NO. 102841-5

SUPREME COURT OF THE STATE OF WASHINGTON

In re the Detention of:

ROBERT A. HOWELL,

Appellant,

v.

STATE OF WASHINGTON,

Respondent.

ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

Following a 5-day trial, a unanimous jury found beyond a reasonable doubt that Robert Howell is a Sexually Violent Predator (SVP), and the trial court entered an order of commitment. The Court of Appeals, in an unpublished decision, affirmed. This Court should decline further review.

At trial, the State presented overwhelming evidence that Howell repeatedly offended against—and pursued inappropriate relations with—children between the ages of twelve to fourteen. The evidence showed that the vast majority of Howell's sexual offending was against girls between the ages of 12 and 14. Specifically, Howell has been convicted of two sex offenses against 12-year-old victims: Child Molestation in the Second Degree and Communicating with a Minor for Immoral Purposes. Howell also admittedly "went out" with several girls between the ages of twelve and fourteen when he was an adult—evidence from which the jury could reasonably infer that he committed additional uncharged sex offenses against children. And while he

repeatedly expressed fears about becoming a "habitual predator," even repeatedly requesting the death penalty due to his fears of not being able to control his behavior, he consistently refused sex offender treatment.

The State also presented expert testimony that Howell is likely to commit predatory acts of sexual violence as that term is defined in the SVP statute. In reaching that conclusion, the expert relied heavily on Howell's offenses against children as well as information that Howell had sex with at least seven girls between the ages of 12 to 14 years while an adult, continuously fantasized about preteens, had parole violations involving minors, and committed other unadjudicated offenses against children, including engaging in phone sex with a 14-year-old girl. Overall, taking the evidence and the inferences in the light most favorable to the State, a rational trier of fact could readily conclude that the State met its burden of proving Howell is an SVP.

Howell does not dispute that the State presented sufficient proof of the first two elements supporting the jury's verdict that

he is an SVP: (1) that he has previously been convicted of a crime of sexual violence and (2) that he has a personality disorder that causes him serious difficulty controlling his sexually violent behavior. His sole claim on appeal is that the State failed to present sufficient proof of the third element—that he is likely to engage in predatory acts of sexual violence, specifically Child Molestation in the Second Degree or Attempted Child Molestation in the Second Degree. This claim fails because ample evidence supported the jury's verdict. Howell's sufficiency of the evidence challenge does not present an issue of public importance and review should be denied.

II. RESTATEMENT OF THE ISSUE

At trial, the State presented evidence that Howell was previously convicted of Child Molestation in the Second Degree, repeatedly offended against children between the ages of twelve and fourteen, pursued inappropriate relationships with children, and worried about not being able to control his behavior. It also presented an expert opinion that Howell is likely to engage in predatory acts of "sexual violence" as that term is defined in the SVP statute. Based on this evidence, could any rational trier of fact find beyond a reasonable doubt that Howell is likely to

commit a predatory act of Child Molestation in the Second Degree or Attempted Child Molestation in the Second Degree?

III. RESTATEMENT OF THE FACTS

A. Howell's History of Sexual Offending

Howell has three convictions for sexual offenses. In addition, he has at least eight convictions as an adult for nonsexual offenses, such as assault in the fourth degree with domestic violence, disorderly conduct with domestic violence, and others. Ex. 25 at 3; VRP at 200-01, 328, 340.

In August 1996, prosecutors charged 28-year-old Howell with Child Molestation in the Second Degree after he gave alcohol to two 12-year-old girls and molested one of them. Ex. 5; VRP at 329-30, 201, 148-49, 487-88. This offense occurred ten days after Howell was paroled for a property offense. VRP at 201, 213-14. When he was initially arrested, Howell confessed that he kissed the child, rubbed her genitals, and thought he might have digitally penetrated her. VRP at 330, 332, 488-89. A jury later convicted Howell as charged, and he was sentenced to 89 months in prison. VRP at 202; Exs. 6, 7.

