

FILED
SUPREME COURT
STATE OF WASHINGTON
1/21/2020 10:57 AM
BY SUSAN L. CARLSON
CLERK

NO. 96894-2

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

M.S.,

Petitioner.

SUPPLEMENTAL BRIEF OF RESPONDENT

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TABLE OF CONTENTS

	Page
A. <u>INTRODUCTION</u>	1
B. <u>BASIC FACTS AND PROCEDURAL HISTORY</u>	1
C. <u>ARGUMENT</u>	2
D. <u>CONCLUSION</u>	3

TABLE OF AUTHORITIES

Page

Table of Cases

Washington State:

State v. B.O.J., 194 Wn.2d 314,
449 P.3d 1006 (2019)..... 1, 2, 3

State v. J.N., 64 Wn. App. 112 (1992)..... 2

Statutes

Washington State:

RCW 13.40.020..... 3

RCW 13.40.160..... 3

A. INTRODUCTION

The State submits this supplemental briefing to address the impact of State v. B.O.J., 194 Wn.2d 314, 449 P.3d 1006 (2019).

The State concedes that B.O.J. controls in part but is distinguishable on other grounds. In any case, this appeal is moot and should therefore be dismissed.

B. BASIC FACTS AND PROCEDURAL HISTORY

After unsuccessful attempts to provide M.S. with community-based services, the juvenile court revoked the deferred disposition for “not participating in case management process.” RP 153. The juvenile court imposed a manifest injustice disposition of 52 weeks to be served at the Juvenile Rehabilitation Administration (“JRA”). Specifically, the juvenile court found that M.S. was (1) a high risk to reoffend, (2) lacked parental control, (3) was unable to obtain services in the community, and (4) failed to comply with court orders. CP 40-42; Finding of Facts (FF) 6, 7, 9, 10.

M.S. appealed. The Court of Appeals affirmed the manifest injustice disposition, and M.S. thereafter petitioned this Court for review. This Court stayed this appeal pending a final decision on

State v. B.O.J. That case has now been decided and the stay was lifted.

C. ARGUMENT

The State concedes that B.O.J. controls insofar as the juvenile court's imposition of a manifest injustice based solely on M.S.'s treatment needs. However, this case is distinguishable from B.O.J. in that, in this case, the juvenile court found a valid independent basis to impose a manifest injustice disposition - high risk to reoffend. See State v. J.N., 64 Wn. App. 112 (1992). There is sufficient evidence in the record to support this finding.

In B.O.J., the trial court cited a lack of violence and focused almost exclusively on B.O.J.'s treatment needs. B.O.J., 194 Wn.2d at 330. Whereas, here, the juvenile court cited to evidence that M.S. carried weapons and committed multiple assaults against staff and peers, causing injuries, at his placement. RP 105-06, 108, 121. Moreover, in its written findings, the juvenile court found that M.S.'s risk to reoffend was directly tied, in part, to his serious drug addiction. CP 40; FF 6. Thus, M.S.'s treatment needs, left

untreated, posed a serious and clear danger to society. See RCW 13.40.020(19), .160(2). The juvenile court expressly found that the high risk to reoffend, standing alone, was sufficient to justify the manifest injustice disposition. CP 44.

In any event, this case is moot. M.S. has served the entirety of his disposition and is no longer a juvenile. Therefore, there is no further basis upon which this Court can provide effective relief. Furthermore, none of the remaining issues raised by M.S. in his appeal involves a matter of “continuing and substantial public interest.”

D. CONCLUSION

The State concedes that B.O.J. controls insofar as the juvenile court’s imposition of a manifest injustice based on M.S.’s treatment needs. This case is, however, distinguishable from B.O.J. in that the juvenile court found an appropriate independent basis to impose a manifest injustice disposition. Even so, this case is moot and none of the remaining issues involve a matter of

continuing and substantial public interest. This appeal, therefore,
should be dismissed.

DATED this 17th day of January, 2020.

Respectfully submitted,

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January 21, 2020 - 10:57 AM

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Appellate Court Case Number: 96894-2
Appellate Court Case Title: State of Washington v. M.S.

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