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

In re the Detention of

B.L.R.

Appellant.

RESPONDENTS' BRIEF

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I. INTRODUCTION

B.L.R. is a 30-year-old man who experiences schizoaffective disorder. His fifth admission to Western State Hospital occurred after he was found incompetent to stand trial for Assault in the Second Degree and Felony Harassment. At a civil commitment hearing in May 2018, B.L.R. was found to have committed acts constituting a violent felony and that he presented a substantial likelihood of repeating similar acts due to a mental disorder. He was also found to be gravely disabled. B.L.R. was subsequently recommitted twice, first in January 2019 and then in August 2019.

B.L.R. now appeals the August 2019 order that recommitted him, but that also found him ready for less restrictive alternative placement outside Western State Hospital. B.L.R. argues insufficient evidence supports the trial court's determination that he is gravely disabled, and that, under RCW 71.05.320(4)(c)(ii), the petitioning doctors failed to state a prima facie case that B.L.R. continues to suffer from a mental disorder that results in a substantial likelihood of committing acts similar to the charged criminal behavior.

The doctors presented sufficient evidence that B.L.R. was gravely disabled. The testimony was that B.L.R. lacked insight into the presence of his mental disorder, and that as a result, he would not stay on medications

without structure and support. B.L.R.'s own testimony demonstrated that he did not acknowledge a mental health diagnosis, and that his plan to discharge to a clean and sober house was not well thought out. Also, the petition presented prima facie evidence, based on history and expert opinion, that B.L.R.'s limited insight and impaired judgment created a substantial likelihood of decompensation and violence in the community. This Court should affirm the order of the court commissioner.

II. COUNTERSTATEMENT OF THE ISSUES

- A. Does sufficient evidence support the trial court's conclusion that B.L.R. is gravely disabled?
- B. Did the Petition present prima facie evidence that B.L.R. continued to suffer from a mental disorder that results in a substantial likelihood of committing acts similar to the charged criminal behavior?

III. COUNTERSTATEMENT OF THE FACTS

After punching his father and choking him until he lost consciousness, B.L.R. was charged with one count of Assault in the Second Degree (Domestic Violence) and one count of Felony Harassment (Domestic Violence). He was found incompetent to stand trial with charges dismissed without prejudice. CP 1-4. B.L.R. was then admitted to Western State Hospital for civil commitment proceedings, this time for his fifth admission. CP 9, 80. A hearing on the initial petition was held on May 24, 2018. The court made an affirmative special finding that B.L.R.

committed a violent offense and the court concluded that he was likely to repeat similar acts to the charged behavior. CP 28. B.L.R. was recommitted in January 2019.¹ CP 59-64.

On July 16, 2019 Western State Hospital psychologist Jordan Charboneau, Ph.D., and psychiatrist Greg Longawa, M.D., petitioned the Pierce County Superior Court for an another order allowing up to 180 days of involuntary treatment for B.L.R. CP 76-92. In the doctors' declaration in support of their petition for civil commitment, they alleged that B.L.R. should remain hospitalized both because he continued to be gravely disabled as a result of his mental disorder, and because he continued to present a substantial likelihood of repeating acts similar to his charged criminal behavior due to a mental disorder. CP 79-92.

A hearing on the petition was held on August 27, 2019. At the hearing, Dr. Charboneau testified that this was B.L.R.'s fifth admission to Western State Hospital. VRP 114:5. Dr. Charboneau also testified that B.L.R.'s current diagnosis is schizoaffective disorder. VRP 112:10-12. Dr. Charboneau stated that B.L.R. continued to exhibit active signs of his mental illness, including delusions about non-existent medical issues and persecutory themes, circumstantial thinking, and mood lability.

¹ That commitment is the subject of a separate appeal before this Court. *See* Washington State Court of Appeals Division II No. 53204-2.

VRP 112:14-113:2. B.L.R.'s insight was described as "quite limited."
VRP 119:14-16.

