NO. 46760-7

**COURT OF APPEALS, DIVISION II**
**OF THE STATE OF WASHINGTON**

John Brooks,

Appellant,

v.

State of Washington,

Respondent.

# RESPONDENT'S BRIEF

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**B. Where DSHS is not a party to this action, can the Court consider Brooks' claim that DSHS violated his right to due process within the context of this SVP proceeding?**

**C. Did DSHS violate Brooks' right to due process by failing to authorize his filing of a petition for less restrictive placement where neither the sexually violent predator statute nor the Constitution so requires, and where Brooks is free to petition for less restrictive placement without the authorization of the Secretary of DSHS?**

## II. STATEMENT OF THE CASE

John Brooks is a pedophile who has pled guilty to and been convicted of two sexually violent offenses, Child Molestation in the First Degree, and Kidnapping in the Second Degree with Sexual Motivation. CP at 3. In 2007, he stipulated to commitment as a sexually violent predator ("SVP"),[1] and his mental condition has been evaluated annually since that time. On May 3, 2013, Dr. Rob Saari, on behalf of the Department of Social and Health Services ("DSHS"), submitted a report

[1] An SVP is defined as a person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder that 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).

pursuant to RCW 71.09.070.[2] CP at 413-28. That report, or "annual review," indicated that Brooks had made progress in treatment, and that, despite continuing concerns, it would be in his best interests to be conditionally released to the SCTF,[3] a less restrictive alternative[4] facility operated by DSHS on McNeil Island. CP at 414. Following a contested hearing, the trial court determined that Brooks was not entitled to an evidentiary hearing on the issue of conditional release. CP at 222-24. Brooks sought review, which was denied as moot. *In re Brooks,* COA No. 45787-3-II. Brooks moved to modify, but that motion was likewise denied. *Id.*

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[2] RCW 71.09.070 provides, in pertinent part: Each person committed under this chapter shall have a current examination of his or her mental condition made by the department of social and health services at least once every year. The annual report shall include consideration of whether the committed person currently meets the definition of a sexually violent predator and whether conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that would adequately protect the community. The department of social and health services shall file this periodic report with the court that committed the person under this chapter. The report shall be in the form of a declaration or certification in compliance with the requirements of RCW 9A.72.085 and shall be prepared by a professionally qualified person as defined by rules adopted by the secretary. A copy of the report shall be served on the prosecuting agency involved in the initial commitment and upon the committed person and his or her counsel. The committed person may retain, or if he or she is indigent and so requests, the court may appoint a qualified expert or a professional person to examine him or her, and such expert or professional person shall have access to all records concerning the person.

[3] As used herein, the term "SCTF" refers specifically to the secure community transition facility operated by DSHS on McNeil Island. See CP at 415. As defined by statute, the term "secure community transition facility" has a broader meaning and can include a variety of different residential facilities operated by or under contract with the Secretary of DSHS. *See* RCW 71.09.020(15).

[4] "Less restrictive alternative" is defined as "court-ordered treatment in a setting less restrictive than total confinement which satisfies the conditions set forth in RCW 71.09.092." RCW 71.09.020(6).

The trial court, after various procedural machinations[5] and at the suggestion of the State,[6] ultimately ordered a trial on the issue of Brooks' placement in a less restrictive alternative facility. CP at 377-379. Prior to trial, the State filed a motion for summary judgment, arguing that Brooks had neither presented a specific course of treatment nor identified authorized housing in the community as required by RCW 71.09.092. CP at 381-484. The trial court granted the State's motion (CP at 559-561) and denied reconsideration. CP at 580. Brooks timely sought review.

## III. ARGUMENT

Brooks, while ostensibly seeking review of two orders – an order denying the State's motion for summary judgment, and an order denying reconsideration of that order – does not assign error to any portion of either order. Instead, Brooks argues that his right to due process was violated when DSHS "refused" to authorize his filing of a petition for release to a less restrictive alternative placement, authorization that would have permitted him to be placed at the SCTF. *See* RCW 71.09.250(1)(a).[7]

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[5] CP at 225-30 (State's Motion to Vacate Order Pursuant To CR 60); CP at 231-323 (Declaration of Fred Wist In Support of CR Motion To Correct Trial Court Findings, Conclusions And Order); CP at 361 (Order Denying Petitioner's Motion To Vacate (CR 60).

