRA as set forth in RCW 71.09.092 is in the person's best interest and conditions can be imposed to adequately protect the community. RCW 71.09.060(1). DSHS must conduct an annual evaluation of the SVP's mental condition to determine whether he continues to meet the statutory criteria for commitment. RCW 71.09.070. Unless the SVP waives his right to a hearing, the trial court must schedule a show cause hearing. RCW 71.09.090(2)(a).

[1] An SVP is defined as "any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility." RCW 71.09.020(18). "Likely to engage..." means that the person more probably than not will engage in such acts if unconditionally released. RCW 71.09.020(7).

The standard of proof at a show cause hearing is "probable cause." *State v. McCuistion,* 174 Wn.2d 369, 382, 275 P.3d 1092 (2012). While the probable cause standard is not a stringent one, it allows the court to perform a critical gate-keeping function:

> Under this standard, a court must assume the truth of the evidence presented; it may not 'weigh and measure asserted facts against potentially competing ones.' At the same time, the court can and must determine whether the asserted evidence, if believed, is *sufficient* to establish the proposition its proponent intends to prove.

*Id.* (emphasis in original; internal citations omitted).

The legislature specifically found that SVPs are extremely dangerous and their treatment needs are very long term, implying the statute contemplates a prolonged period of treatment. RCW 71.09.010; *In re Detention of Petersen*, 138 Wn.2d 70, 78, 980 P.2d 1204 (1999) (*Petersen I*). The statute involves indefinite commitment, "not a series of fixed one-year terms with continued commitment having to be justified beyond a reasonable doubt *annually* at evidentiary hearings where the State bears the burden of proof." *Id.* at 81 (emphasis in original). Consequently, the show cause hearing is "in the nature of a summary proceeding" consistent with the "Legislature's wish that judicial resources not be burdened annually with full evidentiary hearings" absent "at least

some showing of probable cause to believe such a hearing is necessary." *Id.* at 86.

**2. State's Prima Facie Burden of Proof**

At a show cause hearing, the State bears the burden to present prima facie evidence that the person continues to meet the definition of an SVP and that conditional release to a proposed LRA would not be appropriate. RCW 71.09.090(2); *McCuistion,* 174 Wn.2d at 380. The State may rely exclusively on the DSHS annual review to satisfy this burden. RCW 71.09.090(2)(b). If the State fails to meet its prima facie burden, there is probable cause to believe continued confinement is not warranted and the matter must be set for trial. RCW 71.09.090(2)(c); *In re Detention of Petersen,* 145 Wn.2d 789, 798, 42 P.3d 952 (2002) (*Petersen II*).

**3. SVP's Prima Facie Burden of Proof**

The second way probable cause for a new trial may be established is through the SVP's proof. *Petersen II,* 145 Wn.2d at 798. "Probable cause" as it pertains to the SVP's proof is defined in RCW 71.09.090(4)(a), which provides:

> Probable cause exists to believe that a person's condition has "so changed," under subsection (2) of this section, **only when evidence exists, since the person's last commitment trial, or less restrictive alternative revocation proceeding, of a substantial change in the person's physical or mental condition** such that the person either no longer meets the definition of a sexually

> violent predator or that a conditional release to a less restrictive alternative is in the person's best interest and conditions can be imposed to adequately protect the community.

(Emphasis added). Thus, the SVP must present evidence that he has "so changed" in order to obtain a new trial. *See* RCW 71.09.090(2)(c).

However, RCW 71.09.090(4) requires the SVP to meet very specific criteria in order to satisfy the "so changed" requirement. The SVP must show that, since his last commitment trial or LRA revocation proceeding, there has been a "substantial change" in his condition due to either (1) a permanent physiological change that renders him unable to sexually reoffend; or (2) a change in mental condition brought about through "positive response to continuing participation in treatment[.]" RCW 71.09.090(4). If the SVP makes either required showing, there is probable cause to order a new trial. RCW 71.09.090(2)(c).[2]

### B. Marcum Cannot Show That He Has Changed Through "Continuing Participation In Treatment" Because He Refused to Participate in Any Treatment After His LRA Was Revoked.

