IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In re the Dependency of R.B.	)	**No. 28666-5-III**
STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND HEALTH SERVICES,	)	**Division Three**
Respondent,	)	
v.	)	
CHARLENE SWEET,	)	**UNPUBLISHED OPINION**
Petitioner.	)	

Sweeney, J. — R.B. is a nine-year-old girl. She thought her mom, Charlene Sweet, overdosed on Benadryl. So she called 911. An ambulance took Ms. Sweet to the hospital. Police took R.B. into protective custody and placed her in shelter care. Three days later, a superior court commissioner ordered that R.B. remain in shelter care. Five weeks later, after a fact-finding hearing, the commissioner again ordered continued shelter care pending a psychological evaluation and a joint therapy meeting. Ms. Sweet moved to revise the commissioner's ruling. A superior court judge ordered that the

commissioner's ruling be revised and that R.B. be returned to Ms. Sweet. Ms. Sweet, nevertheless, seeks appellate review of two issues: (1) whether due process requires a shelter care hearing no more than 72 hours after a child is taken from her home, and (2) whether the court entered proper findings and whether substantial evidence supports findings underlying the decision to continue shelter care. The State responds that the issues are moot because the courts can provide no further relief. We agree and dismiss the appeal as moot. *Sorenson v. City of Bellingham*, 80 Wn.2d 547, 558, 496 P.2d 512 (1972).

We have discretion to "retain and decide an appeal which has otherwise become moot when it can be said that matters of continuing and substantial public interest are involved." *Id.* A number of criteria help us decide that question. We consider "'the public or private nature of the question presented, the desirability of an authoritative determination for the future guidance of public officers, and the likelihood of future recurrence of the question.'" *Nat'l Elec. Contractors Ass'n, Puget Sound Chapter v. Seattle Sch. Dist. No. 1*, 66 Wn.2d 14, 20, 400 P.2d 778 (1965) (quoting *People ex rel. Wallace v. Labrenz*, 411 Ill. 618, 622, 104 N.E.2d 769 (1952)).

Due process rights certainly have the potential to satisfy the public interest criteria. *In re Dependency of H.*, 71 Wn. App. 524, 527-28, 859 P.2d 1258 (1993). "But

challenges that turn on facts unique to a particular case and that are unlikely to recur will not support review." *In re Det. of W.R.G.*, 110 Wn. App. 318, 322, 40 P.3d 1177 (2002).

Ms. Sweet's claim of insufficiency is clearly a private matter. Resolution of that issue is fact specific to Ms. Sweet and could only remotely influence the holding in other cases. These specific facts are not likely to reoccur. Ms. Sweet's claim that she was denied her right to due process of law because of the way the shelter care hearing was handled does have the potential to influence other cases. But, as a matter of fact, we conclude that the hearing was timely. Clerk's Papers at 164-72. And, moreover, her concern has already been addressed by the courts and the legislature. RCW 13.34.065(1)(a) and *Dependency of H* provide clear direction on the proper timing of an initial shelter care hearing. 71 Wn. App. at 528. The hearing must occur within 72 hours of a child's removal. RCW 13.34.065(1)(a); *Dependency of H*, 71 Wn. App. at 528.

We, then, dismiss the appeal as moot.

A majority of the panel has determined that this opinion will not be printed in the Washington Appellate Reports but it will be filed for public record pursuant to RCW 2.06.040.

WE CONCUR: Sweeney, J.

Korsmo, A.C.J.

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Brown, J.