[6] CP at 362-64 (State's Motion to Vacate Order Pursuant to CR 60); CP at 365-66 (Declaration of Mary E Robnett In Support of Motion to Correct Trial Court Order).

[7] RCW 71.09.250(1) authorizes the Secretary to "site, construct, occupy, and operate (i) a secure community transition facility on McNeil Island for persons authorized

By so "refusing," he argues, DSHS failed "to comply with the mandate of RCW 71.09.090(1)" and thus deprived him of a potential less restrictive placement – the SCTF. Br. of App. at 6, 2.

Brooks' entire argument is premised on an incorrect reading of the Statute and its provisions regarding conditional release. The Statute sets forth a clear path to conditional release, and Brooks failed to follow that path. Moreover, if his claim is that DSHS violated his constitutional rights, he cannot do so in this forum because DSHS is not a party to this SVP action. Finally, even if this Court were to consider his claim against DSHS, it is without merit, in that there is nothing in the Statute or the Constitution that requires the Secretary of DSHS ("the Secretary") to authorize the filing of a petition for less restrictive placement where a psychologist submits a report recommending such placement.

## A. The Statute Sets Forth a Clear Path to Consideration of a Less Restrictive Alternative to Complete Confinement

An individual determined by the court to be an SVP is committed to the custody of DSHS for placement in a secure facility:

> for control, care, and treatment until such time as: (a) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative as set forth in RCW 71.09.092 is in the best interest of the person

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to petition for a less restrictive alternative under RCW 71.09.090(1) and who are conditionally released...."

> and conditions can be imposed that would adequately protect the community.

RCW 71.09.060(1). After commitment, DSHS is required to conduct a current examination of a resident's mental condition every year. RCW 71.09.070.[8] The report generated as a result of this examination must be prepared by a "professionally qualified person" as defined by rules adopted by the Secretary. *Id.* That report, which must be filed with the committing court and served on the prosecuting agency, the SVP, and his or her counsel, must include consideration of whether conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that would adequately protect the community. *Id.*

Following the filing of that annual report, the SVP has a right to a show cause hearing at which issues related to continued detention will be considered unless he or she affirmatively waives that right. RCW 71.09.090(2). At that hearing, the State bears the burden of presenting prima facie evidence that the person continues to meet the definition of an SVP and that conditional release to a less restrictive alternative would not be appropriate. RCW 71.09.090(2)(c); *State v. McCuistion,* 174 Wn.2d 369, 380, 275 P.3d 1092 (2012) *cert. denied,*

[8] *See* n. 2 for the full text of RCW 71.09.070.

133 S.Ct. 1460. If the State does not make this prima facie showing, the matter must be set for a trial on the matter of conditional or unconditional release. RCW 71.09.090(2)(c); *In re Detention of Petersen,* 145 Wn.2d 789, 798, 42 P.3d 952 (2002).

Once the State has made its prima facie case, there are two ways in which an individual may obtain a new trial on the issue of conditional release[9]: Through a petition based on the authorization of the Secretary pursuant to RCW 71.09.090(1), or, in the absence of the Secretary's authorization, on petition by the SVP. In the first case, if the Secretary determines that the SVP's condition "has so changed" such that conditional release is in that person's best interest, the Secretary "shall authorize the person to petition the court" for conditional release. RCW 71.09.090(1). Even if the Secretary does not authorize a petition, however, "[n]othing in this chapter shall prohibit the person from otherwise petitioning the court" for release without the Secretary's approval. RCW 71.09.090(2)(a). In such a case, the burden will be on the SVP to show probable cause that conditional release to a proposed less restrictive alternative would be in his or her best interest and that

[9] These statutory sections also contain discussion of the ways in which an SVP can obtain a new trial on the issue of unconditional release. Because this case involves only conditional release to a less restrictive alternative, the route to unconditional release will not be discussed.

conditions can be imposed that would adequately protect the community. While, depending on the history of the case, the SVP may or may not need to show change in order to be granted an evidentiary hearing on the issue of release,[10] it is essential that the SVP's evidence of probable cause include evidence of an LRA satisfying the following five conditions:

