Supreme Court No. 1002319
Court of Appeals Court No. 808354
King Co. Superior Court Cause No. 10-2-34403-9 SEA

WASHINGTON STATE SUPREME COURT

CHANNARY HOR,

Respondent/Cross-Petitioner,

vs.

CITY OF SEATTLE, et al.,

Petitioner/Cross-Respondent.

HOR'S RESPONSE TO PETITION FOR REVIEW AND CROSS PETITION

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IDENTITY OF RESPONDENT/CROSS-PETITIONER

This answer to the petition for review and cross-petition is submitted on behalf of Channary Hor (pronounced "Har").

COURT OF APPEALS DECISION

The Court of Appeals remanded for a determination whether relief from judgment should be granted. *Hor v. Seattle*, 477 P.3d 514 (2020), *amended*, 493 P.3d 151 (2021).

ISSUES PRESENTED FOR REVIEW

1. CR 60(b)(4) provides for relief from a final judgment based on "[f]raud … misrepresentation, or other misconduct of an adverse party[.]" (Brackets added.) Under this rule, do perjured statements by a tortfeasor-defendant in pleadings, discovery and sworn testimony regarding what is admittedly the "crux" and "center piece" of a plaintiff's civil liability claim require relief from judgment when the perjured statements are not denied or rebutted? Or, does such a showing merely warrant remand for discovery and an evidentiary hearing on relief from judgment?

2. ER 801(d)(2)(i) provides that "[a] statement is not hearsay if … [t]he statement is offered against a party and is … the party's own statement[.]" (Brackets & ellipses added.) Do statements of a defendant otherwise admissible under this rule become inadmissible simply because the defendant dies?

3. ER 804(b)(3) provides that "[a] statement which … so far tended to subject the declarant to civil or criminal liability … that a reasonable person in the declarant's position would not have made the statement unless the person believed it to be true" is not excluded by the hearsay rule if the declarant is unavailable as a witness. (Brackets & ellipses added.) Under this rule:

   a. Are statements by a deceased declarant admitting to the "crux" and "center piece" of a plaintiff's civil liability claim against him admissible when such statements subjected him to liability, regardless of whether the declarant is insured or indemnified for the liability?

   b. Are statements by a deceased declarant that he provided false testimony about the "crux" and "center piece" of the plaintiff's civil liability claim admissible when such statements subjected him to criminal liability for first degree perjury, RCW 9A.72.020(1), and false swearing, RCW 9A.72.040(1)?

STATEMENT OF THE CASE

Hor was rendered quadriplegic in a motor vehicle collision caused in part by negligent police pursuit of a vehicle in which she was riding as a passenger. She filed suit against the driver of the vehicle, the City of Seattle, and the city police officers involved in the pursuit, Arron Grant and Adam Thorp. The City and its officers admitted, and the superior court ruled,

that Hor was completely innocent and fault-free. CP 91 & 160. The City and its officers further admitted that the question whether they were involved in a pursuit was the "crux" and "center piece" of Hor's claim against them. CP 140, 145 & 169.

The City and its officers defended the lawsuit on grounds that no pursuit took place, denying the existence of a pursuit in pleadings, CP 71-72 & 141-42; sworn declarations, CP 80-81 & 85-86; deposition testimony, CP 101, 103-04, 108 & 117; written discovery responses, CP 136; argument, CP 167, 171-72 & 530; and sworn trial testimony, CP 233, 242, 244 & 247. The parties' expert witnesses differed over whether a pursuit took place, but the City's experts relied in part on Grant's testimony for their opinions. CP 1111-13 & 1116-17. The City's experts otherwise conceded that a pursuit would have been improper under the circumstances. CP 1114-15.

Based on this evidence, the jury found that the City and its officers were not liable for Hor's injuries and the superior court entered judgment in their favor. CP 1013-16 & 1075-77.

The Court of Appeals affirmed the judgment on direct appeal and this Court denied review. *Hor v. Seattle, noted at* 189 Wn. App. 1016, 2015 WL 4610822 (Aug. 3, 2015), *rev. denied*, 185 Wn. 2d 1009, 366 P.3d 1245 (2016).[1]

Hor subsequently learned that Grant committed suicide, apparently because of guilt about perjuring himself in her case. Specifically, he felt guilty about denying the existence of a pursuit and testifying unequivocally about when he turned his lights and siren off and on—a fact crucial to establishing that a pursuit occurred and the fleeing driver's perception that he was being pursued—even though Grant did not remember when he turned his lights off and on. Before, during and after his trial testimony in Hor's case, Grant told coworkers, supervisors, and others about being pressured to perjure himself. CP 823-25, 830-32, 1992-2000 & 2185-86. He shared feelings of anguish

[1] Although Grant and Thorp were removed from the caption before trial, they remain as parties. *Hor*, 2015 WL 4610882, at *7.

because he "betrayed the badge and the oath [he] took." CP 2000 (brackets added).