In December 1996, Howell wrote a letter to the judge who sentenced him asking to have his sentence enhanced. Ex. 28. He stated that he had been given a chance to get help, messed up, did not answer truthfully on a prior evaluation, and was "ashamed." Ex. 28. He asked for his sentence to be enhanced to the death penalty. Ex. 28.

Howell wrote a second letter to the judge in January 1997 again expressing his desire for the death penalty. Ex. 29. In it, he disclosed that he had "gone out with younger girls in the past" and provided a list of names. Ex. 29. Specifically, he admitted that when he was 18-years-old, he went out with two 14-year-old girls, and when he was 23-years-old, he went out with a 12-year-old girl and a 13-year-old girl. Ex. 29. Howell also made additional disclosures about his 1996 offense, confessing that "it was not [A.M.P.] that [he] was after but her friend [J.L.B.]." Ex. 29. Howell stated that he had a "problem" and expressed fears about what would happen if he were to get out of prison without getting help for it. Ex. 29. He worried about becoming

"a habitual predator" and wanted the death penalty "so it doesn't happen no more." Ex. 29.

In March 1997, while in prison, Howell told an evaluator that 50% of his arousal was to preteens, that he "scopes out 14 to 16 year olds," and that he had sex with at least 7 girls between the ages of 12 and 15 after he became an adult. VRP at 333, 205. In 2001, an evaluator concluded that Howell had a high probability of sexually reoffending against underage females in the future. VRP at 209.

In 2002, eighteen days after he was paroled from his earlier convictions for child molestation, Howell committed his next sex offense. VRP at 209-10; Ex. 13. Howell, who was 34-years-old at the time, walked into 12-year-old K.E.S.'s house from a neighboring house and sat on the couch next to her. VRP at 334, 152-53. He then changed the TV from cartoons to pornography, asked her if she wanted to have sex, and said he wanted to "fuck [her] right now." VRP at 334, 153, 210-11; Ex. 13. The girl asked Howell to leave, which he did, and when

he returned to the neighbor's house, the neighbor observed that he had an erection. VRP at 334, 336, 153, 211. Howell was intoxicated and does not remember what happened, but does not dispute the veracity of the victim's report. VRP at 461, 154, 211. Howell later pled guilty to Communicating with a Minor for Immoral Purposes, and the court sentenced him to 55.5 months in prison. Exs. 11, 12, 13, 14; VRP at 211-12.

Howell committed his third sex offense in July 2015. Ex. 24. The victim of this offense, T.D., was an acquaintance of Howell's. VRP at 82-83; Ex. 24. One night, Howell forcefully press[ed] himself on [her]" while she was pushing him away and "touch[ed] down [her] leg and [her] vaginal area." VRP at 93. He also touched her under her clothes and pulled her pants down. VRP at 93. Prosecutors initially charged Howell with Rape in the Second Degree. Ex. 20. As part of a plea agreement, Howell pled guilty to one count of Kidnapping in the Second Degree and one count of Rape in the Third Degree. Exs. 21, 22, 23, 24. He was sentenced to 72 months of confinement. Ex. 25.

While incarcerated, Howell committed upwards of 23 infractions, many of which were sexual in nature. VRP at 340-41. Howell also did "poorly" on community supervision and committed upwards of 24 parole and probation violations. VRP at 346, 214, 328. Some of those violations involved inappropriate contact with minors, and one was committed within three days of his release from prison in 2007. VRP at 347-48, 154-55, 214-16.

In December 2021, the State filed a petition seeking to civilly commit Howell as an SVP. CP 1-138. The case proceeded to a jury trial in October 2022. *See* VRP 1-579.

B. Evidence Presented at Howell's SVP Civil Commitment Trial

At trial, the State presented testimony from the following witnesses: police officers who investigated Howell's 1996 and 2002 offenses, the victim from Howell's 2015 offense, a forensic psychologist, and Howell (via videotaped deposition). VRP 80-109, 304-489; CP 198-210. Howell presented testimony from a forensic psychologist. VRP at 119-292.

