

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

IN RE DETENTION OF:	)	
	)	DIVISION ONE
GARTH SNIVELY,	)	
	)	No. 79567-8-I
Petitioner	)	
	)	UNPUBLISHED OPINION
	)	MAY 13 2019
_____	)	FILED:

PER CURIAM — Garth Snively appeals an order denying the State’s and Snively’s motions to dismiss the State’s petition for Snively’s continued commitment as a sexually violent predator. Snively contends, and the State concedes, that once the State moved to dismiss on the ground that the evidence -- including the opinions of the State’s own experts -- did not support a conclusion that Snively still meets the criteria for SVP commitment, CR 41(a) and controlling case law required the superior court to dismiss the petition. See In re Detention of Cherry, 166 Wn.App. 70, 77, 271 P.3d 259 (2011) (where parties presented stipulated order dismissing SVP petition, court held dismissal was required under CR 41 and noted that “[f]orcing the State to proceed when it cannot prove the case would be inconsistent with other SVP statutes, due process, and the prosecutor’s ethical obligation to prosecute only cases it can prove”). We accept the concession and remand solely for entry of the parties’ agreed order to dismiss the petition without prejudice.

For the Court:

  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_