Dr. Charboneau further testified that B.L.R. would be unlikely to take his prescribed medications in the community because B.L.R. does not believe he has a mental illness and therefore does not believe his medications serve any purpose. VRP 115:2-8. Dr. Charboneau testified that there is a "high likelihood" that B.L.R. would cease taking his medications in the community both based on B.L.R.'s limited insight and due to B.L.R.'s history of discontinuing his medications in the community and decompensating. VRP 115:14-20. B.L.R. told Dr. Charboneau that his behavior is the same whether he takes the medications or not. VRP 116:24-117:3.

Dr. Charboneau also testified that, in his expert opinion, B.L.R. would likely be unable to care for his basic needs of health and safety due to his mental disorder. VRP 115. B.L.R. would not cooperate with discharge planning to a structured placement, and would not follow through with treatment in the community. Instead, B.L.R. insisted on a discharge to a homeless shelter. VRP 115:20-116:2.

B.L.R. also testified at the hearing. He testified that he could get a job at a pizza place, and asserted he could live independently on minimum wage in King County. VRP 138:19-139:21. He would refuse Social Security

Insurance (SSI) “[b]ecause I don’t feel I have a mental health diagnosis that qualifies for SSI,” and acknowledged that he would not pursue such income support because he does not have a mental disorder. VRP 139:22-140:19. His plan for discharge was to live in a clean and sober house, whose operator he last contacted “about seven years ago.” VRP 140:20-24. B.L.R. also admitted that he would use medical marijuana upon discharge. VRP 142:21-143:2; *see* CP 85.

The trial court found, by clear, cogent, and convincing evidence that B.L.R. suffers from schizoaffective disorder. CP 142. The trial court noted a history of multiple episodes of competency restoration, as well as admissions to Maple Lane, Fairfax and Harborview for treatment. CP 143; *see also* VRP 148:12-18 (“in out and out of various hospitals, including Western State . . . [and] an ongoing connection with law enforcement[.]”).

In regard to grave disability, the court noted that B.L.R. had “substantially improved over time.” VRP 148:3-4. But the court’s findings emphasized Dr. Charboneau’s testimony that B.L.R. continued to demonstrate “somatic delusions about non-existing medical issues, persecutory delusions, denies mental illness and the need for medications.” CP 143. “He would likely decompensate if released today.” *Id.* “Cognitive control is intact but often rigid in his thoughts.” *Id.* “He is not likely to stay

on medications or seek mental health treatment without structure.” *Id.* The trial court found that B.L.R. continues to be gravely disabled because, as a result of his mental disorder, he “manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over [his] actions, [and] is not receiving such care as is essential for health and safety.” CP 142. The court made a further legal conclusion that B.L.R. “continues to be gravely disabled.” CP 144.

In addition, the trial court found that the petition had presented prima facie evidence regarding B.L.R.’s mental disorder and current symptoms, and concluded that this would result in a substantial likelihood of committing acts similar to his charged criminal behavior. CP 142, 144. B.L.R. offered no independent expert to rebut the prima facie evidence of the petitioning doctors. *Id.* As a matter of law, the Court concluded that B.L.R. “continues to present a substantial likelihood of repeating acts similar to [his] charged criminal behavior.” CP 144. Based on these findings and conclusions, the trial court ordered B.L.R. to be subject to up to an additional 180 days of involuntary treatment. *Id.*

In regard to placement, the court departed from Dr. Charboneau’s recommendation, and found B.L.R. ready for a less restrictive placement. CP 144. The court concluded that it was “unclear” if B.L.R.’s insight would increase over time, and that he was currently stable and compliant with

medications. *Id.* “The Court does believe that Mr. [B.L.R.] functions with structure provided. He could function in a LRA placement if it is highly structured, far more than just discharge to a shelter. . . . WITHOUT CLEAR STRUCTURE AND OVERSIGHT, THE COURT BELIEVES MR. [B.L.R.] WOULD LIKELY DECOMPENSATE.” CP 144 (emphasis in original). *See also* VRP 149:1-150:24. B.L.R. timely appealed. CP 152.

