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COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION II

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RICHARD KING and RICHARD JACKSON, individually and  
representing a class of similarly situated individuals,

DEREK GRONQUIST  
Plaintiffs,  
Intervenor-Plaintiff

vs.

CHASE RIVELAND and JANET BARBOUR in their official capacities;  
the DEPARTMENT OF CORRECTIONS OF THE STATE OF  
WASHINGTON; the INDETERMINATE SENTENCING REVIEW  
BOARD; and KEN EIKENBERRY in his official capacity as Attorney  
General of the State of Washington,

Defendants,

KING COUNTY PROSECUTOR DANIEL T. SATTERBERG,  
Intervenor-Defendant

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**PROSECUTOR DANIEL T. SATTERBERG' S RESPONSE BRIEF**

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## I. INTRODUCTION

Although this case was resolved long ago, appellant Gronquist intervened in this 1991 Thurston County cause number, *King v. Riveland*, to bring a post-judgment civil contempt motion against the Department of Corrections (“DOC”) and King County Prosecutor Satterberg for allegedly violating a 1993 Injunction. DOC and Prosecutor Satterberg contested the contempt allegation, including the claimed injunction violation. At the same time, Prosecutor Satterberg also intervened in *King v. Riveland* to seek, in accord with statute, vacation of an injunction that prevented the release of certain DOC records related to Gronquist that were otherwise subject to disclosure under the Sexually Violent Predator (“SVP”) statute, RCW 71.09.025. In January 2016, the trial court granted Prosecutor Satterberg’s Motion to Vacate the 1993 Injunction as to Gronquist, but Gronquist did not file an appeal and later withdrew a partial motion for discretionary review. The result was that all of Gronquist’s DOC records were supplied to Prosecutor Satterberg in accord with RCW 71.09.025. Because the prosecutor lawfully possesses all of Gronquist’s DOC records – including the records formerly covered by the 1993 Injunction -- the civil contempt motion is now moot; no remedy is available to him. The Superior Court correctly dismissed Gronquist’s contempt motion as moot because the records, which were in Prosecutor Satterberg’s lawful statutory possession, could not be ordered returned to DOC. For these reasons, dismissal of Gronquist’s contempt motion should be affirmed.

## II. FACTS

This case has a long and complicated history dating back to the early 1990s.

### A. **THE 1991 *KING V. RIVELAND* THURSTON COUNTY CASE RESULTS IN A FINAL JUDGEMENT THAT IS AFFIRMED IN A 1994 SUPREME COURT DECISION.**

In 1991, several former inmates sought an injunction against DOC to preclude it from releasing certain Sex Offender Treatment Program (“SOTP”) records to prosecutors pursuant to the SVP statute, RCW ch. 71.09. Gronquist was not a party to this action, Thurston County No. 91-2-02281-7, but he may have been part of the class that was eventually certified. No county prosecutors were parties.

In 1993, the Thurston County Superior court issued its final order in the class action, which was a permanent injunction precluding DOC from releasing certain SOTP information to prosecutors in conjunction with sexually violent predator referrals (hereinafter “1993 Injunction”). In accord with RAP 2.2, the order was appealed. In 1994, it was affirmed by the Supreme Court in *King v. Riveland*, 125 Wn.2d 500, 503, 886 P.2d 160, 163 (1994). The 1991 Thurston County cause of action, No. 91-2-02281-7, then lay dormant for two decades.

### B. **GRONQUIST COMMITS NEW SEX OFFENSES, RETURNS TO DOC, AND IS REFERRED FOR CIVIL COMMITMENT AS A SEXUALLY VIOLENT PREDATOR.**

Gronquist has a lengthy history of sexually violent acts. In 1988, he was convicted of Kidnapping in the First Degree and Indecent Liberties. While imprisoned for these offenses, he participated in the Twin Rivers Sex Offender

Treatment Program where he came under the possible coverage of the 1993 Injunction.

In 1993, Gronquist was released from DOC without facing SVP civil commitment, but he quickly reoffended by committing several new sexually violent acts. “Over a two day period, Gronquist attempted to kidnap three teenage girls.” *State v. Gronquist*, 36203-8-I, 1996 WL 470607, at \*1 (Wash. Ct. App. Aug. 19, 1996) (affirming conviction). He was convicted in 1995 on three counts of Attempted Kidnapping in the First Degree with sexual motivation. The sentencing court imposed an exceptional sentence due to Gronquist’s danger of future re-offense.