Hor learned that Grant was pressured to perjure himself from an article in the *Tacoma News Tribune* entitled "Suicidal Lakewood police officer brooded over his testimony in lawsuit, colleagues say," which was published on May 3, 2017, and made this information public for the first time. CP 783-88 & 790-92. After retaining counsel, obtaining files related to her lawsuit, conducting an investigation regarding the grounds for relief from judgment, requesting pertinent public records, assembling evidence regarding Grant's perjury, and petitioning for appointment of an administrator of Grant's estate, Hor sought leave from the appellate courts to obtain relief from judgment; substituted Grant's estate as a defendant, CP 2369-71; and brought a motion for relief from judgment in the superior court, CP 19-45.

The superior court denied Hor's motion for relief from judgment, primarily on grounds that Grant's admissions of

perjury were not admissible as statements of a party-opponent admissible under ER 801(d)(2)(i) or statements against interest admissible under ER 804(b)(3). CP 2286. The court also concluded that, even if admissible, the evidence was insufficient to justify relief from judgment, or even discovery in aid of relief from judgment. CP 2286-87.

After this Court denied Hor's request for direct review, the Court of Appeals reversed the superior court's evidentiary rulings under both ER 801(d)(2)(i) and ER 804(b)(3) and remanded to "consider the CR 60 standards anew." *Hor*, 477 P.3d at 522. The Court of Appeals also authorized further discovery to provide a more comprehensive record. *Id.* After cross-motions for reconsideration, the court reached the same result but deleted its discussion of statements against interest under ER 804(b)(3), finding it unnecessary to reach the issue. *Hor*, 493 P.3d at 157-58. From this decision, the City, Grant's Estate, and Officer Thorp (collectively the "City") seek review.

ARGUMENT

A. Under CR 60, the instrumental values of finality and judicial economy are subordinate to the ultimate value of justice, especially where the underlying proceeding is tainted by perjury and other misconduct. This Court should accept review to grant Hor relief from judgment because the only evidence in the record shows that Officer Grant was pressured to perjure himself, and did in fact perjure himself, regarding the existence of a pursuit, which was admittedly the "crux" and "center piece" of this negligent pursuit case. The City, Grant's Estate, and Officer Thorpe did not submit any contrary evidence, so there is no reason to remand for anything other than a new trial on the merits. Review is warranted under RAP 13.4(b)(4) because this issue implicates the integrity and legitimacy of the judicial system.

The City argues that the Court of Appeals erred in remanding Hor's motion for relief from judgment for consideration "anew" on grounds of finality and judicial economy, which the City believes require deference to the superior court's denial of relief from judgment. The City contends that this is "an issue of substantial public interest that should be determined by [this] Court" under RAP 13.4(b)(4)

(brackets added). Hor agrees that review is warranted under this rule, but for different reasons.

Instrumental values of finality and judicial economy are subordinate to the ultimate value of justice. Finality and judicial economy are not ends in themselves. They are merely means to serve the ultimate value of justice, which is an end in itself. "Finality of judgments is a central value in the legal system, but circumstances can arise where finality must give way to the greater value that justice be done." *Shandola v. Henry*, 198 Wn. App. 889, 895, 396 P.3d 395, 399 (2017). "CR 60(b) is concerned with when finality must give way in order for justice to be done." *Id.*, 198 Wn. App. at 898-99.

Grant's admissions of perjury justify relief from judgment under CR 60(b), especially in the absence of any countervailing evidence. CR 60(b)(4) provides in pertinent part: "[o]n motion and upon such terms as are just, the court may relieve a party … from a final judgment … for … Fraud (whether heretofore denominated intrinsic or extrinsic),

misrepresentation, or other misconduct of an adverse party[.]" (Brackets & ellipses added; parens. in original.) The party seeking relief from judgment under CR 60(b)(4) does not need to prove the nine elements of civil fraud. *Mitchell v. Washington State Inst. of Pub. Policy*, 153 Wn. App. 803, 825, 225 P.3d 280 (2009), *rev. denied*, 169 Wn.2d 1012 (2010). "Perjured testimony and the use of false documents at a hearing or trial are the classic examples of intrinsic fraud supplying grounds for relief" under CR 60(b)(4). 4 Wash. Prac., Rules Practice CR 60 (6th ed.); *accord Yankee v. Jerome-Pierre*, 2019 WL 1112463, at *2 (Wn. App., Div. 1, Mar. 11, 2019) (stating "[t]ypical examples of [fraud within the meaning of CR 60(b)(4)] include perjured testimony"; brackets added); *Hannigan v. Novak, noted at* 197 Wn. App. 1017, 2016 WL 7379259 (Wn. App., Div. 2, Dec. 20, 2016) (stating "the appropriate avenue for relief from a judgment obtained by perjury would be to make a motion in the trial court under CR 60(b)(4)" rather than direct appeal); *Mitchell*, 153 Wn. App.