IV. ARGUMENT

A. Sufficient Evidence Supports the Trial Court’s Determination That B.L.R. Is Gravely Disabled

The trial court did not err in finding B.L.R. gravely disabled. In cases where the trial court has weighed the evidence, the appellate court’s review is generally “limited to determining whether substantial evidence supports the findings and, if so, whether the findings in turn support the trial court’s conclusions of law and judgment.” *In re Det. of LaBelle*, 107 Wn.2d 196, 209, 728 P.2d 138 (1986). But when sufficiency of the evidence is challenged, the test for the appellate court is whether there was any “evidence or reasonable inferences therefrom to sustain the verdict when the evidence is considered in the light most favorable to the prevailing party.” *Goodman v. Boeing Co.*, 75 Wn. App. 60, 82, 877 P.2d 703 (1994). In this case, substantial evidence supports the trial court’s findings of fact,

and the findings of fact support the trial court's legal conclusion that B.L.R. is gravely disabled. Accordingly, the trial court's order should be affirmed.

1. B.L.R. did not challenge any of the trial court's findings of fact, and substantial evidence supports the trial court's findings of fact

A trial court's findings of fact are not to be disturbed on appeal "if they are supported by 'substantial evidence.' As a corollary to this rule, . . . unchallenged findings of fact become verities on appeal." *Davis v. Dep't of Labor & Indus.*, 94 Wn.2d 119, 123, 615 P.2d 1279 (1980) (citations omitted). If findings of fact are not challenged, "it is unnecessary for [the appellate court] to search the record to determine whether there is substantial evidence to support them." *Id.* In this case, B.L.R. assigns no error to any of the trial court's findings of fact; rather, B.L.R. challenges the trial court's conclusion of law that, based on the facts presented, B.L.R. is gravely disabled.

Even if this Court does evaluate the trial court's factual findings, all of the trial court's findings are supported by substantial evidence. Substantial evidence is evidence sufficient to "persuade a fair-minded person of the truth of the declared premise." *E.g., Lillig v. Becton-Dickinson*, 105 Wn.2d 653, 658, 717 P.2d 1371 (1986) (quoting *Ridgeview Properties v. Starbuck*, 96 Wn.2d 716, 719, 638 P.2d 1231 (1982)). The standard of proof in a 180-day civil commitment hearing is

clear, cogent, and convincing evidence. RCW 71.05.310; *see also In re Det. of LaBelle*, 107 Wn.2d at 209. Clear, cogent, and convincing evidence is evidence that is highly probable. *In re Det. of LaBelle*, 107 Wn.2d at 209. Therefore, if factual findings are challenged, the appellate court evaluates whether the trial court's findings of fact are supported by evidence that a fair-minded trier of fact could reasonably have found to be highly probable. *Id.* In this case, the trial court's factual findings are directly attributable to the testimony of Dr. Charboneau. CP 143. A fair-minded trier of fact could reasonably find the evidence presented by Dr. Charboneau to be highly probable. This Court should either accept the trial court's findings of fact as verities on appeal, or alternatively, determine that substantial evidence supports all of the trial court's findings of fact.

2. The Grave Disability Standard under RCW 71.05.020(21)(b) and *In re Det. of LaBelle*.

Under RCW 71.05.320(4)(d), an individual who is currently involuntarily committed for 180 days can be recommitted at the end of his commitment period if the individual continues to be gravely disabled.

“Gravely disabled” is defined as:

[A] condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by

repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety

RCW 71.05.020(21).

The statute sets forth two alternative definitions of gravely disabled, either of which provides a basis for involuntary commitment. *In re Det. of LaBelle*, 107 Wn.2d at 202. In order to establish grave disability under RCW 71.05.020(21)(b), the evidence “must include recent proof of significant loss of cognitive or volitional control . . . [and] must reveal a factual basis for concluding that the individual is not receiving or would not receive, if released, such care as is essential for his or her health or safety.” *In re Det. of LaBelle*, 107 Wn.2d at 208.