As Gronquist was approaching his April 21, 2013 “Early Release Date” (“ERD”), DOC referred Gronquist to the King County Prosecutor for possible civil commitment as a sexually violent predator under RCW 71.09. Supp. CP \_\_\_ (Dkt 217).<sup>1</sup> Under RCW 71.09.025, as currently enacted, DOC is required to refer sex offenders who are nearing their ERD when it “appears that a person may meet the criteria of a sexually violent predator.” In connection with the referral, DOC is required to produce “all relevant information,” including “[a]ll records relating to the psychological or psychiatric evaluation and/or treatment of the person,” and a current mental health evaluation of the person. *Id* at 2. Because

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<sup>1</sup> Prosecutor Satterberg designated additional CP records through a filing with Thurston County on the same date as this brief.

DOC believed that Gronquist was subject to the terms of the 1993 Injunction, it withheld significant portions of his SOTP file from the referral packet. *Id.* at 3.

In February 2013, following a referral from the End of Sentence Review Committee (“ESRC”) and in accord with RCW 71.09.025, Prosecutor Satterberg received documents from DOC for the purpose of evaluating Gronquist for civil commitment as an SVP. *Id.* at 2. The case was referred out for review by a forensic psychologist. Despite the incomplete record, Dr. Harry Hoberman reached the opinion that Gronquist was a sexually violent predator. *Id.* at 3. Gronquist remains in the custody of DOC, where his maximum release date is May 31, 2022.

**C. GRONQUIST’S FIRST POST-JUDGMENT EFFORT TO RESURRECT THE ORIGINAL *KING V. RIVELAND* THURSTON COUNTY ACTION THROUGH A CIVIL CONTEMPT MOTION IS DISMISSED.**

In the summer of 2014, without following proper procedure, Gronquist (through counsel) attempted to resurrect the 1991 Thurston County cause number by filing a motion for contempt against DOC, a DOC official, and Prosecutor Satterberg. He attempted to resurrect the *King v. Riveland* action for this purpose merely by re-typing the caption to insert himself as a new plaintiff and the new DOC official and Prosecutor Satterberg as new defendants. His contempt motion alleged that Gronquist’s SOTP records were released internally within DOC and externally to Prosecutor Satterberg in violation of the 1993 Injunction.

On January 30, 2015, due to procedural infirmities, the trial court

dismissed Gronquist's motion for contempt without prejudice. The court ordered Gronquist to first seek intervention if he wished to renew his motion.

**D. GRONQUIST'S FILES A SECOND POST-JUDGMENT EFFORT TO RESURRECT THE ORIGINAL *KING V. RIVELAND* THURSTON COUNTY ACTION THROUGH A CIVIL CONTEMPT MOTION.**

Gronquist waited several months before trying again. He eventually filed a motion to intervene in the 1991 Thurston County *King v. Riveland* suit. On July 17, 2015, Gronquist was allowed to intervene in Thurston County No. 91-2-02281-7 to file a post-judgment motion for contempt of court. CP 60-62.

On September 17, 2015, Gronquist filed a show cause motion for contempt against the DOC entities and Prosecutor Satterberg, who was never a party to this action. CP 63-73. There is no finding below that the records disclosed pursuant to RCW 71.09.025 contained any records covered by the 1993 Injunction. Indeed, it remains Prosecutor Satterberg's understanding that the documents sent by DOC in 2013 followed the 1993 injunction and omitted documents that were covered by the 1993 Injunction.

**E. PROSECUTOR SATTERBERG FILES HIS OWN POST-JUDGMENT MOTION TO INTERVENE IN THE ORIGINAL *KING V. RIVELAND* THURSTON COUNTY ACTION TO PROSPECTIVELY VACATE THE 1993 INJUNCTION AS TO GRONQUIST, WHICH IS GRANTED.**

The gravamen of Gronquist's contempt motion was to avoid civil commitment by limiting the records that could be considered in his RCW 71.09 commitment proceeding. If the best of all worlds had materialized for Gronquist

and he somehow proved contempt against DOC and the King County Prosecutor, then he might have been able to obtain release before commitment authorities could replace Dr. Hoberman's report with one relying on an even more incomplete record of Gronquist's sex offender records. It might also have been possible that the new evaluator would determine (again based on an incomplete record) that Gronquist did not meet SVP commitment criteria.

