

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

<b>In re the Detention of:</b>	)	<b>No. 27716-0-III</b>
	)	
	)	<b>Division Three</b>
<b>ANNA SCHUMACHER,</b>	)	
	)	
<b>Appellant.</b>	)	<b>UNPUBLISHED OPINION</b>

Korsmo, J. — Anna Schumacher appeals the trial court’s decision to involuntarily commit her to the Fairview Assisted Living Center for 180 days. We conclude that her challenge is not moot and that there was sufficient evidence to support the commitment order. We affirm.

**FACTS**

Ms. Schumacher, 92, became the subject of this proceeding after a series of shorter commitments failed to ensure that she was able to take care of herself. In late 2007, she assaulted paramedics in Las Vegas who were trying to help her after she was found in the street with a knife. She was committed to a hospital there. Relatives then moved her to Spokane, where she resided with a grandson.

She became a patient at Spokane Mental Health – Elder Services and was seen by a psychiatrist, Dr. Peter Rosales. He diagnosed her as suffering from psychosis secondary to dementia, vascular dementia, a major depressive disorder, and possible paranoid personality disorder. She began to exhibit paranoid delusions and was taken to Sacred Heart Hospital on July 9, 2000. She apparently believed her grandson was trying to pull her through the ceiling with a device hidden in the walls.

She was initially committed to Sacred Heart for 14 days of involuntary treatment. The court subsequently granted a petition for a 90-day Least Restrictive Alternative (LRA) treatment at Fairview Assisted Living. The State later filed the current petition, seeking a 180-day LRA commitment to Fairview. The trial court heard the petition on December 4, 2008.

Dr. Rosales testified that he believed Ms. Schumacher could not care for herself if she were released. She told him that she did not have any psychiatric disorders and would not take psychiatric medications, although she would take her heart medications. Dr. Rosales also testified that Ms. Schumacher did not demonstrate the ability to cook for herself.

Janet Stein, Ms. Schumacher's case manager at Spokane Mental Health, testified that Ms. Schumacher could not manage her medications. She also believed that Ms.

Schumacher might attempt to flee back to Las Vegas. Her residence there was up for sale.

The trial court concluded that Ms. Schumacher was “gravely disabled” and was in “danger of serious physical harm resulting from her failure or inability to provide for her essential health and safety needs.” The 180-day LRA petition was granted. Ms. Schumacher then timely appealed to this court.

#### ANALYSIS

The prosecution contends that this appeal is moot and that the evidence supported the LRA. Ms. Schumacher denies both. We will address the issues in the order stated.

##### *Mootness*

Respondent argues that the 180-day period has expired and that therefore the challenge to the LRA is moot. Ms. Schumacher responds that she is still living at Fairview and that no order has been entered to end her commitment.

An appeal is moot where the court cannot grant effective relief. *In re Detention of LaBelle*, 107 Wn.2d 196, 200, 728 P.2d 138 (1986). Nonetheless, an appellate court will consider a moot case when it is in the public interest to do so. *Id.* Factors to be considered include whether or not the matter is of a private or public nature, the need for guidance to public officials, and whether the problem is likely to recur. *In re Detention*

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*of Cross*, 99 Wn.2d 373, 377, 662 P.2d 828 (1983).

Cases involving mental health procedures, as both *Cross* and *LaBelle* demonstrate, frequently present exceptions to the mootness doctrine. The brief time frames involved in bringing a commitment case to trial, and the comparatively short duration of most commitment orders, mean that few cases will not be moot when considered by an appellate court. Nonetheless, the large number of commitment proceedings indicates that judicial resolution of problems that do arise is important to proper functioning of our mental health system.

We believe that resolution of the issue presented is important to at least Ms. Schumacher in that it might have impact on any future civil commitment proceedings. Accordingly, we exercise our discretion to consider this case.

#### *Evidentiary Sufficiency*

Ms. Schumacher contends that the State did not provide sufficient evidence to justify the LRA order. The State bears the burden of proving that someone is “gravely disabled” in order to involuntarily confine the person. RCW 71.05.280(4); RCW 71.05.310. The burden must be met by clear, cogent, and convincing evidence. RCW 71.05.310. Appellate courts will review to see if substantial evidence supports the trial court’s factual findings and whether the findings support the conclusions of law.

*LaBelle*, 107 Wn.2d at 209. “Substantial evidence is evidence that is sufficient to persuade a rational, fair-minded person of the truth of the finding.” *In re Estate of Jones*, 152 Wn.2d 1, 8, 93 P.3d 147 (2004).

A person is gravely disabled if, “as a result of a mental disorder,” the person:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health and safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

RCW 71.05.020(17).

The testimony of Dr. Rosales established that Ms. Schumacher is suffering from a mental disorder. The remaining question is whether the evidence established that she was “gravely disabled.” As amended, the petition alleged that she was disabled under the second prong of the definition—she had manifested severe deterioration in routine functioning and was not receiving essential care. The trial court determined this definition had been proven.

The deterioration evidence was presented by Dr. Rosales, who compared her condition as memorialized in the Nevada health records with his own evaluation of her. She failed several working memory tests and was unfamiliar with how her bills were paid

or how she would prepare meals, even though she had been doing both tasks herself a year earlier. Although she did have an awareness of her current surroundings, this evidence of deterioration was sufficient to support the trial court's determination that her condition was significantly worsening.

The trial court also determined that she would not receive care essential for her health or safety. The *LaBelle* court addressed this factor:

It is not enough to show that care and treatment of an individual's mental illness would be preferred or beneficial or even in his best interests. To justify the commitment, such care must be shown to be *essential* to an individual's health or safety and the evidence should indicate the harmful consequences likely to follow if involuntary treatment is not ordered.

*LaBelle*, 107 Wn.2d at 208.

Dr. Rosales testified that Ms. Schumacher would be unlikely to continue taking her anti-psychotic medication and the ensuing deterioration in her condition would leave her unable to care for herself. Ms. Schumacher agreed that she would not take the medication, seeing no need for it. This testimony, coupled with the testimony that she was unable to prepare her own meals, provided a factual basis for determining that she would not receive care essential for her health and safety. She would not survive long without eating.

The evidence supported the trial court's determination that Ms. Schumacher was gravely disabled due to a mental disorder. The court did not err by entering the LRA.

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The judgment is affirmed.

A majority of the panel has determined 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.

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Korsmo, J.

WE CONCUR:

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Kulik, A.C.J.

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Brown, J.