at 824-26 (affirming relief from judgment under CR 60(b)(4) based on false documentation submitted in support of cost bill); *In re Marriage of Himes*, 136 Wn. 2d 707, 736-37, 965 P.2d 1087, 1102 (1998) (affirming relief from judgment under CR 60(b)(4) based on false declaration in support of service by publication).[2]

CR 60(b)(4) "is aimed at judgments which were unfairly obtained, not at those which are factually incorrect." *Peoples State Bank v. Hickey*, 55 Wn. App. 367, 372, 777 P.2d 1056, 1058, *rev. denied*, 113 Wn. 2d 1029 (1989). The moving party must merely show that it was prevented from fully and fairly presenting its case. *Id.*, 55 Wn. App. at 372; *accord Coogan v.*

[2] Pre-rule case law held that perjury does not justify relief from judgment because it is a form of intrinsic fraud. *Zapon Co. v. Bryant*, 156 Wash. 161, 168, 286 P. 282, 285 (1930) (stating "[a] judgment cannot be set aside for perjury in obtaining it unless there is in addition some collateral fraud; citing prior Washington case law). However, the abolition of the distinction between intrinsic and extrinsic fraud in the text of CR 60(b)(4) renders this case law inapplicable. *In re Marriage of Mahalingam*, 21 Wn. App. 228, 231, 584 P.2d 971 (1978) (distinguishing pre-rule cases on this basis).

Borg-Warner Morse Tec Inc., 197 Wn.2d 790, 821, 490 P.3d 200, 219 (2021) (citing rule and tracing it to *Hickey*). "A new trial based upon the prevailing party's misconduct does not require a showing the new evidence would have materially affected the outcome of the first trial." *Taylor v. Cessna Aircraft Co., Inc.*, 39 Wn. App. 828, 836, 696 P.2d 28, *rev. denied*, 103 Wn. 2d 1040 (1985). The rationale is that "a litigant who has engaged in misconduct is not entitled to 'the benefit of calculation, which can be little better than speculation, as to the extent of the wrong inflicted upon his opponent.'" *Id.* (quotation omitted); *accord Roberson v. Perez*, 123 Wn. App. 320, 336, 96 P.3d 420 (2004), *rev. denied*, 155 Wn. 2d 1002 (2005) (quoting rule and rationale of *Taylor* as controlling); *Mitchell*, 153 Wn. App. at 825 (citing *Taylor* with approval for the proposition that "[t]he trial court may grant relief under CR 60(b)(4) without considering the probable effect of the misconduct on the trial's outcome"; brackets).

While a showing that the result of trial would have been different is not necessary, it cannot seriously be disputed that, if Grant had admitted to the jury that he was engaged in a pursuit—as he admitted to his fellow officers before, during, and after trial—it would have had a significant effect on Hor's presentation of her case and the jury's verdict. In arguing that Hor had a full and fair opportunity to present her case, the City ignores the fact Grant was the key witness at trial and that the existence of a pursuit was admittedly the "crux" and "center piece" of her case.

In addition, the City fails to acknowledge the importance of the oath violated by Grant when he perjured himself in his sworn declarations, deposition testimony, and trial testimony. "Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so." ER 603. This rule is grounded in the requirements of

Washington Constitution, Art. I, § 6. *Nirk v. City of Kent Civil Serv. Comm'n*, 30 Wn. App. 214, 217-18, 633 P.2d 118, 120, *rev. denied*, 96 Wn. 2d 1023 (1981). "The primary function of requiring witnesses to be sworn is to add an additional security for credibility by impressing upon them their duty to tell the truth, and to provide a basis for a charge of perjury." *Id.* at 218. "[T]he administration of an oath is significant in arriving at the truth" and permits the court to "presume that the evidence presented is truthful." *Id.* at 218 & 220 (brackets added). Unsworn testimony is a violation of due process and fundamentally unfair. *Id.* at 221 (involving testimony before municipal civil service commission); *In re Ross*, 45 Wash.2d 654, 277 P.2d 335 (1954) (summarily reversing parental termination order because witnesses were not sworn). If unsworn testimony—which could nonetheless be truthful—is fundamentally unfair, perjured testimony is even more so.

