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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE, Plaintiff and Respondent, v. GREGORY CHATTEN STOCKMAN, Defendant and Appellant.	A133732 (Sonoma County Super. Ct. No. SCR-20626)

In 1993, defendant Gregory Chatten Stockman was charged with attempted murder and assault with a deadly weapon, was found not guilty by reason of insanity and committed to a state mental hospital.[1] In this appeal and related petition for extraordinary writ,[2] defendant challenges the trial court's refusal to hold a hearing on a petition he filed seeking conditional release for outpatient treatment pursuant to Penal Code section 1026.2.[3] As discussed below, events subsequent to the completion of briefing have rendered both the appeal and writ petition moot. Finding no factors requiring a determination on the merits notwithstanding this circumstance, we dismiss the appeal and deny the petition as moot, by separate order.

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[1] See *People v. Stockman* (July 18, 2008, A117559) [nonpub. opn.].)

[2] *Stockman v. Superior Court*, A134631.

[3] Further statutory references are to the Penal Code unless otherwise indicated.

BACKGROUND

Defendant filed his petition, for a hearing to determine his restoration to sanity, on November 4, 2010. (§ 1026.2, subds. (a) & (e).) On October 28, 2011, and again three days later, the trial court entered orders determining it was not required to hold a hearing on the petition in the absence of a letter of recommendation from the director of Napa State Hospital (NSH). (See § 1026.2, subd. (*l*).) Defendant appealed the latter order on November 7, 2011.

On February 21, 2012, defendant filed a petition for writ of mandate. (See fn. 2, *ante*.) On February 27, we ordered consideration of the writ petition deferred pending consideration of the appeal (case No. A133732), and directed further briefing of both matters to be combined in respondent's brief and appellant's reply brief.

The following day, on February 28, defendant filed his opening brief in the appeal, in which he conceded that the argument in both the opening brief and the writ petition were essentially identical, except that the petition included exhibits indicating the trial court had, subsequent to the notice of appeal, received a recommendation from the medical director of NSH. On February 29, we granted a request by defendant to take judicial notice, in the appeal, of the exhibits attached to his writ petition.

DISCUSSION

Defendant contends in his appellate briefs and his petition for writ of mandate, that the trial court erred in refusing to hold a hearing on his petition under section 1026.2. In essence, he asks that we reverse the trial court's orders of October 28 and 31, 2011, and direct the court to hold a hearing on his section 1026.2 petition, or that we issue a writ of mandate directing the same relief.

On June 22, 2012, however, defendant's appellate counsel filed—together with defendant's reply brief—a request for judicial notice of two exhibits: (1) defendant's filing, on June 12, of a new petition under section 1026.2; and (2) an order of the trial court dated June 15, in which it set defendant's new petition for initial hearing on July 23. Included with this request was a request for a stay of the proceedings before this court, as

the proceedings "may become moot . . . should the trial court hold the scheduled hearing." We granted both requests on June 25.

On November 29, 2012, the trial court entered an order of which we take judicial notice. (Evid. Code, §§ 452, subd. (d), 459.) In that order, the court denied defendant's new petition under section 1026.2, following a full hearing.

Thus, defendant has received the relief—a hearing on his petition under section 1026.2—that he seeks in both his appeal and his writ petition. Both have been rendered moot by the trial court's order of November 29. Defendant's appellate counsel urges us, nevertheless, to construe section 1026.2, subdivision (*l*), as an issue of public interest, to provide guidance in future cases presenting similar issues. (See, e.g., *People v. Segura* (2008) 44 Cal.4th 921, 925–926, fn. 1.) We conclude, however, that the language of section 1026.2, subdivision (*l*), is clear and unambiguous, and as such presents no issue of continuing public interest requiring our interpretation in this case.

DISPOSITION

The appeal in case No. A133732 is dismissed, and the petition in case No. A134631 is denied, as moot by separate order filed this date.

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Marchiano, P.J.

We concur:

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Margulies, J.

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Dondero, J.