In an effort to prevent Gronquist's manipulation of the SVP process, on September 24, 2015, Prosecutor Satterberg sought to intervene in this matter "to directly challenge application of the 20-year-old-plus injunction to Gronquist and the continuing validity of that equitable injunction under Washington law." Supp. CP \_\_\_\_ (Dkt. No. 103). Gronquist opposed Prosecutor Satterberg's intervention. After briefing and oral argument, the Thurston County Superior Court granted Prosecutor Satterberg's request for intervention. CP 77-78.

As promised in the motion to intervene, on November 6, 2015, Prosecutor Satterberg brought a motion to vacate or modify the injunction under "Washington's Declaratory Judgment Act (RCW 7.24.010), RCW 7.40.180 and/or CR 60." CP 79-100. Motion to Vacate or Modify Injunction at *Id.* at 79 (Nov 6, 2015). Prosecutor Satterberg argued that the injunction should be vacated as to Gronquist due to intervening changes in the applicable statutes and case law. *Id.* at 80.

Following extensive briefing and oral argument, the trial court entered a

detailed ruling on January 15, 2016:

The injunction is premised on an equitable theory of promissory estoppel, and it must give way to legal mandates. *In re QLM v. State*, 105 Wn.App. 332, 540 (2001). The current statutory scheme is wholly unlike the scheme discussed extensively in the *King* decision and, accordingly, no longer supports the viability of the injunction going forward as it relates to Gronquist.

*Id* at 596. Gronquist did not ask for reconsideration, nor did he seek review. The 30 day appeals period ran on February 16, 2016.

On March 14, 2016, in order to more fully evaluate a possible SVP filing against Gronquist, Prosecutor Satterberg (through the King County SVP Unit) requested Gronquist's complete SOTP file from DOC. Supp. CP \_\_\_\_ (Dkt. 217 at 5). In order to block this request, Gronquist filed a motion before the trial court for a stay of the January 15, 2016 order. On April 22, 2016, the trial court found that the January 15, 2016 order entitled Prosecutor Satterberg to the remaining SOTP records, but granted a limited 30 day precluding DOC from producing the remaining SOTP records in order allow for Gronquist's possible appeal.

The matter came before this Court in No. 49057-9-II after Gronquist filed a notice of discretionary review from the April 22, 2016 trial court order denying stay. On May 13, 2016, Gronquist filed a motion for a further stay precluding release to the remaining SOTP records. He then filed a motion for discretionary review. Prosecutor Satterberg opposed both motions.

On May 13, 2106, this Court granted a stay to allow orderly consideration of Gronquist's motion for stay. After reviewing the briefing, on May 25, 2016,

Commissioner Schmidt denied Gronquist's request for a stay. Gronquist moved to modify. On June 13, 2016, a panel of this Court denied the motion to modify.

Gronquist then withdrew his motion for discretionary review because "[i]n light of the Court's ruling today to affirm the Commissioner's denial of the stay, Petitioner can no longer obtain the remedy sought through the Petition for Discretionary Review." (Motion to Voluntarily Withdraw at 3, Div. 2 No. 49057-9 (June 13, 2016),). This Court, on June 14, 2016, allowed the withdrawal. A Certificate of Finality was issued the following month.

With no stay in place and the January 15, 2016 Order in effect, DOC supplied the remaining SOTP records to Prosecutor Satterberg for consideration under the SVP statute. Those records remain in the prosecutor's lawful control and possession.

**F. THE THURSTON COUNTY SUPERIOR COURT DISMISSES GRONQUIST'S SECOND POST-JUDGMENT CONTEMPT MOTION AS MOOT.**

Recognizing that the trial court could no longer grant a *civil* contempt remedy, DOC moved to dismiss Gronquist's motion for contempt due to mootness. Prosecutor Satterberg joined in this motion. In essence, civil contempt was a plausible remedy for Gronquist only when it could be used to coerce return of the records *allegedly* protected by the 1993 injunction. Because the injunction was now vacated and the records were lawfully in the prosecutor's possession, no coercive sanction was appropriate or available. On August 5, 2016, the trial court

denied Gronquist's denied motion for contempt "as moot" due to a lack of an available remedy. CP 723-724.