Under these circumstances, the Court should grant relief from judgment. Remanding for further proceedings rather than

a new trial on the merits would be contrary to the instrumental values of finality and judicial economy because the City has submitted no contrary evidence.[3] The superior court judge who ruled on Hor's motion for relief from judgment did not preside over the underlying month-long trial and the motion was decided solely on a documentary record. This Court is in an equally good position to determine whether relief from judgment is warranted. Remanding for further proceedings would also be contrary to the ultimate value of justice because

[3] Grant's admissions of perjury were widely discussed while he was still alive, while he had every opportunity and incentive to deny them if they were not true. If he had not admitted perjuring himself, it would have been a simple matter for the City to obtain declarations from family, friends, and co-workers to that effect. Its choice not to do so is revealing. *Beck v. Dye,* 200 Wash. 1, 11, 92 P.2d 1113 (1939) (stating "[t]he rule is that where a definite statement of a matter of fact is made in the presence or hearing of a party, so that he understands it, in regard to facts affecting him or his rights, and the statement is of such a nature as to call for a reply, and the party addressed is possessed of knowledge concerning the matter referred to, and is not physically disabled from answering, the statement, in connection with a total or partial failure to reply, is admissible in evidence as tending to show a concession of the truth of the facts stated"); 5B Wash. Prac., Evidence Law *&* Practice § 801.43 (6thed.) (quoting *Beck*).

undisputed evidence of perjury by the key witness about the "crux" and "center piece" of the case undermines the integrity and legitimacy of the judicial system and calls for a definitive response from this Court. RAP 13.4(b)(4).

B. Contrary to the City, there is no conflict between the decision below and this Court's decision in *Erickson* regarding application of ER 801(d)(1) to wrongful death and survival actions, and this issue does not satisfy the criteria for review.

The Court of Appeals held that statements of a decedent are admissible in a survival action against the decedent's estate under ER 801(d)(2)(i), relying on its prior decision in *Estate of Miller*, 134 Wash. App. 885, 143 P.3d 315 (2006). *Hor*, 493 P.3d at 156. The City argues that the decision below (and presumably *Miller* as well) conflicts with this Court's decision in *Erickson v. Robert F. Kerr, M.D., P.S., Inc.*, 125 Wn.2d 183, 192, 883 P.2d 313, 318 (1994), holding that statements of a decedent are not admissible in a wrongful death action against the beneficiaries of such an action. In actuality, there is no

conflict given the differences between wrongful death and survival actions.

ER 801(d)(2)(i) provides in pertinent part that "[a] statement is not hearsay if … [t]he statement is offered against a party and is … the party's own statement[.]" (Brackets & ellipses added.) The term "party" as it appears in the rule is not separately defined. However, the drafters of the rule did not intend to make a substantive change from prior law regarding admissions of party-opponents. Judicial Council Task Force on Evidence, Comment 801, 91 Wn. 2d 1163 (1978) (citation omitted), *reprinted in* 5B Wash. Prac., Evidence Law & Practice § 801.1 (6th ed.); *see also State v. O'Connor*, 119 Wn. App. 530, 541, 81 P.3d 161, 166 (2003), *aff'd*, 155 Wn. 2d 335, 345, 119 P.3d 806 (2005) (describing persuasive value of drafter's comments).

"The vast majority of the Evidence Rules … can best be described as 'similar to' or 'consistent with' prerule Washington law." 5 Wash. Prac., Evidence Law & Practice §

101.8 (6th ed.) (ellipses added). Washington courts continue to rely on common-law rules, including common-law rules regarding hearsay evidence, as persuasive authority following adoption of the *Evidence Rules*.[4]