> (1) The person will be treated by a treatment provider who is qualified to provide such treatment in the state of Washington under chapter 18.155 RCW;
>
> (2) the treatment provider has presented a specific course of treatment and has agreed to assume responsibility for such treatment and will report progress to the court on a regular basis, and will report violations immediately to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the special commitment center;
>
> (3) housing exists in Washington that is sufficiently secure to protect the community, and the person or agency providing housing to the conditionally released person has agreed in writing to accept the person, to provide the level of security required by the court, and immediately to report to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the special commitment center if the person leaves the housing to which he or she has been assigned without authorization;
>
> (4) the person is willing to comply with the treatment provider and all requirements imposed by the treatment provider and by the court; and

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[10] If release has been previously considered, either through a trial on the merits or through summary judgment as outlined in RCW 71.09.094(1), the SVP must present evidence that he or she has "so changed" such that release is appropriate. RCW 71.09.090(2)(c) & (d). If the court has not previously considered the issue of release to a less restrictive alternative, no showing of change is required. RCW 71.09.090(2)(d).

> (5) the person will be under the supervision of the department of corrections and is willing to comply with supervision requirements imposed by the department of corrections.

RCW 71.09.092; *In re Jones*, 149 Wn. App. 16, 26, 201 P.3d 1066 (2009). This "proposed LRA" must identify a specific residence in order to permit the court to properly determine whether the proposal includes conditions that adequately protect the community. *Id.,* 149 Wn. App. at 27. If these conditions are not met, summary judgment may be granted in favor of the State. *Id.* at 27-28; *see also* RCW 71.09.094(1).

Once a court has found probable cause for an LRA trial, that trial includes the same protections as an initial commitment trial. RCW 71.09.090(3)(a); *In re Detention of Bergen*, 146 Wn. App. 515, 526, 195 P.3d 529 (2008). Where the issue is conditional release, the State must prove beyond a reasonable doubt that conditional release to any proposed less restrictive alternative either: (i) Is not in the best interest of the committed person; or (ii) does not include conditions that would adequately protect the community. RCW 71.09.090(3)(d); RCW 71.09.094(2). Our Supreme Court has determined that these statutory procedures comport with substantive due process. *McCuistion,* 174 Wn.2d at 385 (citing *Jones v. United States,* 463 U.S. 354, 368, 103 S. Ct. 3043, 77 L. Ed. 2d 694 (1983).

## B. Brooks Failed To Follow Mandatory Statutory Procedures For Consideration Of An LRA

Although the statute sets forth a clear procedure for seeking release to an LRA, Brooks failed to follow that procedure. Instead, Brooks seeks to circumvent that procedure by establishing a "right" to an authorization by the Secretary to petition for placement at a specific less restrictive placement, operated by DSHS, based on the recommendation of the psychologist who conducted the annual report for DSHS and over the objections of both senior staff at the Special Commitment Center[11] and its chief operating officer. Neither the statute nor the Constitution creates such a right, and Brooks' argument must be rejected.

### 1. The Statute Does Not Require the Secretary to Authorize a Petition Where the Person Conducting the Annual Review Recommends Release to a Less Restrictive Alternative Placement.

Brooks argues that, if the expert conducting the annual review recommends less restrictive alternative placement, the Secretary is required to authorize the SVP to petition for a trial on a less restrictive alternative pursuant to RCW 71.09.090(1). App. Br. at 5. The annual report, he argues, constitutes the "specific procedure" by which the

[11] The Special Commitment Center is a "total confinement facility" (RCW 71.09.020(19)) operated by DSHS on McNeil Island to house persons detained pursuant to RCW 71.09.

Secretary makes that determination. *Id.* at 8. Because neither the Statute nor the record supports Brooks' argument, his argument fails.

First, there is nothing in the Statute that suggests that the Secretary is bound by the opinion of the psychologist who conducts the annual evaluation pursuant to RCW 71.09.070. As discussed above, that section provides that DSHS is required to conduct an examination of a resident's mental condition every year. The Statute does not, however, provide that the opinion contained in that report is binding on the Secretary for purposes of determining whether the SVP should be authorized to petition for conditional release pursuant to RCW 71.09.090(1).

