

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
2/7/2023 8:00 AM  
BY ERIN L. LENNON  
CLERK

NO. 101464-3

THE STATE OF WASHINGTON  
SUPREME COURT

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ERIC HOOD, an individual,

Appellant,

v.

CENTRALIA COLLEGE, a public agency,

Respondent.

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AMENDED REPLY TO COLLEGE'S ANSWER TO  
HOOD'S MOTION TO EXTEND TIME

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## I. INTRODUCTION

Pursuant to Court's email dated February 6, 2023 (Appendix), Hood amends his reply to College's answer, dated January 18, 2023, objecting to Hood's *Motion to Extend Time*.

Because College's answer to Hood's petition for review asked this Court to determine related but substantively different issue from those identified by Hood, then a reply is authorized by RAP 13.4(d) and necessary to serve the ends of justice.

## II. ARGUMENT

### A. College's answer raised related but substantively different issues.

A respondent must raise in its answer any issue that it wishes this court to address. RAP 13.4(d). The court will normally not review any issues not presented in the petition for review or the answer. RAP 13.7(b)

*Estate of Jordan v. Hartford Co.*, 120 Wn. 2d 490, 496 (Wash. 1993). In other words, this Court will normally review issues presented in an answer.

College's answer to Hood's petition for review asked:

1. Did the Court of Appeals properly apply public records case law when it held that the College reasonably interpreted Mr. Hood's clarifying communications, conducted a search reasonably calculated to uncover the records sought, and provided the records to Mr. Hood?

2. Did the Court of Appeals properly apply public records case law when it held that Mr. Hood is not entitled to attorney's fees when he is not a prevailing party, not an attorney, and where there is no evidence that attorney's fees are connected to the litigation?

*Compare College's Answer, p. 2-3 to Hood's Petition For Review, p. 7.*

Because these questions unambiguously task this Court with determining the proper application of case law to a request for identifiable records, then this Court must review Division II's opinion from the *perspective* of those questions. That is, while the questions may be related to the issues raised in Hood's petition for review, they generate substantively different considerations.

“[A]n appellate court generally will not consider an issue raised for the first time during oral argument where there is no

argument presented on the issue and no citation to authority provided.” *State v. Olson*, 126 Wn. 2d 315, 320 (Wash. 1995).

Hood’s reply arguments, not repeated here, show that the College’s questions merited a reply, particularly given Division II’s *unprecedented* and *consequential* holding that a request for identifiable records does not identify records. Unlike in *State v Olson*, Hood addressed the College’s questions by citing authorities and presenting arguments that differed from the authorities and arguments in his petition for review.

College *could* have strictly responded to the issues and arguments in Hood’s petition for review. Instead, College raised different issues but seeks to prevent Hood from replying to them. “The state “cannot have its cake and eat it too.”” *State v. Laws*, 51 Wn. 2d 346, 350 (Wash. 1957).

In short, College’s questions to this Court posed related but substantively different issues that *triggered* and justified a reply, thus Hood’s reply was merited pursuant to RAP 13.4(d).

**B. Denying an extension of time would not serve the ends of justice**

Generally. The appellate court may, on its own initiative or on motion of a party, waive or alter the provisions of any of these rules and enlarge or shorten the time within which an act must be done in a particular case in order to serve the ends of justice, subject to the restrictions in sections (b) and (c). (b) Restriction on Extension of Time. The appellate court will only in extraordinary circumstances and to prevent a gross miscarriage of justice extend the time within which a party must file *a notice of appeal, a notice for discretionary review, a motion for discretionary review of a decision of the Court of Appeals, a petition for review, or a motion for reconsideration*. The appellate court will ordinarily hold that the desirability of finality of decisions outweighs the privilege of a litigant to obtain an extension of time under this section. The motion to extend time is determined by the appellate court to which the untimely notice, motion or petition is directed.

RAP 18.8 (emphasis added). (Section (c) does not apply).

First, Hood had been diligently working on a reply and asked for an extension of time only due to illness, which this Court granted the same day. *Motion For Extension Of Time To File Reply To Respondent's Answer*, dated January 13, 2023,.

Second, College had previously agreed to an extension of time if necessary. *Id.* Its objection was not directed at the

extension per se, but at the issue of whether a reply was authorized. *See* section A, *supra*. College is not prejudiced by an extension of time.

Third, Hood's reply is not listed in 18.8(b) *supra*.

Fourth and most importantly, denying Hood the opportunity to reply to issues raised in the College's answer "would constitute a gross miscarriage of justice because of the appellant's reasonably diligent conduct." *Reichelt v. Raymark Indus*, 52 Wn. App. 763, 766 (Wash. Ct. App. 1988). Moreover, after citing RAP 1.2, this Court ruled that

[...] the case should be decided on the merits [when there is] no prejudice to the other party and no more than a minimal inconvenience to the appellate court. [...] In addition, RAP 10.3(a)(5) *requires* argument in support of the issues presented for review, together with citations to legal authority. [...] More importantly, the other party is unable to present argument on the issue or otherwise respond and thereby potentially suffers great prejudice.

*State v. Olson*, 126 Wn. 2d 315, 318-21 (Wash. 1995) Internal citations and quotations omitted, emphasis added.