Marcum could not show that his condition has changed due to "continuing participation in treatment" because he has refused to participate in treatment since February 2011. The Court of Appeals

[2] The constitutionality of the amendment requiring either a permanent physiological change or a treatment-based change was upheld by this Court in *McCuistion,* 174 Wn.2d 369.

correctly determined that "probable cause" under RCW 71.09.090 required Marcum to show he had changed through continuing participation in treatment since the trial court revoked his LRA in May 2011. *See In re Detention of Marcum,* 360 P.3d 888, 890-92 (2015). Because Marcum was unable to manage himself in a highly structured *conditional* release, the statute astutely requires him to show his condition has since improved due to treatment before he can claim readiness for *unconditional* release. The Court of Appeals decision was correct and this Court should deny review.

### 1. Marcum Cannot Show a "Positive Response to Continuing Participation in Treatment" Because He Quit Treatment in 2011.

The Court of Appeals correctly found that Marcum had not satisfied his burden. Marcum could not possibly show his mental condition had changed due to a "positive response to continuing participation in treatment" because he refused to participate in treatment since February 2011. *See* CP 23. As a result, "his elaboration of treatment concepts was less sophisticated than previously when he was active in treatment." CP 21. RCW 71.09.090(4)(b)(ii) unequivocally required Marcum to show his mental condition had changed through "continuing" participation in treatment. "Continuing" is defined as:

> Enduring; not terminated by a single act or fact; subsisting for a definite period or intended to cover or apply to successive similar obligations or occurrences.

Black's Law Dictionary at 291 (5th ed. 1979). Marcum's treatment was undisputedly "terminated" by Dr. Gollogly in 2011. Thereafter, Marcum refused to participate in any treatment. At the time of the annual review show cause hearing, Marcum had not been involved in any sex offender treatment for nearly three years. *See* CP 17, 23, 76-78. Thus, his treatment cannot be considered as "continuing" or "enduring" and the trial court correctly concluded that he failed to meet the statutory requirement for an unconditional release trial.

### 2. The Plain Language of the Statute Defines "Probable Cause" as Requiring Evidence of a Substantial Change in the Person's Condition Since an LRA Revocation.

The goal of statutory interpretation is to discern and implement the legislature's intent. *State v. Armendariz,* 160 Wn.2d 106, 110, 156 P.3d 201 (2007). The Court looks first to the plain language; if it is unambiguous, the Court's inquiry is at an end. *Id.* Under rules of statutory interpretation, all language is given effect and plain language cannot be rendered meaningless or superfluous. *In re Detention of Boynton*, 152 Wn. App. 442, 452-53, 216 P.3d 1089 (2009). Courts construe the statute as a whole, and each provision of the statute must be read in relation to the other provisions. *Id.* at 452.

The Court of Appeals accurately found that "probable cause" exists to believe a person's condition has "so changed" under RCW 71.09.090(2) only when evidence exists, "since the person's last commitment trial, *or less restrictive alternative revocation proceeding,*" of a substantial change in the person's condition. *Marcum,* 360 P.3d at 891 citing RCW 71.09.090(4)(a).[3] Thus, under the plain language of the statute, Marcum was required to present evidence of a "substantial change" in his condition since the court revoked his LRA in May 2011. And that evidence had to show a positive response to continuing participation in treatment. RCW 71.09.090(4)(b)(ii). Marcum could not produce such evidence because he refused to participate in any treatment since the revocation. *See* CP 17, 23. Consequently, his evidence of previous treatment gains, upon which his previous conditional release was based, was irrelevant.

