

FILED
SUPREME COURT
STATE OF WASHINGTON
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No. 100540-7

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Petitioner,

v.

WILLIAM EARL TALBOTT II,

Respondent.

REPLY TO ANSWER TO
PETITION FOR REVIEW

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I. IDENTITY OF PETITIONER

The State of Washington, petitioner, submits this reply to the Answer and Cross-Petition.

II. ARGUMENT

THE ISSUES RAISED BY THE DEFENDANT CAN, IF NECESSARY, BE RESOLVED BY THE COURT OF APPEALS ON REMAND.

In the Court of Appeals, the defendant raised nine issues. Brief of Appellant at 3-4; Supp. Brief of Appellant at 1. The Court of Appeals considered only one of those issues—the seating of an allegedly biased juror. Because the court reversed the conviction on that basis, it declined to consider the other issues. Slip op. at 12.

The State has asked for review of the jury selection issue. The defendant argues that review should not be granted.¹ If review is granted, however, he asks this court

¹ Under RAP 13.4(d), “[a] reply to an answer should be limited to addressing only the new issues raised in the answer.” In compliance with that rule, this Reply will not discuss the reasons for granting review of the jury selection issue.

to review the other eight issues that he raised in the Court of Appeals. This court should decline that request.

This situation is governed by RAP 13.7(b):

If the Supreme Court reverses a decision of the Court of Appeals that did not consider all of the issues raised which might support that decision, the Supreme Court will either consider and decide those issues or remand the case to the Court of Appeals to decide those issues.

If this court reverses the Court of Appeals on the jury selection issue, the defendant is entitled to have *someone* review his remaining issues. That review can, however, be left to the Court of Appeals. For the most part, the defendant's issues involve application of established legal standards to the facts of this case. Such issues do not warrant review by this court.

Consideration of the defendant's issues will greatly complicate this court's task. The issue raised by the State rests on the voir dire of one juror. The relevant portions of the record are set out in 2½ pages of the Court of

Appeals opinion. Slip. op. at 5-8. Reviewing the issues raised by the defendant would require review of a trial record comprising around 1500 pages.

The amount of briefing that would be considered is also far greater. In the Court of Appeals, the briefing addressing the jury selection issue totaled 32 pages. Brief of Appellant at 16-28; Brief of Respondent at 20-28; Reply Brief of Appellant at 7-17. Over five times that amount (170 pages) was devoted to the other issues. Brief of Appellant at 10-15, 28-80; Brief of Respondent at 12-19, 29-89; Reply Brief of Appellant at 1-7, 17-42; Supp. Brief of Appellant at 2-7; Supp. Brief of Respondent at 2-6.

There is no reason why this court should expend the resources necessary to resolve these issues in the first instance. All of the issues raised by the defendant can be resolved by the Court of Appeals. If that resolution presents any issues warranting the attention of this court,

they can be addressed via a subsequent petition for review.

III. CONCLUSION

This court should grant review of the State's petition but deny review of the issues raised by the defendant. If this court reverses the Court of Appeals, the case should be remanded for consideration of the remaining issues.

This Reply contains 554 words (exclusive of title sheet, table of contents, table of authorities, certificate of service, and signature blocks).

Respectfully submitted on March 3, 2022.

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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON

Respondent,

WILLIAM E. TALBOTT, II

Petitioner.

No. 100540-7

DECLARATION OF DOCUMENT
FILING AND E-SERVICE

DECLARATION OF DOCUMENT FILING AND SERVICE

I, DIANE K. KREMENICH, STATE THAT ON THE 3rd DAY OF MARCH, 2022, I CAUSED THE ORIGINAL: REPLY TO ANSWER TO PETITION FOR REVIEW TO BE FILED IN THE COURT OF APPEALS – DIVISION ONE AND A TRUE COPY OF THE SAME TO BE SERVED IN THE FOLLOWING MANNER INDICATED BELOW:

Sloanej@nwattorney.net;
swiftm@nattorney.net;

E-SERVICE VIA PORTAL

SIGNED IN SNOHOMISH, WASHINGTON, THIS 3rd DAY OF MARCH, 2022.



DIANE K. KREMENICH
APPELLATE LEGAL ASSISTANT
SNOHOMISH COUNTY PROSECUTOR'S OFFICE

SNOHOMISH COUNTY PROSECUTOR'S OFFICE

March 03, 2022 - 11:57 AM

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