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COURT OF APPEALS
DIVISION ONE
DEC -5 2014

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

STATE OF WASHINGTON,)
)
Respondent,)
)
vs.)
)
WILLIAM BENJAMIN BRATTON)
Appellant,)
)
)
)
_____)

No. 71651-4-I

SUPPLEMENTAL RESPONSE

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1. IDENTITY OF MOVING PARTY

Respondent, The STATE OF WASHINGTON, responds as directed by the court and seeks the relief requested in Respondent's earlier concession of error.

2. ISSUES

The court has directed that the State file a supplemental response as to whether the court should consider the argument by Mr. Bratton that the trial court erred by finding that the State had a

public interest involved, this Court considers: (1) the public or private nature of the issue; (2) the desirability of an authoritative determination that will provide future guidance to public officers; and (3) the likelihood that the issue will recur. . In re: Johnson, 179 Wn. App. 579, 584 (Div. 1, 2014).

Here, the issue is necessarily moot because the State has conceded that the order should be vacated. The question then becomes whether there is a continuing and substantial public interest involved. Appellant argues that the court should have gone beyond RCW 10.77.092 and conducted a fact-specific inquiry into the underlying facts of the alleged offense. However, a determination as to whether the factual record was insufficient in this particular motion hearing will not provide future guidance to public officers . Therefore, there is not a continuing and substantial interest involved to merit consideration of a moot question.

Appellant might argue that this issue could arise again in this specific case if at some future point in competency restoration proceedings a new order for involuntary medication is sought. In that circumstance, the trial court would first turn to the involuntary medication statute. Where statutory language is plain and

unambiguous, a statute's meaning must be derived from the wording of the statute itself.' " *Swanson*, 115 Wash.2d 24, 27, 804 P.2d 1 (quoting *Human Rights Comm'n v. Cheney Sch. Dist. No. 30*, 97 Wash.2d 118, 121, 641 P.2d 163 (1982)). Here, RCW 10.77.092(1)(a) states in unambiguous language that *any* sex offense is a serious offense *per se* for the purposes of an involuntary medication determination.

Appellant argues, under Sell, that the court should also consider the nature and particular facts of the alleged crime. If the State seeks a new order for involuntary medications, there will be need to be a new factual record addressing all four prongs. Even if the court addresses Mr. Bratton's insufficiency argument now, there will still need to be a full factual record on this prong at such a future hearing. For this reason, the court should not consider this argument at this time.

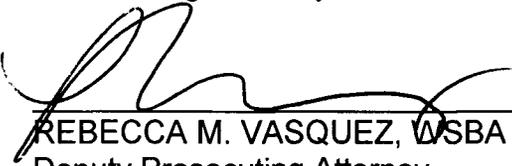
5. CONCLUSION

For the reasons set forth above, 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 incompetency committing the defendant for the first restoration period.

Submitted this 5th day of December, 2014.

DANIEL T. SATTERBERG
Prosecuting Attorney



REBECCA M. VASQUEZ, WSBA #30322
Deputy Prosecuting Attorney
Attorneys for Respondent

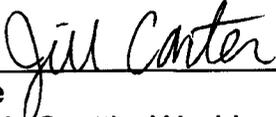
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Seattle, WA 98104
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Certificate of Service by Mail

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 attorney for the appellant, at Washington Appellate Project, 1511 3rd Ave, Suite 701, Seattle, WA, 98101, containing a copy of the Supplemental Response, in State v. William Benjamin Bratton, Cause No. 71651-4, in the Court of Appeals, Division I, 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.

Dated this 5 day of December, 2014.



Name
Done in Seattle, Washington