Courts should assume the legislature means exactly what it says. *State v. Keller,* 143 Wn.2d 267, 276, 19 P.3d 1030 (2001). Here, the phrase "only when evidence exists, since the person's last commitment trial, *or less restrictive alternative proceeding*" cannot be interpreted to mean anything but exactly what it says. *See* RCW 71.09.090(4)(a)

[3] The italicized language was added by the Laws of 2009, ch. 409, § 8. *Marcum,* 360 P.3d at 890.

(emphasis added). The statutory language is plain and unambiguous. The Court of Appeals correctly noted that the legislature has expressed quite clearly that an SVP who wants a new trial must show substantial change due to treatment since the last time a court formally reviewed the case. *See Marcum,* 360 P.3d at 891. "The 2009 amendment simply recognized that an LRA revocation might be the most recent occasion at which a court was assessing the detainee[.]" *Id.*

As the Court of Appeals correctly explained, Marcum's interpretation would result in perpetual entitlement to a new trial each year once sufficient change to justify the first request was shown. *Id.* His interpretation also reduces the incentive to continue to participate in treatment once an SVP obtains a trial. *Id.* This is not the intent of the statute, which is to address the "very long-term" needs of the SVP population for treatment and to ensure that the statutory focus remains on successful treatment participation. *See McCuistion,* 174 Wn.2d at 389-90. The Court of Appeals correctly noted that Marcum, having failed at the LRA, does not now obtain a "do over" by using the same initial evidence of change to obtain a new trial. *Marcum,* 360 P.3d at 891.

Marcum argues that his expert, Dr. Spizman, opined that Marcum had changed "due to his successful participation in sex-offender specific treatment." Petition for Review (hereafter, Petition) at 12 citing CP 73-74.

However, at the cited pages, Dr. Spizman merely states that *"while at the SCTF"* Marcum was able to "maintain the solid gains he has made via treatment." CP 74 (emphasis added). Dr. Spizman then concludes that "Marcum has so changed, via his efforts in treatment, in conjunction with various other factors, that he no longer meets the definition of a Sexually Violent Predator." CP 74. This is a far cry from the standard required by the statute.

When reviewing the sufficiency of the evidence, the court must "look at the *facts* contained in the report to decide whether they support the expert's conclusions." *See In re Detention of Jacobson,* 120 Wn. App. 770, 780, 86 P.3d 1202 (2004) (emphasis added). Mere conclusory statements by an expert do not establish probable cause. *Id; see also McCuistion,* 174 Wn.2d at 382 ("the court can and must determine whether the asserted evidence, if believed, is *sufficient* to establish" probable cause) (emphasis in original). Dr. Spizman fails to include *any* facts to support an opinion that Marcum's mental condition changed due to treatment since the LRA revocation.

The Court of Appeals did not add requirements into the plain language of RCW 71.09.090(4)(b). *See* Petition at 8. RCW 71.09.090(4)(a) is a *mandatory* definition of "probable cause" that

applies to an SVP's evidence. RCW 71.09.090(4)(a).[4] Therefore, it must apply to Marcum's evidence. RCW 71.09.090(4)(b), on the other hand, pertains more generally to the ordering of trials once probable cause has been established.

Marcum's statutory interpretation would render RCW 71.09.090(4)(a) superfluous. If treatment evidence arising prior to LRA revocation is sufficient, then the revocation language would be superfluous. Any SVP who had been revoked from an LRA could argue that, under RCW 71.09.090(4)(b), he need only show he had changed since his commitment trial in order to obtain a new trial. As the Court of Appeals correctly noted, this interpretation reads the LRA revocation language right out of the statute in derogation of the Court's duty to give effect to all language found in legislation. *See Marcum,* 360 P.3d at 891. The Court of Appeals accurately explained that the legislature could have easily tied the LRA and commitment trial language to subsequent proceedings of the same variety, but did not. *Id.* Instead, the legislature tied that language to the "so changed" probable cause definition applicable

[4] "Probable cause exists to believe that a person's condition has 'so changed,' under subsection (2) of this section, *only when evidence exists,* since the person's last commitment trial, or less restrictive alternative revocation proceeding, of a substantial change in the person's physical or mental condition..." RCW 71.09.090(4)(a) (emphasis added).

to both proceedings. *Id.* The Court of Appeals correctly followed the plain language of the statute and there is no basis for review.

