

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	
Petitioner,)	Supreme Court No. _____
)	Court of Appeals No. 74677-4-1
vs.)	
)	
WENDY GRANATH,)	MOTION FOR ACCELERATED
)	REVIEW
Respondent.)	
_____)	

1. IDENTITY OF MOVING PARTY

The State of Washington, Petitioner, seeks the relief designated in part 2.

2. STATEMENT OF RELIEF SOUGHT

The State of Washington requests accelerated review of the State's petition for review, and, if the petition is granted, accelerated review of the decision below pursuant to RAP 18.12.

3. FACTS RELEVANT TO MOTION

RCW 10.99.050 authorizes courts to issue special post-conviction domestic violence no-contact orders ("DVNCOs"), the knowing violation of which is a separate criminal offense. Consonant with chapter 10.99 RCW's emphasis on protecting

victims of domestic violence, Washington's trial courts handle thousands of domestic violence prosecutions each year, and routinely impose DVNCOs under RCW 10.99.050 for the maximum period they believe to be allowed by law.

District courts are authorized to suspend all or part of a defendant's sentence for up to five years in domestic violence cases. RCW 3.66.068(1)(a). Until the Court of Appeals' recent published opinion in this case, State v. Granath, No. 74677-4-I (July 31, 2017), RCW 10.99.050 was widely understood to allow misdemeanor sentencing courts to enter DVNCOs for the maximum term the court could suspend the sentence, regardless of whether the sentence was actually suspended for that long. Even the model DVNCO form on the Washington Courts website sets five years as the default length of the order unless a shorter term is specified.

See WPF NC 02.0100, available at

<http://www.courts.wa.gov/forms/?fa=forms.contribute&formID=86>.

In State v. Granath, No. 74677-4-I (July 31, 2017), the Court of Appeals interpreted the language of RCW 10.99.050 and held, for the first time, that once a defendant's suspended sentence ends, any DVNCO issued under RCW 10.99.050 expires and must

paramount importance.¹ Thousands of plea agreements and misdemeanor sentences have been crafted on the belief that a DVNCO could remain in place up to maximum term of a court's sentencing authority regardless of whether the sentence is actually suspended for that long. Prosecutors and victims have sometimes agreed to little or no post-sentencing jail time in exchange for the defendant's agreement to a long DVNCO. Judges have crafted sentences believing that the ability to enforce a DVNCO through criminal prosecution for years to come provided a sufficient safety net to justify accepting a defendant's assurances that further incarceration was unnecessary as a deterrent. Other judges have terminated suspended sentences early, as soon as any affirmative conditions (e.g. fines, treatment, or community service) were completed, on the belief that doing so would reward the defendant's recent good behavior without lessening the victim's protection under the DVNCO.

Now, under Granath, any defendant who was sentenced more than 364 days ago and who does not have a suspended

¹ The purpose of chapter 10.99 RCW "is to recognize the importance of domestic violence as a serious crime against society and to assure the victim of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide." RCW 10.99.010

sentence still in effect is entitled to have the DVNCO recalled immediately. Some may even use Granath to argue that recall is necessary in unsuspended sentences as soon as the term of confinement ends, even if that is well short of 364 days after sentencing. There is also confusion about whether courts are obligated or entitled to recall DVNCOs invalidated by Granath sua sponte. With every recall of a DVNCO earlier than the sentencing court originally intended, there are profound consequences for victims.

Should this Court eventually reverse the Court of Appeals' decision, these recalls pursuant to Granath would become unwarranted and the State would be entitled to have the DVNCOs reinstated. The logistical challenges of keeping track of any recalls that occur pursuant to Granath while review is pending before this Court—not to mention the challenges involved in getting the DVNCOs reinstated should this Court reverse the Court of Appeals—are formidable and will come at great cost to the State and the courts, as well as victims.

Until this Court either denies the State's petition for review or renders a final decision on the merits, uncertainty—with all the

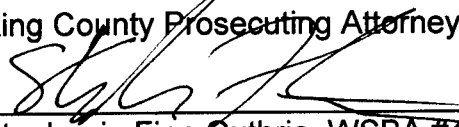
accompanying monetary and nonmonetary costs to victims, defendants, the State, and the courts—will abound. Accelerated review is therefore appropriate.

5. CONCLUSION

For the foregoing reasons, this Court should exercise its discretion under RAP 19.12 to accelerate consideration of the State's petition for review, and if it is granted, to accelerate review of the Court of Appeals' decision.

Submitted this 23rd day of August, 2017.

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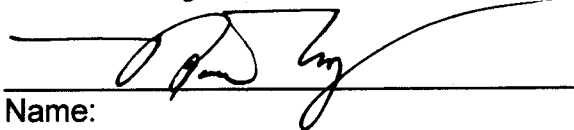
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Certificate of Service by Electronic Mail

Today I directed electronic mail addressed to Christine Jackson, the attorney for the respondent, at Christine.Jackson@kingcounty.gov, containing a copy of the MOTION FOR ACCELERATED REVIEW, in State v. Wendy Granath, Court of Appeals Cause No. 74677-4, in the Court of Appeals, Division I, for the State of Washington.

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

Dated this 23 day of August, 2017.

A handwritten signature in black ink, appearing to be "D. S. King", written over a horizontal line.

Name:

Done in Seattle, Washington

KING COUNTY PROSECUTOR'S OFFICE - APPELLATE UNIT

August 23, 2017 - 12:51 PM

Filing Petition for Review

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: Case Initiation
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