As the *LaBelle* court explained, prong (b) “was intended to broaden the scope of the involuntary commitment standards in order to reach those persons in need of treatment for their mental disorders who did not fit within the existing, restrictive statutory criteria.” *In re Det. of LaBelle*, 107 Wn.2d at 205-06. The expanded definition “permits the State to treat involuntarily those discharged patients who, after a period of time in the community, drop out of therapy or stop taking their prescribed medication and exhibit rapid deterioration in their ability to function independently.” *Id.* at 206 (internal quotations omitted). “By permitting intervention before a mentally ill person’s condition reaches crisis proportions,” prong (b) of

grave disability enables the State to break the “ ‘revolving door’ syndrome,” a cycle of repeated hospitalizations, by providing “the kind of continuous care and treatment that could break the cycle and restore the individual to satisfactory functioning.” *In re Det. of LaBelle*, 107 Wn.2d at 206.

If the court orders up to 180 days of commitment, the commitment can take place in a less restrictive alternative in the community, or in a more restrictive setting if the court finds that the best interests of the person or others will not be served by less restrictive treatment. RCW 71.05.320(6); *see Matter of J.S.*, 124 Wn.2d 689, 698, 880 P.2d 976 (1994).

a. B.L.R. is gravely disabled under RCW 71.05.020(21)(b)

In this case, the trial court ruled that B.L.R. met the criteria for grave disability under prong (b) of the statute’s definition of grave disability. CP 142. The record provides sufficient evidence to support that conclusion.

By age 28, B.L.R. had already experienced five admissions to Western State Hospital and had an extensive criminal history. VRP 113:15-114:20; CP 76-82, 143. The record reflects admissions to other facilities such as Fairfax and Harborview for treatment. CP 143; *see also* VRP 148:12-18. Therefore, B.L.R. has a history of repeated hospitalizations.

Moreover, the record demonstrates “recent proof of significant loss of cognitive or volitional control.” First, B.L.R. assaulted his father by punching him repeatedly in the face and choking him until he lost consciousness in December 2017. CP 8-9, 30, 88. This incident occurred only a few months after B.L.R. was released from his fourth admission to Western State Hospital to live with his father. CP 29-30. Second, at trial, Dr. Charboneau testified that although B.L.R.’s cognitive controls were “generally intact”, his thinking was still “rigid” and “circumstantial.” VRP 117:16-18. While B.L.R. was not acting on his somatic delusions in an aggressive manner, VPR 118:5-12, his delusional thought content was still prominent. “[H]e believes he has a seizure disorder that’s untreated and all the data points . . . indicate . . . that there is not a seizure disorder.” VRP 132:21-23. He stated that his parents were the reason for his commitment, and *he* was the victim of the index offense. VRP 112:19-20 (emphasis added). On cross examination, B.L.R. readily denied that he experiences mental illness. VRP 140:4-19. These cognitive limitations supported Dr. Charboneau’s “significant concerns” that B.L.R. would experience a deterioration in routine functioning if released without care and structure in the community. VRP 118:17-119:6.

B.L.R. argues that he cannot be found gravely disabled because it was “pure speculation and contrary to B.L.R.’s promise to take his

medication if released.” Br. of Appellant at 9. Just because a patient promises to take his medications does not mean he or she evades the scope of the prong (b) grave disability definition. According to Dr. Charboneau, B.L.R. had stated that he does not need the medications, and that his behavior is the same with or without them. VRP 115:5-8, 116:24-117:3. The court appropriately gave B.L.R.’s promise little weight.

B.L.R. also cites to testimony that he had maintained cognitive and volitional control over the course of the instant treatment period, and therefore he is not gravely disabled under prong (b). Br. of Appellant at 10. The record shows that B.L.R.’s recent volitional controls were good, but his cognitive controls (or “thinking”) were still circumstantial and rigid. VRP 112:22-24, 117:14-25. B.L.R. lacked insight, and experienced delusions of a seizure disorder and persecution by his parents and the treatment team. VRP 112:15-22, 118:5-9. The evidence supported the trial court’s conclusion that he would stop taking his prescribed medication, use marijuana and decompensate without structure and oversight. CP 144.