### 3. Marcum Misapplies *Jones*, Which Was Decided Before the Legislature Added the Phrase "Or Less Restrictive Alternative Revocation Proceeding" to RCW 71.09.090(4)(a).

Marcum argues that this Court should accept review because the Court of Appeals decision "is contrary to the reasonable construction of the same language in *Jones*". Petition at 12. Marcum misapplies *Jones*. The legislature added the statutory language at issue in this case after *Jones* was decided. Thus, the Court of Appeals decision in *Marcum* is not in conflict with *Jones,* and there is no basis for this Court to accept review under RAP 13.4(b).

Marcum argues that the *Jones* Court rejected the State's argument that change must be established from any LRA revocation (as opposed to from the initial commitment trial). *See* Petition at 9. Marcum's reliance on this case is misleading and inappropriate. At the time of the *Jones* decision, RCW 71.09.090(4)(a) did not include the phrase "or less restrictive alternative revocation proceeding" and the State broadly construed "commitment trial proceeding" as including an LRA revocation hearing. *See Jones*, 149 Wn. App. at 30. The *Jones* Court rejected this broad interpretation of "commitment trial proceeding." *Id.* Subsequent to

*Jones*, the legislature amended RCW 71.09.090(4)(a) to require a change "since the person's last commitment trial, *or less restrictive alternative revocation proceeding*". RCW 71.09.090(4)(a) (emphasis added).[5] Thus, Marcum's reliance on *Jones* as a basis for this Court to accept review is misplaced. This Court should deny review.

### C. The State Presented Prima Facie Evidence That Marcum's Mental Condition Makes Him Likely to Sexually Reoffend.

Marcum argues that the State failed to present prima facie evidence that his mental condition makes him likely to reoffend if unconditionally released.[6] First, Marcum fails to identify or articulate any basis for review under RAP 13.4(b). A review of RAP 13.4(b) reveals there is none. Thus, this Court should deny review. Second, Marcum's argument is without merit. Actuarial assessment is but one component of an evaluator's overall risk assessment. Marcum's argument is based on the incorrect presumption that actuarial assessment alone must show recidivism rates over 50 percent. *See* Petition at 16-17.

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[5] *Jones* was published on February 23, 2009. The legislature added the LRA revocation language effective May 7, 2009. Laws of 2009, ch. 409, § 8.

[6] The Court of Appeals did not address this issue in its published decision. *See Marcum,* 360 P.3d 888. Presumably, the Court of Appeals granted the motion to modify the Commissioner's ruling on the sole issue addressed in the opinion. If this Court finds that the Court of Appeals should have also expressly addressed whether the State presented prima facie evidence that Marcum's mental condition made him likely to reoffend, it should remand the case to the Court of Appeals to issue an opinion on this issue.

Dr. Harrington conducted a comprehensive risk assessment and ultimately opined that Marcum continues to meet the definition of an SVP because "his present mental condition still includes the predisposition for sexually violent behavior" that makes him likely to sexually reoffend. CP 24. Marcum disregards this opinion solely because results of an actuarial test showed his score was associated with group recidivism rates under fifty percent. From that basis alone, Marcum argues the State failed to make a prima facie case that he was "likely" to reoffend. *See* Petition at 16-17. However, Dr. Harrington considered a broad range of information as part of her risk analysis. The trial court was not permitted to weigh the evidence, but rather must assume the truth of the evidence presented and determine if the conclusions are supported by the facts. *See McCuistion,* 174 Wn.2d at 382.