Brooks asserts that "RCW 71.09.090(1) requires DSHS 'shall authorize' a person to petition for a trial on a less restrictive alternative if the annual review indicates a less restrictive alternative is in the persons [sic] best interest and can adequately protect the community. *State v. McCuistion,* 174 Wn.2d 369, 388, 275 P.3d 1092 (2012)(citing *In re the Detention of Young*, 122 Wn. 2d 1, 39, 857 Wn. 2d 989 (1993); *In re the Detention of Morgan*, 180 Wn.2d 312, 330 P.3d 774 (2014)." App. Br. at 5. This assertion is not persuasive. The *McCuistion* Court, in the cited paragraph, was not addressing the question of whether the Secretary is required to accept the opinion of the person writing the annual review regarding authorization to petition for conditional release. 174 Wn.2d at

388. Rather, the Court appears only to be elaborating on its initial statement that the State must "justify continued incarceration through an annual review" (citing *Young*, 122 Wn. 2d at 39) – the method by which the court determined that the constitutional requirement of "periodic review" was satisfied. 174 Wn.2d at 385. Nor does the statutory section to which the *McCuistion* Court is referring says anything about whether the Secretary must adopt the position of the annual review. Rather, that section begins, "(1) ***If the secretary determines*** that the person's condition has so changed ...." RCW 71.09.090(1). The Statute contains no mention of the factors the Secretary must consider in making this determination. Finally, the *McCuistion* Court did not cite *Morgan*, which issued two years after *McCuistion*, in support of this or any other principle.

### 2. The Actions of DSHS Were Consistent Both With the Regulations Governing the Secretary's Consideration of LRA Release and Legislative Policies Relating to Community Safety

Not only does the Statute not require the Secretary to adopt the position of the evaluating psychologist, there is nothing in the Statute that restricts the factors that the Secretary must consider in making a decision to authorize a petition for release. DSHS has adopted regulations relating to this process, and as those regulations make clear, the process for making that release recommendation is a thorough one, intended to allow

for consideration of all relevant information, including the opinions of senior clinical along with that of the author of the annual review.

Regulations governing DSHS' consideration of release to an LRA provide that where DSHS, "based on a forensic evaluation or progress in sex offender treatment[,]" considers an SVP for a less restrictive alternative placement under RCW 71.09.090(1), "the clinical director shall schedule the senior clinical team to review the matter and formulate a clinical recommendation to the superintendent." WAC 388-880-056. At the meeting of the Senior Clinical Team, a variety of factors will be considered, including the most recent forensic evaluation, the resident's participation and progress in sex offender treatment, behavior, and "any other relevant information," including "manifestation and management of dynamic risk factors[.]

This procedure was followed in Brooks' case. CP at 214-16. As explained by Dr. Holly Coryell, clinical director at the SCC, the Senior Clinical Team that met to discuss Brooks' case consisted of the Senior Clinical chair, the Community Programs Administrator, the Interim Forensic services Manager, the SCC psychiatrist, a Consulting Psychiatrist, the Assistant Facility Director, and the Administrative Services Chief. CP at 215. The Team, after meeting with Brooks and considering relevant information from a variety of sources, determined

that Brooks "was not clinically ready for release" to the SCTF, nor could he be managed there. CP at 216. Reasons cited included his lack of transparency regarding interpersonal difficulties, retaliatory behavior, and a lack of remorse for that behavior. *Id.* Dr. Coryell also described an incident in which Brooks had become "deregulated" during a pretest interview conducted as part of a sexual history polygraph. *Id.* Brooks balled his fists, yelled profanities at the examiner, and refused to cooperate. *Id.* at 215-16. Brooks, Dr. Coryell concluded, had "made little progress" in addressing these problems, and had been described as a "passive participant" in treatment who failed to demonstrate "the minimum level of transparency and willingness to work on his poor interpersonal skills and other treatment issues" expected of residents who are clinically ready for transition to the SCTF. *Id.* The Senior Clinical Team informed the Special Commitment Center's Chief Operating Officer that it did not concur with Dr. Saari's recommendation that Brooks be conditionally released to the SCTF. *Id.* He, in turn, decided that Brooks would not be conditionally released to the SCTF, and did not authorize Brooks to petition under RCW 71.09.090(1). *Id.*