**G. GRONQUIST FILES AN APPEAL, BUT IS LIMITED TO CHALLENGING ONLY THE MOOTNESS DETERMINATION**

Gronquist filed a "notice of appeal" attempting review of all post-judgment motions that were before the trial court, including Prosecutor Satterberg's motion to vacate the injunction and motions related to Gronquist's contempt efforts. Prosecutor Satterberg moved to dismiss the Notice of Appeal, or redesignate it, because Gronquist's notice of appeal was untimely as to several orders, especially the January 2016 post-judgment order dissolving the injunction as to Gronquist (which had been the subject of the prior Division 2 discretionary review action). Prosecutor Satterberg, while contesting the contempt allegations, also moved to dismiss the remainder of the appeal as moot because civil contempt no longer provided a remedy for Gronquist.

The Commissioner granted Prosecutor Satterberg's motion to dismiss Gronquist's untimely effort to seek review of the January 2016 order. CP 723-724. The Commissioner allowed Gronquist's appeal to proceed with regard to the August 2016 order denying civil contempt on mootness grounds. A panel of the Division II denied Gronquist's motion to modify.

Gronquist sought further review from the Washington Supreme Court. On August 22, 2017, the Supreme Court Commissioner refused Gronquist's efforts to expand his appeal to include the January 2016 order dissolving the injunction,

because his efforts to seek review of that order were untimely. Ruling Denying Review, *King v. Riveland*, Sup. Ct. No. 94338-9 (Aug. 22, 2017).

### **III. ISSUE**

Is a contempt motion moot when no meaningful remedy can be granted?

Yes.

### **IV. LEGAL ARGUMENT**

#### **A. STANDARD OF REVIEW**

The standard of review in a contempt proceeding is abuse of discretion. *Weiss v. Lonquist*, 173 Wn. App. 344, 363, 293 P.3d 1264, 1274 (2013). The trial court’s decision to dismiss the contempt motion due to the mootness of available remedies should also fall within the abuse of discretion standard. The D.C. Circuit Court of Appeals has observed that mootness presents “a melange of doctrines relating to the court’s discretion in matters of remedy and judicial administration.” *Chamber of Commerce of U.S. of Am. v. U.S. Dep’t of Energy*, 627 F.2d 289, 291 (D.C. Cir. 1980). Non-jurisdictional mootness doctrines “address not the power to grant relief but the court’s *discretion* in the exercise of that power.” *Id.* Because a trial court has discretion on whether to deny a post-judgment motion for contempt and discretion to determine when a remedy is so remote that it falls outside the court’s inclinations, this case should be reviewed for substantial abuse of discretion.<sup>2</sup>

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<sup>2</sup> Although mootness is generally a question of law that is reviewed de novo,

**B. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION BY DISMISSING GRONQUIST’S CONTEMPT MOTION AS MOOT BECAUSE NO TENABLE REMEDY WAS AVAILABLE.**

A case must be dismissed as moot when a “court can no longer provide an effective remedy.” *Hart v. Dep’t of Soc. & Health Servs.*, 111 Wn.2d 445, 447, 759 P.2d 1206, 1207 (1988). Here, because the 1993 Injunction was vacated as to Gronquist and the SOTP documents are in the proper possession of Prosecutor Satterberg, there is no conceivable remedy available to Gronquist through the Court’s civil contempt powers. The case is moot.

It is well-established that a claim is moot when the court can no longer provide effective relief. *E.g. In re Cross*, 99 Wash.2d 373, 376-77, 662 P.2d 828 (1983) (“A claim is moot if the court can provide no effective relief.”). As the federal courts have pointed out, the problem of mootness is particularly apparent when an injunction is vacated and the losing party fails to obtain a stay:

It is well established that, in circumstances where a court cannot provide effectual relief, no justiciable case remains and the court must dismiss the appeal as moot. *See Mills v. Green*, 159 U.S. 651, 653, 16 S.Ct. 132, 133, 40 L.Ed. 293 (1895). *This doctrine applies with full force and effect where, as here, a plaintiff appeals from the dissolution of an injunction or the denial of injunctive relief, but neglects to obtain a stay. When, as will often happen, the act sought to be enjoined actually transpires, the court may thereafter be unable to fashion a meaningful anodyne.* In such

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*Bavand v. OneWest Bank, F.S.B.*, 176 Wn. App. 475, 510, 309 P.3d 636, 654 (2013), mootness in the context of a contempt motion presents different considerations, and thus, a different standard of review. Because fashioning an appropriate remedy in a contempt motion is within the prerogative of the Superior Court, it should have discretion to decide when particular remedies cannot be granted or are inappropriate for the situation.

