

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

In Re the Detention of )  
CHRISTOPHER MULKINS, ) NO. 03-2-12912-7 SEA  
Respondent. )  
ORDER TERMINATING 2022  
ANNUAL REVIEW AND DENYING  
RESPONDENT'S PETITION FOR AN  
EVIDENTIARY HEARING

This matter came before the court on July 21, 2023, for an annual review show cause hearing under RCW 71.09.090, the Sexually Violent Predator (SVP) statute. The respondent, Christopher Mulkins, appeared remotely via Zoom from the Special Commitment Center. His attorney, Karen Denise Wilson, and the State's counsel, Nami Kim, also appeared remotely via Zoom. The court was physically present in the open court room.

The court considered the following written submissions from the parties:

1. Respondent's Petition for Conditional Release to Less Restrictive Alternative (RCW 71.09.090(2)(a), along with the following attached exhibits:
  - A. Psychosexual Evaluation by Joseph J. Plaud, Ph.D., M.A.T., K.H.S. dated June 5, 2023;
  - B. Dr. Plaud's Curriculum Vitae;
  - C. Declaration of Krishan Hansen, CSOTP;

ORDER TERMINATING ANNUAL REVIEW &  
DENYING RESPONDENT'S PETITION FOR  
EVIDENTIARY HEARING- 1

**JUDGE MARY E. ROBERTS**  
King County Superior Court  
516 Third Avenue E912  
Seattle, Washington 98104  
(206) 447-1349

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- D. Community Treatment Plan for Mr. Mulkins dated August 15, 2022;
- E. Declaration of Isabel Valle;
- F. Declaration of Christopher Mulkins Re: Proposed Less Restrictive Alternative (LRA);
- and
- G. Sexually Violent Predator/Less Restrictive Alternative Policy of the State of Washington Department of Corrections.

2. State’s Memorandum Opposing Petition for Community-Based LRA and Supporting Termination of 2022 Annual Review Without Further Proceedings, along with the following attached appendices:

- A. Special Commitment Center Annual Review for Christopher Mulkins, dated October 2, 2022 authored by Lorien J. Newsome, Ph.D.
- B. Stipulation to LRA Revocation Pursuant to RCW 71.09 and Order, dated March 26, 2020;

The court also considered oral argument on July 21, 2023, from Ms. Wilson on behalf of Mr. Mulkins, and from Ms. Kim on behalf of the state, and the entirety of the court file.<sup>1</sup>

RCW Chapter 71.09 provides for indefinite commitments. Once Mr. Mulkins was found by a jury in December of 2008 to be a SVP, his commitment was required “until such time,” as his condition has “so changed,” that he no longer meets the definition of a SVP, or a less restrictive alternative (LRA) can adequately protect the community. RCW 71.09.060(1), .090(1), (2).

Mr. Mulkins was held in full confinement at the Special Commitment Center (SCC) until his conditional release on LRA to the residential transitional facility at the center of McNeil Island in August of 2018. Following notice of several violations of the terms of that LRA, Mr. Mulkins was returned to full confinement at the SCC in February of 2019. By stipulated agreement of the parties Mr. Mulkins’ conditional release on LRA was revoked in March of 2020. He remains in confinement at the SCC.

1 A committed person is entitled to annual reviews by a qualified professional to ensure he  
2 continues to meet the commitment criteria. *St. v. McCuiston*, 174 Wn.2d 369, 379 (2012). The  
3 above-referenced October 2, 2022, review authored by Dr. Newsome is Mr. Mulkins' most recent. It  
4 concludes that Mr. Mulkins continues to meet commitment criteria.

5 RCW 71.09.090 sets forth two alternative procedures under which a committed person may  
6 petition for release. *McCuiston*, at 379. First, if, in the course of its annual review, DSHS determines  
7 the person's condition has "so changed," that either (1) he no longer meets the definition of a SVP,  
8 or (2) conditional release can adequately protect the community, DSHS must authorize a petition for  
9 release, and the court must, upon receiving the petition, order a trial to determine whether release is  
10 warranted. RCW 71.09.090(1). Alternatively, without DSHS approval, a committed person may file  
11 a petition for release, as did Mr. Mulkins on June 30, 2023, and the court will then conduct a show  
12 cause hearing to determine whether release is warranted. It is that show cause hearing that was held  
13 on July 21, 2023.