This decision was entirely consistent with the goals of the statute. Brooks' progress in treatment was unimpressive, and his participation in treatment was characterized by Dr. Coryell as "passive." CP at 216. The

requirement of treatment as a prerequisite for release is central to the SVP law, intended to address the "small but extremely dangerous group of sexually violent predators" whose "likelihood of engaging in repeat acts of predatory sexual violence is high," the prognosis for curing them "poor," and their treatment needs "very long term." Findings, RCW 71.09.010. The central role of treatment in the sex predator scheme has been discussed on numerous occasions (*In re Detention of Young*, 122 Wn.2d 1, 857 P.2d 989 (1993), *In re Thorell*, 149 Wn.2d 724, 72 P.3d 708 (2003), *In re Turay*, 139 Wn.2d 379, 986 P.2d 790 (1999)), most recently in *McCuistion*. There, addressing the question of whether the statute's requirement of treatment as a precondition for obtaining a trial on the issue of unconditional release violated procedural or substantive due process, the court noted that "the State has a substantial interest in encouraging treatment..." *McCuistion,* 174 Wn.2d at 394. Citing numerous scholarly articles supportive of the proposition that successful treatment is associated with a reduction in recidivism, the court further noted that, "[b]y making treatment the only viable avenue to a release trial (absent a stroke, paralysis, or other physiological change), the State creates an incentive for participation in treatment," and protects public safety "by restricting evidentiary hearings to those who have participated in treatment." *Id.* at 394-95. The statutory scheme "provide[s] avenues

through which committed persons who successfully progress in treatment will be supported by the state in a conditional release to a less restrictive alternative that is in the best interest of the committed person and provides adequate safeguards to the community and is in the appropriate next step in the person's treatment." *Bergen,* 146 Wn. App. at 528, citing Findings, RCW 71.09.090. The statute's release requirements "accoun[t] for the inherent dangerousness of SVPs and their unique, extended treatment needs," and relate to "the SVP's successful treatment, ensuring that the LRA does not remove "incentive for successful treatment participation" or "distract[ ] committed persons from fully engaging in sex offender treatment." *Id.*

The Secretary's determination that Brooks should not be placed at the SCTF based on all of the reasons outlined in Dr. Coryell's declaration was reasonable, based on the legislative finding and intent, and focused on determining Brooks' best interests and adequate community protection.

### 3. Brooks Did Not Put Forth a Plan That Complied With the Requirements of RCW 71.09.092.

Despite the fact that the Secretary did not authorize Brooks to file a petition pursuant to RCW 71.09.090(1) and seek release to the SCTF, the SCTF is not the only LRA available, and there was nothing prohibiting Brooks from filing a petition pursuant to RCW 71.09.090(2) and setting

up his own LRA. Indeed, he ultimately attempted to comply with the requirements of RCW 71.09.092 regarding specification of his LRA plan (*see* CP at 381-484), but was not able to do so, and the trial court properly determined that there was no genuine issue of material fact as to whether Brooks had proposed an LRA that met the requirements of the statute. CP at 560. Brooks does not assign error to this finding despite the fact that it is one of the orders from which he appeals. Indeed, he raises no specific challenge whatsoever to the propriety of the trial court's Order on Summary Judgment, except to say that summary judgment should not have been available to the State because of his "right" to identify the SCTF as his less restrictive alternative placement. The trial court's Order should be affirmed.

### C. To The Extent Brooks Challenges the Actions of DSHS, He Cannot Do So in This Proceeding

Brooks claims that the actions taken by DSHS violated his right to due process. DSHS, however, is not a party to this SVP proceeding. An SVP case has two parties: The respondent (here, Brooks) and the State of Washington, represented in this case by the Office of the Attorney General pursuant to RCW 71.09.030(2)(a). The Attorney General's only role in this action is to prove that Brooks continues to be a sexually violent predator. The Attorney General stands in the shoes of the Pierce County

Prosecutor and does not represent DSHS, which is a separate entity created by statute (RCW 43.20A.030) with its own counsel within the Office of the Attorney General. RCW 71.09 does not confer on the trial court general supervisory authority over DSHS any more than it would give a trial court general supervisory authority over the Pierce County jail or the State Department of Corrections in a criminal action. *See State v. G.A.H.,* 133 Wn. App.567, 571, 137 P.3d 66 (2006).

**D. To the Extent Brooks Attempts to Challenge the Constitutionality of the Sex Predator Statute's Release Scheme, His Argument Fails**

It is at times unclear whether Brooks, in his appeal, wishes to challenge the constitutionality of DSHS' actions ("Did the State's failure to comply with the mandate of RCW 71.09.090(1) deny Mr. Brooks Due Process?" (App. Br. at 2) or the constitutionality of the Statute itself ("DSHS's view....creates substantial constitutional doubt regarding the validity of the Statute. The procedure utilized by DSHS renders the annual review process hollow."). App. Br. at 7-8.