1. Undersheriff Clark's testimony

Undersheriff Ronald Clark testified about Howell's 1996 offense against 12-year-old A.M.P. VRP 482-94. Howell told him that he purchased beer and then went into the woods with A.M.P. and her friend, J.L.B. VRP at 487. Howell then confessed that he kissed A.M.P. and rubbed her genitals on the outside of her pants even though she told him to stop. VRP at 487-88. Howell then changed his story and said that his hands were between her pants and her underwear and that it was possible that there was penetration. VRP at 488-89.

2. Lieutenant Byrd's testimony

Lieutenant Richard Byrd testified about Howell's 2002 offense against 12-year-old K.E.S. VRP at 457-61. Howell told him that he had been at the trailer and sat on the couch next to the girl. VRP at 460. Howell also admitted there was pornography on the television but denied attempting to lure the child into sexual acts. VRP at 460. Lieutenant Byrd testified that

he verified that pornography was on the television and that Howell was "obviously intoxicated." VRP at 461.

3. Victim T.D.'s testimony

Victim T.D. provided details about the 2015 sexual assault. She said that she encountered Howell near a park after leaving a mutual friend's house late at night. VRP at 85-86. She had been staying with the friend after being discharged from the hospital. VRP at 84-85. She said that Howell "chas[ed] [her] down" and forcefully told her to get her stuff and go to his house. VRP at 86-87. She was scared and "didn't feel like [she] had a choice." VRP at 87. She called somebody to pick her up, but Howell "pushed [her] and [her] stuff inside [his house] and said stay there." VRP at 88.

Once inside Howell's house, T.D. sat on the couch and Howell gave her medication and water. VRP at 89-92. Howell then started touching her despite her protests. VRP at 92. T.D. told him to stop and tried to push him away, but he "press[ed] himself on [her]" and "touch[ed] down her leg and [her] vaginal

area." VRP at 93. He also touched her under her clothes and pulled her pants down. VRP at 93. T.D. testified that she felt "like [she] couldn't fight him off." VRP at 94.

T.D. did not remember falling asleep, but she remembered waking up the next morning and discovering that her sweatpants were still pulled down to her mid-thigh and that she was bleeding from her vaginal area. VRP at 94-95. She testified that there was a message on her phone from Howell saying that he was "really sorry" and "shouldn't have done that." VRP at 95. T.D. called a crisis support organization, and an advocate took her to a hospital where staff conducted a sexual assault forensic examination. VRP at 95-96, 108.

4. Dr. Teofilo's testimony

The State's expert, Dr. Craig Teofilo, testified in detail about Howell's history of criminal behavior and sexual offending, as well as Howell's statements about those offenses. *See* VRP at 328-405. He testified that he relied on this historical information in rendering his opinions. VRP at 323.

Dr. Teofilo opined that Howell currently suffers from a personality disorder that causes him serious difficulty controlling his sexually violent behavior. VRP at 321, 366, 405. Specifically, he testified that Howell has Antisocial Personality Disorder (ASPD) and Alcohol Use Disorder (in full remission in a controlled environment). VRP at 323, 326, 355-56.

Dr. Teofilo explained that Howell meets all seven criteria for an ASPD diagnosis. VRP at 327, 353. The diagnosis is based on a range of anti-social criteria, such as failure to conform to social norms, lying, impulsiveness, aggressiveness, and a lack of respect for the wellbeing of others. VRP 350-354. Dr. Teofilo further opined that Howell's ASPD causes him serious difficulty controlling his sexually violent behavior, explaining that there were seven data points that led him to that conclusion. VRP at 366-67, 372.

Lastly, Dr. Teofilo opined that Howell's personality disorder makes him likely to engage in predatory acts of sexual violence if not confined in a secure facility. VRP at 321, 405,

444. In reaching this conclusion, he conducted a structured comprehensive risk assessment utilizing various risk assessment tools. VRP at 360-61, 373. He used the PCL-R Psychopathy Checklist Revised and testified that Howell's score was in the "high" range, which supports that "there is the presence of psychopathic qualities." VRP at 362.