straitened circumstances, the appeal becomes moot. *See, e.g., In re Stadium Management Corp.*, 895 F.2d 845, 847 (1st Cir.1990) (holding, in analogous circumstances, that “[a]bsent a stay, the court must dismiss a pending appeal as moot because the court has no remedy”); *In re Continental Mortgage Investors*, 578 F.2d 872, 877 (1st Cir.1978) (explaining that “[a]n appeal is considered moot if it cannot affect the matter in issue or cannot grant effectual relief”); *see also Railway Labor Executives Ass'n v. Chesapeake W. Ry.*, 915 F.2d 116, 118 (4th Cir.1990), *cert. denied*, 499 U.S. 921, 111 S.Ct. 1312, 113 L.Ed.2d 246 (1991); *In re Kahihikolo*, 807 F.2d 1540, 1542 (11th Cir.1987) (per curiam); \*614 *Holloway v. United States*, 789 F.2d 1372, 1374 (9th Cir.1986); *In re Combined Metals Reduction Co.*, 557 F.2d 179, 189 (9th Cir.1977); *In re Information Dialogues, Inc.*, 662 F.2d 475, 476 (8th Cir.1981); *In re Cantwell*, 639 F.2d 1050, 1053–54 (3d Cir.1981).

*Oakville Dev. Corp. v. F.D.I.C.*, 986 F.2d 611, 613–14 (1st Cir. 1993). Because mootness leaves the court without a justiciable controversy, the necessary result is dismissal of the motion. *E.g., Washington State Dep't of Transp. v. City of Seattle*, 192 Wn. App. 824, 835–36, 368 P.3d 251, 256 (2016) (“As a general rule, we will dismiss a case as moot if we can ‘no longer provide effective relief.’”).

Here, it is established that Gronquist failed to file a timely appeal seeking review of the trial court’s order vacating the injunction as to him. As such, he can no longer challenge modification of the injunction, which removed him from the protections of the injunction.

The result of vacating the injunction as to him was to require DOC to provide all of Gronquist’s records to Prosecutor Satterberg for consideration of the SVP referral in accord with RCW 71.09.025. Because the vacation order cannot now be reviewed (or reversed) and Prosecutor Satterberg has the legal authority to possess the records, the remedy of divesting Prosecutor Satterberg

from the records (and thereby increasing Gronquist's chances to avoid civil commitment) is no longer available.

Gronquist was seeking an order of contempt against the Department of Corrections (DOC) and Prosecutor Satterberg. Whether derived from the Superior Court's inherent or statutory powers, a contempt motion offers only two possible types of relief:

A "[r]emedial sanction" is one "imposed for the purpose of coercing performance when the contempt consists of the omission or refusal to perform an act that is yet in the person's power to perform." RCW 7.21.010(3). "Remedial sanctions" are also known as "coercive" sanctions, and they are civil in nature.

In contrast, a "[p]unitive sanction" is "imposed to punish a past contempt of court for the purpose of upholding the authority of the court." RCW 7.21.010(2). Punitive sanctions are criminal in nature. . . .

To determine whether sanctions are punitive or remedial, the courts look not to the "stated purposes of a contempt sanction," but whether it has a coercive effect—whether "the contemnor is able to purge the contempt and obtain his release by committing an affirmative act." *A.K.*, 162 Wash.2d at 646, 174 P.3d 11 (quoting *Bagwell*, 512 U.S. at 828, 114 S.Ct. 2552).

*In re Silva*, 166 Wn.2d 133, 141–42, 206 P.3d 1240, 1245 (2009).

Here, a remedial sanction is unavailable to Gronquist because the SOTP documents are properly in the possession of Prosecutor Satterberg under the authority of the unappealed vacation order. Contempt cannot be used to "coerce" Prosecutor Satterberg into returning the SOTP files because they are held as of right under the direct authority of a Court order. There is nothing that the Court can do, utilizing a civil contempt sanction, to remedy Gronquist's *allegation* that

DOC contemptuously provided Prosecutor Satterberg with protected documents back in 2013.<sup>3</sup> The ability to use a coercive sanction to return those documents to DOC evaporated once the injunction was vacated as to Gronquist and he failed to obtain a stay.