B.L.R.’s argument about recent improvement is also contrary to the reasoning of the *LaBelle* decision. The *LaBelle* court specifically rejected a strict and literal reading of the prong (b) definition that would require a patient to be actively escalating at the time of the hearing, explaining such would:

result in absurd and potentially harmful consequences, for a court would be required to release a person whose condition, as a result of the initial commitment, has stabilized or improved minimally—*i.e.*, is no longer “escalating”—even though that person otherwise manifests severe deterioration in routine functioning and, if released, would not receive such care as is essential for his or her health or safety.

In re Det. of LaBelle, 107 Wn.2d at 207.

Finally, B.L.R. relies on *In Re the Det. of M.K.*, 168 Wn. App. 621, 630, 279 P.3d 897 (2012), to draw comparisons to his own case. Br. of Appellant at 7-9. The portion of *M.K.* that B.L.R. cites in support of his position, however, is unpublished and was filed in June 2012. Unpublished decisions filed prior to March 1, 2013 have no precedential value and are not binding. GR 14.1.

Because the record contains substantial evidence to support the conclusion that B.L.R. is gravely disabled as a result of a mental disorder under RCW 71.05.020(21)(b), the trial court’s conclusion that B.L.R. is gravely disabled as a result of a mental disorder should be affirmed.

B. The Petition Presented Prima Facie Evidence that B.L.R. Continued to Suffer From a Mental Disorder that Results in a Substantial Likelihood of Committing Acts Similar to the Charged Criminal Behavior

The trial court did not err in recommitting B.L.R. under RCW 71.05.320(4)(c)(ii) when it found that the petition presented prima facie evidence that B.L.R.’s mental disorder and current symptoms would

result in a substantial likelihood of repeating acts similar to the charged criminal behavior. B.L.R. misconstrues the prima facie pleading standard under RCW 71.05.320(4)(c)(ii). B.L.R. again fails to assign error to the court commissioner's findings of fact regarding the prima facie evidence. As noted above, *supra* § IV.A.1, those findings remain verities unless challenged on appeal.

1. RCW 71.05.320(4)(c)(ii) sets forth the recommitment process after an initial commitment for acts constituting a violent offense

If felony criminal charges are dismissed because a defendant is found not competent to stand trial, the criminal court shall order the defendant committed to a state hospital for evaluation to determine whether civil commitment proceedings should be commenced. RCW 10.77.086(4). The initial civil commitment is governed by RCW 71.05.320(1)(c) and RCW 71.05.280(3). If the index offense is considered a "violent offense" under RCW 9.94A.030, the committing court shall make an "affirmative special finding under RCW 71.05.280(3)(b)". RCW 71.05.320(4)(c)(ii). Where an affirmative special finding has been made at the initial civil commitment:

[T]he commitment shall continue for up to an additional one hundred eighty day period *whenever the petition presents prima facie evidence* that the person continues to suffer from a mental disorder or developmental disability that results in a substantial likelihood of committing acts similar to the

charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the mental disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior.

RCW 71.05.320(4)(c)(ii) (emphasis added). *See Matter of Det. of M.W. v. DSHS*, 185 Wn.2d 633, 642-645, 345 P.3d 1123 (2016).