Dr. Teofilo used the Static-99R and Static-2002R to assess static factors and testified that Howell's score was in the "well above average" range, which is the highest range. VRP at 373, 375, 382-83. In fact, Howell's score on the Static-99R was in the 97.3 percentile, meaning only 3% of sex offenders scored higher. VRP at 383-84. He also used the Violence Risk Scale-Sexual Offender Version (VRS-SO) to assess dynamic risk factors, including Howell's refusal to participate in treatment. VRP at 386-94. Dr. Teofilo determined that Howell fell into the "high risk, high needs" group and calculated his risk of reoffending in 20 years at 69.6%. VRP at 397-98l. Finally, he looked at case specific factors and protective factors. VRP at 373-74.

Dr. Teofilo noted that Howell repeatedly refused sex offender treatment until 2018 when he started treatment, but was kicked out after five months. VRP at 392-93. Since then, Howell has continued to refuse treatment despite it being readily available. VRP at 393.

Dr. Teofilo opined that Howell was likely to commit "predatory" acts of sexual violence as that term is defined in the SVP statute because Howell's offending pattern has been against stranger victims and casual acquaintances. VRP at 403. He also opined that Howell was likely to commit predatory acts of "sexual violence" as that term is defined in the SVP statute, citing Howell's conviction for Child Molestation in the Second Degree and his arrest for Rape in the Second Degree, which was pled down to Rape in the Third Degree. VRP at 404.

Dr. Teofilo also testified that Howell admitted to him that Howell had phone sex with a 14-year-old girl when he was 40 years old. CP 348-49.

5. Howell's testimony

Lastly, the State presented testimony from Howell via a videotaped deposition. VRP at 495-98; CP 198-210. Howell testified that he told the truth in his interviews with Dr. Teofilo. CP 200. He also testified about his prior sex offenses, saying that he "put [himself] into the position for [his offenses] to happen." CP 200-01.

He admitted buying alcohol for twelve-year-old A.M.P. and J.L.B. in 1996 and that he went with them to a party spot down a dirt road. CP 202-04. He also admitted that, after J.L.B. left, he "slip[ped]-up" and "french-kissed" A.M.P. CP 205-06. He further testified that A.M.P. fell down and passed out and woke up while Howell was pulling up her pants and underwear. CP 205-07. He said he had his hand on the front side of her pants, and he could understand why she thought that he groped her. CP 205, 206-07.

C. Jury Instructions and Verdict

At the conclusion of the trial, the court instructed the jury. CP 140-55. The only element contested by petitioner is that Howell's personality disorder made him "likely to engage in predatory acts of sexual violence if not confined to a secure facility." CP 145.

Additionally, the jurors were instructed:

> "Sexual Violence" or "harm of a sexually violent nature" means one of the following defined crimes:
>
> 1) Child Molestation in the Second Degree
>
> Any attempt to commit one of the crimes listed above also constitutes a "sexually violent offense."
>
> A person "attempts" to commit a crime when, with intent to commit that crime, he or she does any act that is a substantial step toward the commission of that crime.
>
> A "substantial step" is conduct that strongly indicates a criminal purpose and that is more than mere preparation.

CP 149.

The instructions provided the following definition for Child Molestation in the Second Degree:

> A person commits the crime of child molestation in the second degree when the person has sexual contact with a child who is at least twelve years old but less than fourteen years old, who is not married to the person, and who is at least thirty-six months younger than the person.

CP 150.

Following deliberations, the jury unanimously found beyond a reasonable doubt that Howell is an SVP. CP 139. The trial court subsequently entered an order committing Howell to the Special Commitment Center and to the custody of the Department of Social and Health Services for control, care, and treatment. CP 159.

