IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In re the Detention of: S.B., Appellant.	No. 42322-7-II UNPUBLISHED OPINION

Johanson, A.C.J. — S.B. appeals a chapter 71.05 RCW 90-day involuntary civil commitment order entered following a jury trial. The jury found S.B. to be gravely disabled and a serious harm to herself or others as a result of her mental disorder. S.B. claims the petition is invalid because the examining physician who signed the petition failed to testify at trial. We decline to reach the merits of the appeal because SB failed to preserve the alleged error for appellate review. We affirm.

FACTS

S.B. is a single female in her early 40s who suffers from mental disorders that led to approximately 25 commitments to Western State Hospital (WSH) between 2005 and 2011. S.B. suffers from major depressive disorder—recurrent and borderline personality disorder with psychotic features. S.B. has a history of hallucinations and hearing voices which tell her to harm herself. S.B. has been hospitalized multiple times due to self-harm.

The specific involuntary civil commitment at issue here resulted from a detainment on April 27, 2011 at St. Clare Hospital. S.B. had been a patient since February 8, 2011 and was receiving treatment for self-inflicted abdominal wounds. Since her arrival at St. Clare, mental health personnel were concerned about discharging S.B. back into the community because of her mental health history. St. Clare social workers tried to find a safe place for S.B. to go and contacted 20 nursing facilities in the area as well as two mental health facilities and each declined to accept S.B.

On April 27, Nate Hinrichs, a designated mental health professional (DMHP), detained S.B. for a 72-hour detention because she presented a danger to herself and others due to her mental conditions. The next day, Ryan Harris, another DMHP, filed a 14-day detention petition with the court to which S.B. stipulated. Then, on April 29, Dane Christensen, a DMHP, and Dr. Lakshmi Datla, signed and filed a 90-day petition for involuntary civil commitment which recommended commitment to WSH.

An involuntary civil commitment jury trial was held from May 23 to May 26. Seven medical personnel testified at trial in favor of the petition, and S.B. testified against the petition. On May 26, the jury found by clear and convincing evidence that S.B. (1) had a mental disorder; (2) was gravely disabled as a result of her mental disorder; (3) had threatened, attempted or inflicted physical harm upon the person of another or herself after having been taken into custody for evaluation and treatment; and (4) presented a likelihood of serious harm to herself or others. The jury also found that the petitioner proved that a less restrictive treatment alternative was not in SB's or others' best interest. SB did not challenge the petition's sufficiency before or during

trial.[1]

ANALYSIS

At trial, S.B. did not raise issues relating to the petition or the absence of Dr. Datla's testimony. S.B. also does not discuss issue preservation on appeal. There is nothing in this court's record about why Dr. Datla did not testify. S.B. baldly asserts that the lack of testimony from the examining physician necessarily requires dismissal of the petition and reversal of the order of commitment simply because there is no proof that an examining physician signed the petition or evaluated S.B. Because these issues were not raised at trial, we decline to consider them.

We can refuse to review any claim of error which was not raised in the trial court. RAP 2.5(a); *Felsman v. Kessler*, 2 Wn. App. 493, 498-99, 468 P.2d 691, *review denied*, 78 Wn.2d 994 (1970). Arguments not presented to the trial court will generally not be considered on appeal. *Washburn v. Beatt Equip. Co.*, 120 Wn.2d 246, 290, 840 P.2d 860 (1992). The purpose of RAP 2.5(a) is met "where the issue is advanced below and the trial court has an opportunity to consider and rule on relevant authority," thereby avoiding unnecessary appeals. *Washburn*, 120 Wn.2d at 291; *Smith v. Shannon*, 100 Wn.2d 26, 37, 666 P.2d 351 (1983). We decline to consider S.B.'s argument because S.B. did not present it to the trial court and makes no argument that issue preservation was not required. *See, e.g.*, *Sorrel v. Eagle Healthcare, Inc.*, 110 Wn. App. 290,

[1] This case was first considered on this court's commissioner's calendar as a motion on the merits under RAP 18.14. On February 16, 2012, the commissioner entered a ruling dismissing the appeal as moot because it did not involve a matter of continuing and substantial public interest. S.B. then filed a motion to modify which was granted on March 16, 2012. We assume, without deciding, that this case is not moot.

296, 38 P.3d 1024, *review denied*, 147 Wn.2d 1016 (2002).

We affirm because S.B. failed to preserve the issue for appeal.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

Johanson, A.C.J.

I concur:

Penoyar, J.

I concur in the result only:

Quinn-Brintnall, J.