Here, the process required under RCW 71.05.320(4)(c) was followed. An initial petition alleging acts constituting a violent felony offense was filed on May 10, 2018. CP 5-15. A hearing on the initial petition was heard on May 24, 2018, the court made an affirmative finding of a violent offense, and the court concluded that B.L.R. was likely to repeat similar acts to the charged behavior. CP 20, 27-31. B.L.R. was recommitted at a hearing on January 31, 2019, with no less restrictive alternative ordered. CP 57, 59-64. A second recommitment, the subject of the instant appeal, was held on August 27, 2019. CP 139, 141-145. At the August 27, 2019 hearing, B.L.R. waived his right to an independent expert and the court made its finding of likelihood of repeating similar acts based on prima facie evidence in the petition. VRP 108:5-11, CP 142, 144. In addition, the court made a specific reference to prior findings: “The Court further makes reference and incorporates herein all prior Court Orders and filings made between July 29, 2019 to present and leading up to this hearing.” CP 142.

2. The petition contained sufficient prima facie evidence to warrant recommitment of B.L.R.

B.L.R. argues that because the petition described symptoms that “do not manifest violent behavior,” and that B.L.R. has maintained cognitive and volitional control over the course of the treatment period, the petition failed to make the requisite prima facie showing. Br. of Appellant at 11-13.

“Prima facie evidence is evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports, but which may be contradicted by other evidence.” *Matter of Det. of M.W.*, 185 Wn.2d at 657 (internal citations omitted). What constitutes “sufficient” prima facie evidence “depends on the context,” however, in upholding the constitutionality of this commitment scheme, the Supreme Court in *M.W.* noted that the State “must provide sufficient proof to warrant recommitment of violent, incompetent individuals at the prima facie stage, even when the individual fails to offer any rebuttal evidence.” *Id.* at 658. The State continues to bear the burden of proof by clear cogent and convincing evidence, however, the burden of production shifts to the respondent to provide their own admissible expert opinion that “their condition has so changed” since the prior commitment. *Id.* at 655-56.

The petitioning doctors met the prima facie evidence standard set forth in *M.W.* The standard is not whether the current symptoms manifest

recent overt violent behavior. The standard is whether the petitioner believes, in his or her expert opinion, that there is a likelihood of committing similar acts in the future based on history and current presentation.

First, the petition contains a detailed description of the index offense, where B.L.R. assaulted his father. CP 88. The petition then details B.L.R.'s history of mental illness and reported symptoms during the index offense. CP 89. Notably, B.L.R. deflected any culpability for the index offense and blamed his father. "I feel bad but he attacked me and it wasn't the first time[.]" *Id.* He denied that mental illness had any effect on his behavior during the index offense. "There were no symptoms, my dad was off the wall, suicidal and yelling about roommates." *Id.* Next, the petition describes ongoing symptoms, including lack of insight, mood lability, delusional beliefs, and circumstantial and rigid thought processes. CP 90. The petition stated that, at the time of the index offense, B.L.R. "was similarly noted to display disorganized thinking, notably impaired insight, and persecutory ideation." *Id.* "His lack of insight regarding his symptoms and need for treatment and his judgment regarding support services in the community are particularly concerning." *Id.* Therefore, the petition concluded, B.L.R. does present a substantial likelihood of repeating criminal behavior similar to the index offense. CP 91. The same concerns prompted the petitioning doctors to recommend against a less restrictive

alternative. *Id.* In sum, the petition specifically, and as a whole, contained sufficient prima facie proof under the standard set forth in *M.W.* B.L.R. waived his opportunity to rebut that proof.

Second, the prima facie evidence requirement of RCW 71.05.320(4)(c)(ii) contains no showing of a “recent overt act,” unlike the standard applied to “likelihood of serious harm” under RCW 71.05.245(3), .280 and .320(4)(a), .320(4)(b). See *In re Harris*, 98 Wn.2d 276, 284, 654 P.2d 109 (1982) (adopting a common law test for determining when a mental health respondent continues to present a “likelihood of serious harm to others”).