D. The Court of Appeals' Opinion

The Court of Appeals affirmed in a short, unpublished decision. Rejecting Howell's arguments, it focused on his established history of targeting and assaulting girls between the ages of 12 to 14 and his own statements regarding these desires and his inability to control them. Opinion at 10-13. The court twice emphasized that "[e]vidence of respondent's past sexual misconduct is important in "assess[ing] the mental state of the

alleged SVP, the nature of his . . . sexual deviancy, and the likelihood that he . . . will commit a crime involving sexual violence in the future." Opinion at 10, 11 (citing *In re Det. of Turay*, 139 Wn.2d 379, 401, 986 P.2d 790 (1999), *cert. denied*, 531 U.S. 1125 (2001)).

IV. REASONS WHY REVIEW SHOULD BE DENIED

A. This Case Does Not Involve an Issue of Substantial Public Interest Under RAP 13.4(b)(4)

This Court is not an error-correcting court. "A petition for review will be accepted by the Supreme Court only" if it meets at least one of four necessary criteria. RAP 13.4(b). Howell alleges, without any support or explanation, that his case "presents an issue of substantial public interest." Petition at 11. He does not explain how this controversy extends beyond this case or these parties, nor does he argue that it otherwise implicates the public interest. *Id*. He does not argue that this issue is likely to re-occur. *Id*. This conclusory and undeveloped argument is insufficient to warrant judicial consideration. *In re Parental Rights to D.J.S.*, 12 Wn. App. 2d 1, 42, 456 P.3d 820

(2020)*, abrogated on other grounds by In re Dependency of G.J.A.*, 197 Wn.2d 868, 489 P.3d 631 (2021). Howell cannot satisfy this precondition to review and, on that basis alone, his petition for review should be denied.

B. The Court of Appeals Correctly Held that the Jury Verdict was Supported by Sufficient Evidence

1. The evidence is viewed in the light most favorable to the State

Sufficiency of the evidence challenges in SVP commitment proceedings apply the standard used in criminal cases. *In re Det. of Anderson*, 185 Wn.2d 79, 90, 368 P.3d 162 (2016); *In re Det. of Thorell*, 149 Wn.2d 724, 744-45, 72 P.3d 708 (2003). "Sufficient evidence exists if, when viewing the evidence in the light most favorable to the State, any rational trier of fact could find the essential elements beyond a reasonable doubt." *In re Det. of Belcher*, 196 Wn. App. 592, 608, 385 P.3d 174 (2016).

"[A]ll reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against

the respondent." *Anderson*, 185 Wn.2d at 90 (internal quotation marks omitted); *accord Belcher*, 196 Wn. App. at 608. "Circumstantial evidence and direct evidence are equally reliable." *Belcher*, 196 Wn. App. at 608. "Deference is given to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of evidence." *Id.*

2. Ample evidence supports the unanimous jury verdict that Howell is likely to commit predatory acts of child molestation in the second degree or attempted child molestation in the second degree

Contrary to Howell's claim, the State presented ample evidence at trial to support the jury's finding that Howell's personality disorder makes him likely to engage in predatory acts of Child Molestation in the Second Degree or Attempted Child Molestation in the Second Degree.

The evidence showed that the vast majority of Howell's sexual offending was against girls between the ages of 12 and 14. This includes two of Howell's three sex offense convictions. Howell's first sex offense conviction was for the exact crime in the jury instructions—Child Molestation in the Second Degree—

and involved a 12-year-old victim. Exs. 5, 6, 7. Howell was convicted of this offense after he bought alcohol for the girl, kissed her, rubbed her genitals, and admitted that he might have digitally penetrated her. Exs. 5, 6, 7; CP 201-07; VRP at 487-89, 329-30, 147-49, 201. Howell later admitted that "it was not [the victim] that [he] was after but her [12-year-old] friend." Ex. 29. The State presented evidence about this offense in the form of testimony, the charging documents, the judgment and sentence, and a letter written by Howell. CP 201-07; VRP at 487-89; Exs. 5, 6, 7. Both experts relied on this offense when rendering their opinions. *See* VRP at 329-30, 147-49.