14 At the show cause hearing, the state bears the initial burden to show probable cause that the  
15 person continues to meet the definition of a SVP and conditional release cannot adequately protect  
16 the public. If the State meets its initial burden, the person can still obtain a release trial by showing  
17 probable cause that his condition has so changed he no longer meets the definition of a SVP or  
18 conditional release would be appropriate. RCW 71.09.090(2)(c). The court must order a release trial  
19 if the State fails to show probable cause or the person shows probable cause otherwise.

20 Mr. Mulkins has petitioned for a community-based less restrictive alternative (LRA), arguing  
21 that he is entitled to an evidentiary hearing on that issue. The State argues that an evidentiary hearing  
22 is not legally warranted, and that Mr. Mulkins' petition should be summarily denied.

Here, Mr. Mulkins does not contest a determination that the State has met its burden to establish  
a prima facie case that he continues to meet the definition of a sexually violent predator. His petition  
argues that since the revocation of his prior LRA<sup>1</sup> he nonetheless has "so changed," through treatment  
that conditional release to a LRA is now appropriate.

1 The State has established through the annual review authored by Dr. Newsome a prima facie case  
2 that Mr. Mulkins continues to meet the definition of a sexually violent predator, and that a less  
3 restrictive alternative is not in his best interest, and that conditions cannot be imposed that adequately  
4 protect the community.

5 Mr. Mulkins submits Dr. Plaud's evaluation (and supporting declarations) to support his request  
6 for an evidentiary hearing. Under the probable cause standard, the court must assume the truth of the  
7 evidence presented; it may not 'weigh and measure asserted facts against potentially competing  
8 ones.'" *McCuiston*, at 382, citing *Det. Of Petersen v. State*, 145 Wn.2d 789, 796 (2002). Even  
9 accepting the evidence presented, the court finds that Mr. Mulkins has failed to establish probable  
10 cause that since the revocation of his last LRA he has "so changed" through treatment under such that  
11 he can be conditionally released to a less restrictive alternative (LRA). Using the probable cause  
12 standard, the court must decide whether the facts, if believed, are sufficient to establish that Mr.  
13 Mulkins has "so changed" through treatment such that an LRA is in his best interest and that  
14 conditions can be imposed that can adequately protect the community. Dr. Plaud's assessment does  
15 not present facts sufficient to meet this legal standard because it is based on conclusory statements  
16 not tied to the facts. Dr. Plaud's assessment also uses the incorrect legal standard for establishing  
17 probable cause that Mr. Mulkins has "so changed" through treatment such that an LRA is in his best  
18 interest and conditions can be imposed that can adequately protect the community, because he opines  
19 that the Respondent does not currently meet criteria as a sexually violent predator. Finally, Dr.  
20 Plaud's assessment also impermissibly opines that the Respondent has likely never suffered from the  
21 requisite mental abnormality or personality disorder to meet criteria as an SVP; that determination  
22 was made by a jury over fourteen years ago.

The court concludes that at this time, facts have not been presented that would warrant a trial  
addressing the Respondent's conditional release.

#### THE COURT ORDERS AS FOLLOWS

1. The Respondent's petition for an evidentiary hearing on conditional release is denied.

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- 2. The 2022 annual review is terminated without the need for further proceedings.
- 3. The order civilly committing Respondent shall continue until further order from this court.

DATED this 28th day of July, 2023.

See electronic signature  
JUDGE MARY E. ROBERTS

King County Superior Court  
Judicial Electronic Signature Page

Case Number: 03-2-12912-7  
Case Title: IN DETENTION OF CHRISTOPHER MULKINS  
Document Title: ORDER RE TERMINATING ANNUAL REVIEW  
  
Signed By: Mary Roberts  
Date: July 28, 2023



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Judge: Mary Roberts

This document is signed in accordance with the provisions in GR 30.

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