With no civil contempt sanction available, Gronquist is left only to seek a punitive sanction to punish DOC and Prosecutor Satterberg for the alleged violations of the prior injunction back in 2013, but the remedy of a punitive sanction is also unavailable for Gronquist. Under the contempt statute, RCW 7.21.040, a punitive sanction can only be sought by the local prosecutor. Due process “prohibits a court from using either *statutory* or inherent power to justify its actions if the contempt sanctions are themselves punitive, *unless the contemnor is afforded criminal due process protections.*” *In re M.B.*, 101 Wn. App. 425, 453, 3 P.3d 780, 796 (2000) (emphasis added). Any request for a punitive sanction constitutes criminal contempt, which “must be initiated by a criminal information filed by the State in order to comply with due process.” *In re Rebecca K.*, 101 Wn. App. 309, 317, 2 P.3d 501, 505 (2000). Because Gronquist is not the Thurston County Prosecutor, he lacks the authority to initiate a criminal contempt action and he himself cannot pursue a punitive contempt

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<sup>3</sup> Of course, Prosecutor Satterberg disputes that any documents were provided in violation of the prior injunction, even back in 2013.

sanction. With no contempt remedy – either remedial or punitive – available to him, Gronquist’s motion for contempt is plainly moot and not justiciable.

An absolute bar to any criminal contempt action is the statute of limitations. Criminal contempt, which is a gross misdemeanor, must be initiated by information. But the statute of limitations for gross misdemeanors is two years. RCW 9A.04.080. As a result, the statute of limitations for any new criminal charges ran back in 2015 (assuming Gronquist’s allegation that records were provided in 2013). No charges can be filed for a case that is far outside the statute of limitations.

In an effort to avoid his mootness problem, Gronquist claims that DOC is barred from arguing mootness due to “judicial estoppel.” Even assuming that a party could, in this manner, somehow create a justiciable controversy out of the ashes of a moot one, Gronquist’s argument has no application to Prosecutor Satterberg. In seeking to vacate the injunction as to Gronquist, Prosecutor Satterberg identified mootness as a problem Gronquist would face upon vacation of the prior injunction:

The question of remedy is also important. The current proceedings are constrained by the remedial remedies available for civil contempt under RCW 7.21.030, but Gronquist appears to be seeking remedies that are available only under the criminal contempt statute, RCW 7.21.040. In a civil contempt proceeding, the only available remedies are remedial, which "means a sanction imposed for the purpose of coercing performance when the contempt consists of the omission or refusal to perform an act that is yet in the person's power to perform." If this court determines to vacate the 1993 Injunction due to changes in the law, there would be no possible remedial remedy and Gronquist's contempt action would be moot. *E.g. In re Cross*, 99 Wash.2d 373,

376-77, 662 P.2d 828 (1983) ("A claim is moot if the court can provide no effective relief.").

CP 118-119. Although not a collateral attack, mootness is a consequence of the vacation order that was previewed for Judge Price. Thus, Gronquist has no argument for judicial estoppel.

Finally, Gronquist argues that his case is not moot because the Superior Court could have granted attorney fees and costs if it would have proceeded with the contempt motion and if Gronquist eventually prevailed on that motion. Essentially, Gronquist argues that the trial court should have allowed him to incur more fees in connection with the contempt motion so that it could award him fees. But Gronquist made no argument below that his appeal was not moot solely because he could collect attorney fees and costs should he eventually prevail on appeal. This court generally does not consider arguments raised for the first time on appeal. *Kave v. McIntosh Ridge Primary Rd. Ass'n*, 198 Wn. App. 812, 823, 394 P.3d 446, 451 (2017).

**V. CONCLUSION**

The Superior Court did not abuse its discretion by dismissing Gronquist's motion for contempt at moot. There was not need to expend additional resources to determine a contempt question where no meaningful remedy was open to Gronquist. For these reasons, the Superior Court's order of dismissal should be affirmed.

DATED this 25<sup>th</sup> day of June, 2018.

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**DECLARATION OF FILING AND SERVICE**

I hereby certify that on June 25, 2018, I electronically filed the foregoing PROSECUTOR DANIEL T. SATTERBERG' S RESPONSE BRIEF, with the Court of Appeals of the State of Washington, Division II, and arranged for service of a copy of the same on the parties to this action as follows:

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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 25<sup>th</sup> day of June, 2018.

s/ KRIS BRIDGMAN  
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**Transmittal Information**

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**Appellate Court Case Number:** 49392-6  
**Appellate Court Case Title:** Derek Gronquist, Appellant v Richard King, Richard Jackson, et als, Respondents  
**Superior Court Case Number:** 91-2-02281-7

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