

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

STATE OF WASHINGTON,)
)
Respondent,) No. 71651-4-I
)
vs.)
)
WILLIAM BENJAMIN BRATTON) MOTION TO CONCEDE
Appellant,) ERROR
)
)
)
)
_____)

1. IDENTITY OF MOVING PARTY

Respondent, The STATE OF WASHINGTON, seeks the relief designated in part 2.

2. STATEMENT OF RELIEF SOUGHT

The State moves the court to accept the State's concession of error as to the finding that there was that there is no alternative less intrusive treatment that could receive the same results as would the administration of involuntary medications. The State

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further moves the court to remand this case for vacation of that order. Finally, the State moves the court to remand this case for a second purpose, to modify the "Order Finding Defendant Incompetent and Committing to First Restoration Period."¹

3. FACTS RELEVANT TO MOTION

A. BRIEF PROCEDURAL FACTS

The defendant has been evaluated for competency to stand trial on two occasions. This is documented in evaluations dated February 5th, 2014 and December 18th, 2012. The court considered both evaluations on March 10th, 2014, along with testimony from a psychiatrist Dr. Aulakh. CR 50-51. Following testimony, the court granted the State's motion for an order allowing Western State Hospital (WSH) to force medication against the Defendant's will if necessary, found the defendant incompetent, and committed the defendant for a first restoration period at WSH. CR 50-53. The

¹ Mr. Bratton advocates for restoration in an outpatient setting. However, having ordered involuntary medications in an inpatient setting, the trial court did not make findings on whether to order inpatient restoration without an order for involuntary medication. The State concedes that it is appropriate for the trial court to hold an evidentiary hearing on this issue.

court did not make specific findings as to whether inpatient restoration was necessary. CR 50-53.

B. BRIEF SUBSTANTIVE FACTS

The trial court's findings and conclusions accurately summarize the evidence presented in the hearing. CP 52-53.

Dr. Aulakh testified that he relied on the reports of the competency evaluators as the basis for his testimony. CR 9. Dr. Aulakh testified on direct examination that Mr. Bratton denied current mental illness in the 2014 evaluation, said that the delusions did not affect his functioning, and stated that his 2009 depression had resolved. CR 12. Dr. Aulakh provided a diagnosis for the Mr. Bratton of Psychosis NOS with a "delusional disorders with schizophrenia paranoid type." CR 13. He stated that the Mr. Bratton had a delusion regarding the government observing and interfering with his life. CR 14. Dr. Aulakh recommended several possible involuntary medications and listed possible side effects. CR 14-15. Dr. Aulakh testifies that WSH offers classes for patients, but that paranoia could interfere with Mr. Bratton's ability to participate. Dr. Aulakh testified that classes are not effective for someone with

delusions like him. CR 16. Dr. Aulakh testified that WSH does not have an outpatient competency restoration program or an outpatient monitoring program. CR 16-17.

On cross-examination, Dr. Aulakh testified that he would not make a referral to the designated mental health professional if he was treating the defendant in an outpatient setting. CR 31. He acknowledged that the defendant was living independently, was able to get around, and was not gravely disabled. CR 31. He testified that community mental health centers are available to dispense antipsychotic medication, and that the defendant could get medications at a community mental health center. CR 32. He testified that whether treatment through a community mental health center would be less intrusive would be for the court to decide. CR 33. He testified that if a person was unwilling or doesn't want to seek treatment, the best thing would be hospitalization, which would include monitoring for side effects of medication. CR 34. Finally, he testified that he was not making a recommendation as to where the defendant should be treated. CR 35.

likely to restore the defendant to competency. The court must find that involuntary medication is necessary to forward the State's concomitant interests, that of prosecuting a serious offense and assuring the defendant a fair trial. Sell v. U.S., 539 U.S. 166, 180, 123 S.Ct. 2174, 188 A.L.R. 679 (2003). The court must further find that involuntary medication will *significantly* forward those interests, in making a finding that administration of the drugs is substantially likely to render the defendant competent to stand trial. Sell v. U.S., 539 U.S. 166 at 181. The court must then conclude that involuntary medication is *necessary* to further those interests, and that any alternative, less intrusive treatments are unlikely to achieve substantially the same results. Id. at 181.

There is substantial evidence in the record that involuntary medication in an inpatient setting was in the best interest of Mr. Bratton. It is possible that the use of involuntary medications will ultimately be the only way that Mr. Bratton will be restored to competency. However, the State must concede error based on the existing record. There is currently insufficient evidence for the court to find by clear, cogent and convincing evidence that involuntary medication is necessary to restore the defendant to competency,

and that there is no less intrusive treatment that is likely to achieve substantially the same results.

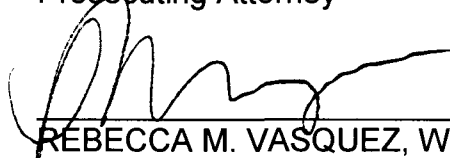
5. CONCLUSION

For the reasons set forth above, the State concedes error as to the finding that there is no alternative less intrusive treatment that could receive the same results as would the administration of involuntary medications. This case should be remanded to the trial court for vacation of the order allowing Western State Hospital to force medication against the defendant's will if necessary and for modification of the order finding the defendant incompetent and committing the defendant for the first restoration period.

The appellant moves for reversal of the involuntary medication order. Counsel for the State contacted the Counsel for Appellant to inquire as to whether she was requesting relief as to the separate "Order Finding Defendant Incompetent and Committing to First Restoration Period." The State's understanding following that conversation is that the parties agree that the trial court could set out a process for modifying the "Order Finding Defendant Incompetent and Committing to First Restoration Period."

Submitted this 22nd day of September, 2014.

DANIEL T. SATTERBERG
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Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to Maureen Cyr, the appellant, at 1511 Third Ave, Suite 701, Seattle, WA 98101 containing a copy of the Motion to Concede Error in William Benjamin Bratton, Cause No. 71651-4-1, in the Court of Appeals, for the State of Washington.

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

Jill Carter
Name Jill Carter
Done in Seattle, Washington

9-22-14
Date

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