As Dr. Harrington noted, actuarial instruments generally underestimate actual sexual offense risk over a lifetime because of a variety of factors. CP 17. The instruments do not measure unreported or unprosecuted sex offenses, they do not incorporate all primary risk factors for reoffense, and they involve only a limited time period. CP 17. Actuarial instruments have limited applicability in SVP cases because of their small sample sizes and a variety of predictive shortcomings. *In re Detention of Thorell,* 149 Wn.2d 724, 753, 72 P.3d 708 (2003); *see also*

*In re Detention of Lewis,* 134 Wn. App. 896, 906, 143 P.3d 833 (2006) (actuarial instruments underestimate risk because they only measure convictions). The SVP act does not limit experts to results of actuarial tests[7] and does not require the State to show that the SVP will reoffend in the "foreseeable future." *In re Detention of Moore,* 167 Wn.2d 113, 125, 216 P.3d 1015 (2009); *In re Pers. Restraint of Meirhofer,* 182 Wn.2d 632, 645, 343 P.3d 731 (2015) ("we never found that [actuarial instruments] were better evidence than clinical judgment" and experts may rely on static and dynamic risk factors and their own clinical judgment).

Dr. Harrington relied on a broad range of information to support her conclusion that Marcum continued to meet SVP criteria. CP 16. She reviewed clinical information from multiple data sources and assessed Marcum's treatment knowledge and progress. *See* CP 16. She also reviewed historical information about Marcum's offending and treatment history, noting that his sexual offense behaviors evidence longstanding psychological dynamics involving sexual deviancy, entitlement and exploitation, callousness, negative emotionality and hostility, impaired coping skills, and interpersonal difficulties. CP 16-17. An SVP's sexual

[7] Actuarial testing measures recidivism rates within a finite, limited time, such as five or ten years. *See* CP 17. The question for an evaluator is whether the person is likely to reoffend in his lifetime. *See* RCW 71.09.020(18).

history is highly probative of his recidivism risk. *In re Pers. Restraint of Young,* 122 Wn.2d 1, 53, 857 P.2d 989 (1993).

Further, Dr. Harrington considered the nature of Marcum's mental disorders and their impact on his ability to control his behavior, noting that symptoms associated with his mental disorders are known to correspond with empirically identified risk factors for sexual reoffense. CP 17-20. Consequently, she also considered research-supported dynamic risk factors. CP 17. Because of Marcum's refusal to participate in any treatment after his 2011 LRA revocation, Dr. Harrington noted that Marcum was not acknowledging his faults or making appropriate changes. *See* CP 17, 23. Assuming the truth of the evidence presented, Dr. Harrington presented sufficient facts supporting her ultimate conclusion that Marcum continues to meet criteria as an SVP.

## V. CONCLUSION

For the foregoing reasons, this Court should deny review.

RESPECTFULLY SUBMITTED this 20th day of January, 2016.

ROBERT W. FERGUSON
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KRISTIE BARHAM
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NO. 92501-1

**SUPREME COURT OF THE STATE OF WASHINGTON**

| | |
|---|---|
| In re the Detention of:<br><br>John Marcum,<br><br>Petitioner. | DECLARATION OF SERVICE |

I, Joslyn Wallenborn, declare as follows:

On January 20, 2016, I sent via electronic mail a true and correct copy of State's Answer to Petition for Review and Declaration of Service, addressed as follows:

Nancy Collins
Washington Appellate Project
wapofficemail@washapp.org
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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 20th day of January, 2016, at Seattle, Washington.

Joslyn Wallenborn

JOSLYN WALLENBORN

## OFFICE RECEPTIONIST, CLERK

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**Subject:** In re Det. of John Marcum, no. 92501-1

Good Afternoon,

Attached for filing and service is the State's Answer to Petition for Review and Declaration of Service in the above-entitled case.

Filed on behalf of:

KRISTIE BARHAM
WSBA #32764, OID #91094

Thank you,
**Joslyn Wallenborn**
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