In short, Hood would be prejudiced if prevented from addressing the related but substantively different issues raised by the College. College cannot now fairly seek to prevent Hood from addressing issues that College raised in its answer.

### **III. CONCLUSION**

Based on the foregoing, Hood's motion to extend time should be granted.

Pursuant to RAP 18.17(b), this brief contains 969 words.  
Respectfully submitted this 7<sup>th</sup> day of February, 2023 by,

s/ Eric Hood

## APPENDIX

RE: 101464-3 - Eric Hood v. Centralia College

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From: OFFICE RECEPTIONIST, CLERK (supreme@courts.wa.gov)

To: ericfence@yahoo.com; becky.woodrow@courts.wa.gov

Date: Monday, February 6, 2023 at 09:09 AM PST

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Mr. Hood,

On January 25 you filed a single reply to both the answer to the motion for extension of time and the answer to the petition for review.

The motion to strike is a Clerk's motion to strike your reply to the answer to the petition for review. Replies may only be filed when the answering party seeks review of an issue not raised in the petition for review as provided in the attached letter sent to the parties on January 25, 2023. The letter contains the motion to strike, there is no separate motion to strike. However, the reply to the answer to the motion for extension of time is allowed and can be considered by the Court.

Accordingly, because the reply to an answer is likely not allowed in this case, you were given an opportunity to re-file just the reply to the answer to the motion for extension of time separately from the reply to the answer to the petition review. If you would like to have your reply to the answer to the motion for extension of time considered by the Court, you should serve and file an amended reply by no later than February 10, 2023.

---

**From:** Eric Hood <ericfence@yahoo.com>

**Sent:** Saturday, February 4, 2023 8:30 PM

**To:** Woodrow, Becky <Becky.Woodrow@courts.wa.gov>; OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>

**Subject:** Re: 101464-3 - Eric Hood v. Centralia College

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To the court,

Your letter dated January 13, 2023 stated that "any reply to any answer should be filed by February 1, 2023."

The College filed its answer to my motion to extend on January 18, 2023.

Per your January 13 letter, I timely filed my reply to my petition for review on January 25, 2023. Also per your January 13 letter, I timely filed my reply to my motion to extend on January 25, 2023.

Your letter dated January 25, 2023 stated that "Any answer to the motion to strike the reply should be served and filed by February 6, 2023. The petitioner may re-file the reply to the answer to the motion for extension of time no later than February 1, 2023."

## APPENDIX

I see in the court docket "01-25-23 Motion to Strike Filed"

I am not clear as to the purpose of re-filing the reply to the answer to the motion for extension of time as 1) I timely filed my reply to the answer to the motion for extension of time before February 1, 2023, as required on January 13, 2022 and 2) I did not receive any motion to strike prior to February 1, 2023 and still have no record of any motion to strike except what is shown in the court docket.

I apologize if I misunderstood the court's instructions and would appreciate any clarification if I did misunderstand. If a motion to strike was indeed filed, then please send it to me.

Thanks

Eric Hood

On Wednesday, January 25, 2023 at 04:12:53 PM PST, Woodrow, Becky <[becky.woodrow@courts.wa.gov](mailto:becky.woodrow@courts.wa.gov)> wrote:

*Counsel and Eric Hood:*

*Attached is a copy of the letter issued by the Deputy Clerk on this date in the above referenced case. Please consider this as the original for your files, a copy will not be sent by regular mail. Any documents filed with this Court should be submitted via our web portal: <https://ac.courts.wa.gov/>*

**ATTENTION: Beginning September 1, 2021, per new RAP 18.17, the Washington State Supreme Court will be shifting from page count limits to word count limits. For more information see [www.courts.wa.gov/wordcounts](http://www.courts.wa.gov/wordcounts)**

**Please do not respond to this email. Any questions or response should be directed to [Supreme@Courts.wa.gov](mailto:Supreme@Courts.wa.gov).**

Becky Woodrow

Senior Office Administrative Assistant

## APPENDIX

WA State Supreme Court

[Becky.Woodrow@courts.wa.gov](mailto:Becky.Woodrow@courts.wa.gov)

[Temporary mailing/physical address:](#)

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*243 Israel Road SE*

*Tumwater, WA 98501*



- 1014643 - Public - Letter Sent - Other - 1-25-2023.pdf  
244.3kB

## CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, the undersigned hereby certifies under penalty of perjury according to the laws of the State of Washington that on the date below the foregoing was delivered to Respondent counsel via email.

Signed by:

s/Eric Hood

Date: February 7, 2023

Eric Hood  
Langley, WA 98260  
5256 Foxglove Lane, PO Box 1547  
360.632.9134

**ERIC HOOD**

**February 07, 2023 - 7:01 AM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 101,464-3  
**Appellate Court Case Title:** Eric Hood v. Centralia College  
**Superior Court Case Number:** 20-2-02234-6

**The following documents have been uploaded:**

- 1014643\_Answer\_Reply\_20230207070105SC009459\_5095.pdf  
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**Comments:**

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Sender Name: Eric Hood - Email: ericfence@yahoo.com  
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Phone: (360) 321-4011

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