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SUPREME COURT
STATE OF WASHINGTON
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NO. 91876-7

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

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In re the Detention of:

BRENT PETTIS

Appellant/Petitioner

MOTION TO
SUPPLEMENT THE
RECORD

I. IDENTITY OF MOVING PARTY

The State of Washington, Respondent, is the moving party requesting the relief sought in Part 2.

II. STATEMENT OF RELIEF SOUGHT

Pursuant to RAP 9.10, the State requests that this Court allow the record to be supplemented with the following clerk's papers:

- CP _____¹: Order [granting proposed less restrictive alternative] dated June 22, 2015

III. FACTS RELEVANT TO MOTION

Brent Pettis was civilly committed to the care and custody of the Department of Social and Health Services (DSHS) as a sexually violent predator (SVP) after stipulating to commitment in 2002. *In the Detention of Pettis*, -- Wn. App. ---; 352 P.3d 841 (2015). His case has been regularly reviewed pursuant to RCW 71.09.090 since that date.

¹ The State's Supplemental Designation was sent to Clark County on August 27, 2015, but the Index has not yet been prepared.



ORIGINAL

FILED AS
ATTACHMENT TO EMAIL

In January of 2013, Pettis was granted a trial on the issue of unconditional release. At the conclusion of that trial, a unanimous jury determined that Pettis continued to be a Sexually Violent Predator. Pettis appealed, and the Court of Appeals affirmed. Pettis now seeks review by this Court.

In his Petition, Pettis asserts, as a basis for his argument that the SVP statute is unconstitutional, that, because “Mr. Pettis does not have any resources or connections in the community,” “a private LRA is not available to him.” Pet. at 9. In addition, he argues that “the statutory procedure was not available” to him, because “he could not overcome that initial probable cause hurdle because the SCC administration would not agree to house him at the SCTF. As long as the SCC administration remains exclusive gatekeeper of admission to the SCTF, the statutory procedures are meaningless in Mr. Pettis’s case.” Pet. at 14.

On June 22, 2015, the Clark County Superior Court, after a bench trial, entered an order granting Pettis’ proposed less restrictive alternative. The State seeks to supplement the record in this appeal with that Order. Reference to this Order is appropriate in order to permit this Court to assess the accuracy of Pettis’ claim that his limited financial resources and lack of support in the community prevent him from taking advantage of the existing statutory scheme, thus rendering that scheme unconstitutional

as applied to him Pet. at 9,14.

IV. STATEMENT OF GROUNDS FOR RELIEF

RAP 9.10 authorizes supplementation of the report of proceedings upon the motion of a party. RAP 9.10 provides in relevant part:

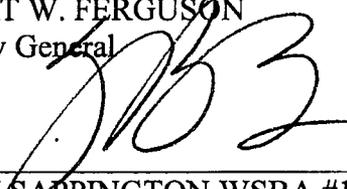
If the record is not sufficiently complete to permit a decision on the merits of the issues presented for review, the appellate court may, on its own initiative or on the motion of a party ... (2) correct, or direct the supplementation or correction of, the report of proceedings. ... The party directed or permitted to supplement the record on review must file either a designation of clerk's papers as provided in rule 9.6 or a statement of arrangements as provided in rule 9.2 within the time set by the appellate court.

This motion is not made for purposes of delay.

If this motion is denied, the State asks that, if it has already submitted its Answer to Petition for Review, it be permitted to submit an amended Answer in which it will delete reference to the trial court's June 22, 2015 Order.

RESPECTFULLY SUBMITTED this 1 day of September, 2015.

ROBERT W. FERGUSON
Attorney General



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OID #91094

CERTIFICATE OF SERVICE

I certify that on the 1 day of September, 2015, I caused to be served via electronic mail a true and correct copy of the Motion to Supplement Record addressed as follows:

Jodi R. Backlund

backlundmistry@gmail.com

I declare under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 1 day of September, 2015, at Seattle, Washington.



ALLISON MARTIN

OFFICE RECEPTIONIST, CLERK

To: Martin, Allison (ATG)
Cc: backlundmistry@gmail.com; Sappington, Sarah (ATG); Burbank, Brooke (ATG)
Subject: RE: In re Pettis 91876-7

Received on 09-01-2015

Supreme Court Clerk's Office

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Subject: In re Pettis 91876-7

Good afternoon,

Attached for filing please find: Motion to Supplement the Record and Certificate of Service.
Filed on behalf of:

SARAH SAPPINGTON
WSBA #14514
OID #91094
(206) 389-2019

ALLISON MARTIN | Legal Assistant to
SARAH SAPPINGTON | KATHARINE HEMANN
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