



WASHINGTON STATE SUPREME COURT RECEIVED BY E-MAIL

In re the Detention of:

RICHARD HATFIELD,

Petitioner.

NO. 92724-3

MOTION TO DISMISS  
APPEAL AS MOOT

**I. IDENTITY OF THE MOVING PARTY**

The moving party is the State of Washington, respondent herein, by and through the Attorney General Robert W. Ferguson, and Senior Counsel Sarah B. Sappington.

**II. DECISION BELOW**

Petitioner Richard Hatfield's Petition for Review sought review of the Court of Appeals' decision affirming a unanimous jury verdict civilly committing him as a Sexually Violent Predator (SVP).

**III. ISSUES PRESENTED**

**Should this appeal be dismissed as moot based on Mr. Hatfield's death?**

**IV. RELIEF REQUESTED**

The State respectfully requests that this Court dismiss this appeal as moot.

**V. STATEMENT OF THE CASE**

Richard Hatfield was committed as a sexually violent predator by a unanimous jury. He appealed, and his commitment was affirmed. He then

 ORIGINAL

filed a Petition for Review in this Court, and the State's brief is due on March 17. On February 24, the parties learned that Mr. Hatfield had passed away.

## VI. ARGUMENT

This Court can no longer order effective relief to the parties, nor does the case involve matters of "continuing and substantial public interest." As such, this case should be dismissed as moot.

A case is moot if a reviewing court can no longer order effective relief to the parties. *Orwick v. City of Seattle*, 103 Wn.2d 249, 253, 692 P.2d 793 (1984) "It is a general rule that, where only moot questions or abstract propositions are involved, or where the substantial question involved in the trial court no longer exist, the appeal....should be dismissed." *Sorenson v. City of Bellingham*, 80 Wn.2d 547, 558, 496 P.2d 512 (1972). Mr. Hatfield having passed away, this Court can no longer order the remedy he proposed in his brief before the Court of Appeals, that is, that the court "reverse the trial court and remand for proceedings that adequately address Hatfield's mental health condition." Brief of Appellant at 40, page attached as Attachment A. <sup>1</sup>

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<sup>1</sup> That request for relief has changed somewhat with his current Petition, in which he now asks the Court to "grant review ...and consider the merits of Hatfield's substantive due process claim."

The United States Supreme Court has made clear that, in order to go forward with an otherwise moot case, there must be a “reasonable expectation’ or a ‘demonstrated probability’ that the same controversy will recur involving the same complaining party.” *Murphy v. Hunt*, 455 U.S. 478, 482, 102 S.Ct. 1181, 71 L.Ed.2d 353 (1982) (citing *Weinstein v. Bradford*, 423 U.S. 147, 149, 96 S.Ct. 347, 46 L.Ed.2d 350 (1975)). “[A] mere physical or theoretical possibility” is not enough. *Id.* Clearly, such is not the case here, where the appellant is deceased. Moreover, most of Mr. Hatfield’s arguments are factually tied to the particulars of his case and of his personal medical condition. There is no realistic possibility that those claims would result in holdings of sufficient importance to justify continuing expenditure of public funds on this appeal.

As evidenced by the decision of the Court of Appeals, this case involves issues that are either entirely fact-specific or resolved by well-settled law. There is no reasonable expectation that Mr. Hatfield’s case presents a circumstance that would result in reversal of years of precedent. Review would result in continued unnecessary public expense for nothing more than an advisory opinion.

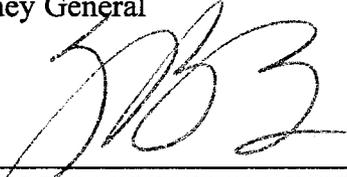
## VII. CONCLUSION

The State respectfully asks that Mr. Hatfield’s Petition for Review be dismissed. In the event that this Motion is denied, the State asks that it

be given additional time to respond to his brief, sufficient to reflect that time that will have passed while this issue is being resolved.

RESPECTFULLY SUBMITTED this 1 day of March, 2016

ROBERT W. FERGUSON  
Attorney General



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SARAH B. SAPPINGTON, WSBA #14514  
Senior Counsel OID# 91094  
Attorney for State of Washington  
800 Fifth Avenue, Suite 2000  
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(206) 389-2019

NO. 92724-3

**WASHINGTON STATE SUPREME COURT**

In re the Detention of:

RICHARD HATFIELD,

Appellant.

DECLARATION OF  
SERVICE

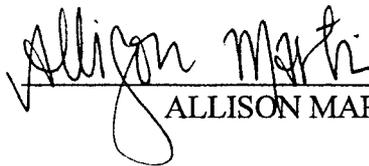
I, Allison martin, declare as follows:

On March 1, 2016, I served via electronic mail a true and correct copy of Motion to Dismiss Appeal as Moot and Declaration of Service, addressed as follows:

Kevin March  
sloanej@nwattorney.net, marchk@nwattorney.net

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

DATED this 1 day of March, 2016, at Seattle, Washington.

  
\_\_\_\_\_  
ALLISON MARTIN

**ATTACHMENT A**

NO. 46319-9-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION TWO

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In re Detention of Richard Hatfield,

STATE OF WASHINGTON,

Respondent,

v.

RICHARD HATFIELD,

Appellant.

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR CLARK COUNTY

The Honorable Robert A. Lewis, Judge

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BRIEF OF APPELLANT

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KEVIN A. MARCH  
Attorney for Appellant

NIELSEN, BROMAN & KOCH, PLLC  
1908 E Madison Street  
Seattle, WA 98122  
(206) 623-2373

Wn.2d at 204, 211. This court should reverse and remand for proceedings that address Hatfield's entitlement to individualized treatment.

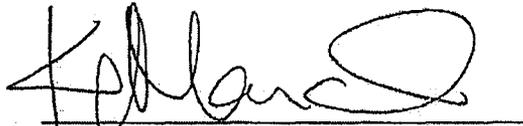
E. CONCLUSION

The absence of Hatfield's GAL violated a mandatory statute, case law, and due process. The absence requires reversal. Hatfield's civil commitment to the SCC, which is incapable of treating his current psychosis, violated Hatfield's substantive due process right to treatment that provides a realistic opportunity for improvement or cure. Hatfield asks this court to reverse the trial court and remand for proceedings that adequately address Hatfield's mental health condition.

DATED this 9<sup>th</sup> day of January, 2015.

Respectfully submitted,

NIELSEN, BROMAN & KOCH, PLLC



KEVIN A. MARCH

WSBA No. 45397

Office ID No. 91051

Attorneys for Appellant

## OFFICE RECEPTIONIST, CLERK

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**To:** Martin, Allison (ATG)  
**Cc:** sloanej@nwattorney.net; marchk@nwattorney.net; Burbank, Brooke (ATG); Sappington, Sarah (ATG)  
**Subject:** RE: In re Hatfield, 92724-3

Rec'd 3/1/2016

Supreme Court Clerk's Office

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**Subject:** In re Hatfield, 92724-3

Good afternoon,

Attached, please find Motion to Dismiss Appeal as Moot. Filed on behalf of:

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

Please let me know if you have any questions or concerns.

Allison Martin | Legal Assistant to  
Sarah Sappington | Katharine Hemann | Charlyn Rees  
Washington State Attorney General's Office | Criminal Justice Division | Sexually Violent Predator Unit  
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