Howell's second sex offense conviction—for Communication with a Minor for Immoral Purposes—was also against a 12-year-old girl. Exs. 11, 12, 13, 14. Howell pled to this offense after he went into her house while she was alone, put pornography on the TV, asked her if she wanted to have sex, and said he wanted to "fuck [her] right now." VRP at 334, 153-54, 210-11. Although this case was resolved as Communication with

a Minor for Immoral Purposes, which does not qualify as a sexually violent offense, Petition at 9, these facts could support an attempt at Child Molestation in the Second Degree—further supporting the jury's verdict.[1] Howell's argument that "'targeting' someone is not the same as having sexual contact with them" holds no water because even an attempt at 2nd degree Child Molestation qualifies under the jury instructions in this case. *Contra*, Petition at 11.

The State presented evidence about this offense in the form of Lieutenant Byrd's testimony, the charging documents, the plea agreement, and the judgment and sentence. VRP at 460-62; Exs. 11, 12, 13, 14. As with the 1996 offense, the jury also heard that both experts relied on this offense when rendering their opinions. *See* VRP at 333-36, 152-54.

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[1] A person "attempts" to commit a crime when, with intent to commit that crime, he or she does any act that is a substantial step toward the commission of that crime. A "substantial step" is conduct that strongly indicates a criminal purpose and that is more than mere preparation. CP 149.

The evidence also showed that Howell pursued and had inappropriate relationships with young girls. Specifically, the jury had before it a letter that Howell wrote to a judge in 1997 in which he disclosed that he had previously "gone out" with younger girls. Ex. 29; VRP at150. He provided a list of names and ages. Ex. 29. He confessed that when he was 18-years-old, he went out with two 14-year-old girls (R.N. and R.B.), and when he was 23-years-old, he went out with a twelve-year-old girl (M) and a 13-year-old girl (S.C). Ex. 29. As the Court of Appeals noted, the context of Howell's admission allows a rational jury to infer that "go[ing] out" entailed sexual contact of some kind. Opinion at 11. Howell also admitted to Dr. Teofilo that he had phone sex with a 14-year-old girl when he was 40. VRP at 349.

Additionally, the State presented evidence showing that, for at least twenty years, Howell feared reoffending and becoming a habitual offender in connection with his conviction for Child Molestation in the Second Degree. When writing to the

judge, he expressed a desire for the death penalty and, later, to be civilly committed.

In 2016, Howell wrote:

> I'm also in my right state of mind. I'm just trying to say I need help cuz I'm obviously not getting things right to fit into society. . . .
>
> I'm asking to go to [the Special Commitment Center] cause they are the experts on making the call if a person needs to be committed and to give them the help they need to see if they will ever be able to live in society or if they need to be civilly committed for life.
>
> Please work with me on getting there to see about help . . . .

Ex. 60; *see also* Ex. 59 (asking to be civilly committed).

The jury also heard evidence that, despite his admission that he has a "problem" and his concerns about reoffending, Howell has consistently refused to participate in sex offender treatment and remained untreated at the time of the trial. VRP at 392-93, 218, 248.

Finally, expert testimony also supported proof of this element. The State's expert, Dr. Teofilo, testified that Howell is likely to commit predatory acts of "sexual violence" as that term

is defined in the SVP statute. VRP at 403-04. He cited Howell's convictions for Child Molestation in the Second Degree and his arrest for Rape in the Second Degree (which was later pled to Rape in the Third Degree) and explained that his opinion was based on "everything that [he's] been talking about for the last couple hours." VRP at 404.

Dr. Teofilo's testimony reflects that he relied heavily on Howell's offenses against children and Howell's persistent interest in teenage girls when he opined that Howell was likely to commit sexually violent offenses unless confined.[2] Dr. Teofilo considered the information about Howell's convictions for Child Molestation in the Second Degree and Communication with a Minor for Immoral Purposes. VRP at 329-36. He also considered information that Howell repeatedly violated the conditions of his parole by contacting minors. VRP at 347-48. For example, in

[2] The court instructed the jury that information contained in Howell's records could be considered for the purpose of deciding what weight and credibility to give Dr. Teofilo's opinions and that the jury could not rely on it for other purposes. VRP at 323-24.