Even if such a standard were applied to a “substantial likelihood of committing acts similar to the charged criminal behavior,” the recent overt act standard allows for consideration of all facts in circumstances. “[I]n considering whether an overt act, evidencing dangerousness, satisfies the recentness requirement, it is appropriate to consider the time span in the context of all the surrounding relevant circumstances.” *In Re Pugh*, 68 Wn. App. 687, 695, 845 P.2d 1034 (1993). In *Pugh*, the patient’s opportunity to sexually reoffend against children had been curtailed by institutionalization, but he still represented a “likelihood of serious harm” if released or released to an unsupervised setting. “The absence of more recent overt acts during confinement is readily explainable as a lack of opportunity

to offend rather than a demonstration of improvement so as to negate the showing that he presents a substantial risk of physical harm.” *In Re Pugh*, 68 Wn. App. at 695. The court noted that unchallenged expert opinions, admissions of the patient, lack of cooperation with treatment, and little improvement of symptoms all supported a finding of likelihood of serious harm. *Id.*

Here, the petition supported a similar conclusion regarding B.L.R.’s substantial likelihood of repeating violent acts. The petition detailed his ongoing symptoms, blame towards others for his hospitalization, lack of insight, and denial of the need for assistance with medications, housing, and support. This unrebutted prima facie evidence of current presentation, combined with history, supported the court’s conclusion that B.L.R. would commit similar acts. When considering the full facts and circumstances set forth in the petition, the trial court did not err in its prima facie evidence finding.

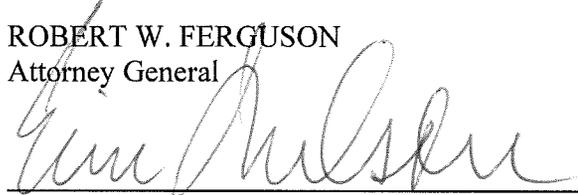
V. CONCLUSION

B.L.R. has not challenged particular findings of fact, therefore those findings remain verities on appeal. This Court should affirm the trial court’s order committing B.L.R. to 180 days of involuntary treatment because the evidence and facts are sufficient to support a conclusion that B.L.R. is gravely disabled as a result of his mental disorder. In addition, the petition

contained sufficient prima facie evidence for the trial court to conclude that B.L.R. represents a substantial likelihood of committing acts similar to the charged criminal behavior that originally brought him into Western State Hospital on this admission.

RESPECTFULLY SUBMITTED this 27th day of February, 2020.

ROBERT W. FERGUSON
Attorney General

A handwritten signature in cursive script, appearing to read "Eric Nelson", is written over a horizontal line.

ERIC NELSON, WSBA No. 27183
Assistant Attorney General
Attorneys for Respondent
PO Box 40124
Olympia, WA 98504-0124
(360) 586-6565

PROOF OF SERVICE

I, *Christine Townsend*, state and declare as follows:

I am a citizen of the United States of America and over the age of 18 years and I am competent to testify to the matters set forth herein. On February 27, 2020, I served a true and correct copy of this **RESPONDENT'S BRIEF** and this **CERTIFICATE OF SERVICE** on the following parties to this action, as indicated below:

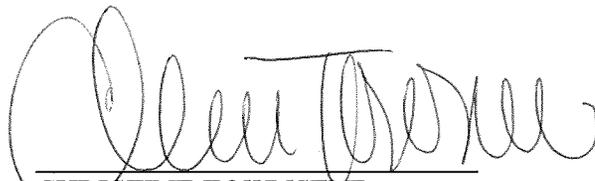
Counsel For Respondent - Appellant

Lise Ellner, Attorney at Law
Spencer Babbitt, Attorney at Law
Law Offices of Lise Ellner
P.O. Box 2711
Vashon, WA 98070

- By United States Mail**
- By E-Mail PDF via COA Portal**

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 27th day of February, 2020, at Tumwater, Washington.



CHRISTINE TOWNSEND
Legal Assistant

SOCIAL AND HEALTH SERVICES DIVISION, ATTORNEY GENERALS OFFICE

February 27, 2020 - 4:40 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 53904-7
Appellate Court Case Title: Access to case information is limited
Superior Court Case Number: 18-6-00474-8

The following documents have been uploaded:

- 539047_Briefs_20200227163924D2618407_5746.pdf
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