

September 28, 2021

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the Detention of

BRIAN TAYLOR-ROSE,

Petitioner.

No. 54986-7-II

UNPUBLISHED OPINION

MAXA, J. – Brian Taylor-Rose, who was being detained as a sexually violent predator (SVP), appealed an order denying his petition for conditional release to a less restrictive alternative (LRA). He filed this petition even though he had a pending petition for unconditional release, which suspended the obligation of the Department of Social and Health Services (DSHS) to conduct an annual review of his mental condition. The trial court dismissed Taylor-Rose’s petition as untimely, reasoning that an SVP can make an LRA petition only in conjunction with an annual review. Taylor-Rose argued on appeal that under RCW 71.09.090(2) he has the right to petition for an LRA release at any time without waiting for a DSHS annual review.

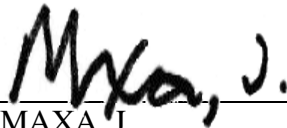
However, while this appeal was pending, the trial court entered an agreed order directing Taylor-Rose’s conditional release to a less restrictive alternative. As a result, both parties agree that this appeal is moot. Nevertheless, Taylor-Rose argues that we should address his appeal because the issues raised involve continuing and substantial public interest.

An appeal is moot if we no longer can provide effective relief. *In re Det. of M.W.*, 185 Wn.2d 633, 648, 374 P.3d 1123 (2016). However, we have discretion to decide a moot appeal if the case involves a matter of continuing and substantial public interest. *Id.* In determining

whether a moot appeal falls within this exception, we consider the public or private nature of the issue presented, the need for an authoritative determination that will provide future guidance to public officers, and the likelihood that the issue will recur in the future. *Id.*

In this case, we decline to exercise our discretion to consider Taylor-Rose's moot appeal. Therefore, we dismiss Taylor-Rose's appeal as moot.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.




MAXA, J.

We concur:



WORSWICK, P.J.



CRUSER, J.