2008, Howell contacted two 14-year-old girls on telephone chat lines and sent one of them money to travel from Oregon to Washington to see him. VRP at 348-49.[3]

Dr. Teofilo also considered Howell's admissions that he had additional, unadjudicated offenses and that he fantasized about preteens. For example, there was information in the record that Howell told an evaluator in 1997 that 50% of his arousal was to preteens, that he "scopes out 14 to 16 year olds," and that after becoming an adult he had sex with at least seven girls between the ages of 12 and 15. VRP at 333, 368-69. In addition, Dr. Teofilo considered Howell's letters and his fears about reoffending. VRP at 367-68.

Overall, the State's evidence showed that Howell pursued inappropriate relationships with, and offended against, girls between the ages of 12 and 14 for a period of time spanning

[3] As mentioned earlier, Howell admitted to having phone sex with one of the children. VRP 348-49.

decades.[4] His offense history includes the exact offense specified in the jury instructions. This evidence of sexual misconduct within the requisite age range is probative of future dangerousness within that range. *Turay*, 139 Wn.2d at 401.

The evidence also showed that Howell worried about his inability to control his sexual urges and remained an untreated sex offender who desired to be civilly committed. Howell's sexual offending was not suppressed or deterred by sanctions or community supervision. Finally, the evidence showed that an expert believed that, based on Howell's history, Howell is likely to engage in predatory acts of sexual violence if not confined in a secure facility, and, even Howell's expert believed that he is an opportunistic offender who previously offended against children because the opportunity presented itself.

[4] Howell takes issue with the Court of Appeals' reference to girls "under fourteen years old." Petition at 10. In context, this is simply shorthand for "older than 12 but younger than 14." Howell's youngest known victims or targets were 12 years old.

Taking the evidence and the inferences in the light most favorable to the State, this Court should conclude that any rational trier of fact could find beyond a reasonable doubt that the State met its burden on the third element as defined by the jury instructions.

V. CONCLUSION

Howell's petition does not implicate a substantial public interest and he does not advance any other consideration warranting review. The Court of Appeals correctly held that the jury's verdict was supported by sufficient evidence. Accordingly, this Court should deny his petition for review.

This document contains 4,858 words, excluding the parts of the document exempted from the word count by RAP 18.17.

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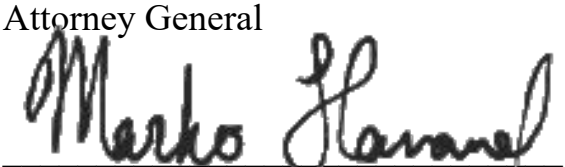
RESPECTFULLY SUBMITTED this 28th day of March, 2024.

ROBERT W. FERGUSON
Attorney General



MARKO HANANEL, WSBA #56592
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NO. 102841-5

SUPREME COURT OF THE STATE OF WASHINGTON

In Re Detention of: ROBERT A. HOWELL, Appellant.	DECLARATION OF SERVICE

I, Malia Anfinson, declare as follows:

On March 28, 2024, I sent via electronic mail, per service agreement, a true and correct copy of Answer to Petition for Review and Declaration of Service, addressed as follows:

Jodi R. Backlund
Backlund & Mistry
backlundmistry@gmail.com

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 28th day of March, 2024, at Seattle, Washington.

MALIA ANFINSON

WASHINGTON STATE ATTORNEY GENERAL'S OFFICE - CRIMINAL JUSTICE DIVISION

March 28, 2024 - 9:14 AM

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	102,841-5
Appellate Court Case Title:	In the Matter of the Detention of: Robert A. Howell
Superior Court Case Number:	21-2-00180-5

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