Even if the Court considers his (apparent) claim that the Statute's release provisions violate due process, it fails. Brooks has not established that he has a constitutionally protected liberty interest under the due process clause to DSHS authorization to petition pursuant to

RCW 71.09.090(1), and the Statute's failure to provide him with this avenue does not render the statute unconstitutional.

Our Supreme Court has determined that the statutory procedure for post-commitment release comports with substantive due process and accurately identifies those who are no longer mentally ill and dangerous. "Substantive due process," the court held, "requires only that the State conduct periodic review of the patient's suitability for release." *McCuistion,* 174 Wn.2d at 385 (citing *Jones,* 463 U.S. at 368). "[A]dditional safeguards that go *beyond* the requirements of substantive due process" are provided by the statutory right to show that one's condition has "so changed" as to merit a new trial. *Id.* (emphasis added). "This statutory scheme comports with substantive due process because it does not permit continued involuntary commitment of a person who is no longer mentally ill and dangerous." *Id.*

Brooks appears to contend, however, that, to the extent the Statute allows DSHS to "refuse" to authorize a petition for LRA placement, the Statute violates his right to due process. App. Br. at 7-8. Statutes are presumed constitutional and the challenging party has the burden of proving it is unconstitutional beyond a reasonable doubt. *Young,* 122 Wn.2d at 26. Brooks makes no such showing. Because he has not

established that he has a constitutionally protected right under the due process clause to the sort of procedure he demands, his argument fails.

The requirement that the courts consider less restrictive alternatives to complete confinement derives from the equal protection clause. *Young* 122 Wn.2d at 47, *accord Thorell* 149 Wn.2d 724. Brooks' challenge, however, is based in due process, and he claims not only that he is constitutionally entitled to consideration of an LRA; he claims that he is constitutionally entitled to petition for release to a specific LRA of his choosing and over the (apparent) objections of that placement. Beyond citing to a variety of cases that stand broadly for the proposition the civil commitment implicates due process, however, he cites to no cases that support his contention. Indeed, to the extent he suggests that, under the due process clause, he has a constitutionally-protected liberty interest in an LRA, this claim was specifically rejected by Division I in *Bergen,* 146 Wn. App. at 524, *review denied,* 165 Wn.2d 1041 (2009). There, the court held that the due process clause "does not create a liberty interest when a sexually violent predator seeks release ***before the court has determined that he or she is no longer likely to reoffend or that he or she is entitled to conditional release to a less restrictive alternative.***" *Id.*, citing *Detention of Enright,* 131 Wn.App. 706, 714, 128 P.3d 1266 (2006), *review denied,* 158 Wn.2d 1029, 152 P.3d 1033 (2007) (emphasis added).

No court has ever determined that Brooks is entitled to release. As such, he has not demonstrated his asserted constitutionally-protected liberty interest in release. Nor does Brooks have a right to the sort of specific placement he seeks, and fails to cite a single case in which a court has ordered a specific placement of a person in custody — whether civilly or criminally detained — over the objections of that facility, as is the case here.

Brooks has not demonstrated beyond a reasonable doubt that the statute is unconstitutional or that his rights to due process have been violated, and his argument, if the Court reaches it, should be rejected.

## IV. CONCLUSION

For the foregoing reason, this Court should affirm the trial court's orders granting summary judgment and denying reconsideration.

RESPECTFULLY SUBMITTED this 12th day of August, 2015

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NO. 46760-7-II

**WASHINGTON STATE COURT OF APPEALS, DIVISION II**

| | |
|---|---|
| In re the Detention of:<br><br>John E. Brooks<br><br>Appellant. | DECLARATION OF SERVICE |

I, Elizabeth Jackson, declare as follows:

On August 12, 2015, I sent, via electronic mail, true and correct copies of Respondent's Brief, and Declaration of Service addressed as follows:

Gregory Link
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 12th day of August, 2015, at Seattle, Washington.

Elizabeth Jackson
ELIZABETH JACKSON

# WASHINGTON STATE ATTORNEY GENERAL

## August 12, 2015 - 2:47 PM

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