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[4] *State v. Pavlik*, 165 Wn. App. 645, 653, 268 P.3d 986, 990 (2011), *rev. denied*, 174 Wn. 2d 1009 (2012) ("the result under the modern rules is the same as at common law—a party's statements could be offered against him, but the party could not offer his own statements on his own behalf"); 5B Wash. Prac., Evidence Law & Practice § 802.3 & nn.11-12 (6th ed.) (stating "courts have been persuaded to apply a common-law hearsay exception despite Rule 802," citing the "fact of complaint" rule and statements identifying a person as examples); *id.* § 801.29 & n.12 (noting post-*Evidence Rules* Washington case following identification exception to hearsay rule "based on its interpretation of the common law"; citing *State v. Howard*, 127 Wn. App. 862, 870, 113 P.3d 511 (2005), *rev. denied*, 156 Wn. 2d 1014 (2006)); *State v. McDaniel*, 155 Wn. App. 829, 847 n.14, 230 P.3d 245, *rev. denied*, 169 Wn. 2d 1027 (2010) (citing *Howard* for this proposition and confirming common-law basis for decision); 5C Wash. Prac., Evidence Law & Practice § 803.7 & nn.7-8 (6th ed.) (stating the common-law "fact of complaint" exception to the hearsay rule "has been cited in many recent cases as controlling, and it is unlikely that the courts will abandon it any time soon"; citing multiple cases); *id.* § 803.32 (noting relationship between ER 803(a)(6) & Ch. 5.45 RCW, the business records exception to the hearsay rule, and the common-law "shop book rule"); *id.* § 803.60 & nn.2-3 (stating ER 803(a)(16), regarding ancient documents,

Before adoption of the *Evidence Rules*, this Court held that statements of deceased persons are admissible in survival actions against the representatives of their estates. *Plath v. Mullins*, 87 Wash. 403, 151 P. 811 (1915). Testimony regarding the decedent's statements is "competent evidence" in such actions. *Id.*, 87 Wash. at 317. While the finder of fact is cautioned to subject such evidence to "careful scrutiny" to avoid error or abuse, there is no question that the evidence is admissible. *Plath*, 87 Wash. at 409; *accord Loundry v. Lillie*, 149 Wash. 316, 317, 270 P. 1029 (1928); *Doneen v. Doneen*, 134 Wash. 271, 235 P. 797 (1925). Testimony about the decedent's statements can even have "great probative force" when attested by a sufficient number of witnesses. *Loundry*, 149 Wash. at 317 ("Three or four different witnesses …").

Following the adoption of the *Evidence Rules*, this Court has not revisited the admissibility of statements of decedents in

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"reflects the traditional common law exception" to the hearsay rule).

survival actions. In *Erickson*, the Court held such statements inadmissible in a wrongful death action brought by the beneficiaries in their individual capacities. 125 Wn.2d at 192. The Court recognized the distinction between the admissibility of such statements against the beneficiaries of a wrongful death action as distinguished from the estate in a survival action. However, the Court did not address admissibility in the context of a survival action because it was not preserved. *Id.* at 192 (noting "no objection was made or preserved on [the estate's] behalf"; brackets added).

In *Miller*, the Court of Appeals confirmed that the common-law approach retains its vitality under the *Evidence Rules* and held statements of a decedent admissible in a survival action against the decedent's estate. 134 Wn. App. at 895. This result follows from the nature of a survival action, where the rights and obligations of the decedent are transmitted intact to the personal representative of their estate by operation of law. RCW 4.20.046. This is unlike a wrongful death action, which

vests in the beneficiaries on the date of the decedent's death. *Gray v. Goodson*, 61 Wn.2d 319, 326-27, 378 P.2d 413, 417 (1963). The wrongful death action does not exist beforehand and is brought by the personal representative of the estate "only in a nominal capacity since the right is to be asserted in favor of the members of the class of beneficiaries." *Id.*, 61 Wn.2d at 326.

The reason that claims against the decedent survive against the personal representative of his or her estate is to remedy the common law "anomaly" that terminated an action upon the death of the tortfeasor. *Otani ex rel. Shigaki v. Broudy*, 151 Wn. 2d 750, 755, 92 P.3d 192, 194 (2004) (regarding purpose of survival statute); *Boyd v. Sibold*, 7 Wn. 2d 279, 284, 109 P.2d 535, 537 (1941) (noting "[a]t common law, an action founded upon tort for unliquidated damages did not survive the death of the wrongdoer"; brackets added). It would perpetuate a form of this same anomaly if statements of a party-opponent were no longer admissible after the party died, making it more

difficult, if not impossible, to prove the claim. Given the lack of any conflict with this Court's decision in *Erickson*, the decision in *Miller*, and the solid conceptual basis for *Miller*, on which the Court of Appeals below relied, there is no basis for further review of the admissibility of statements of a decedent in a survival action against their estate.

C. If the Court accepts review of any evidentiary issue, the Court should confirm that statements against interest are admissible in civil cases under ER 804(b)(3) without the additional "trustworthiness" analysis required by the rule and the Confrontation Clause in criminal cases.

ER 804(b)(3) provides:

> The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:
>
> ….
>
> (3) *Statement Against Interest.* A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless the person believed it to be true. *In a criminal case, a statement tending to expose the declarant to criminal liability is not*

> *admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement*.

(Ellipses & emphasis added.) In its initial decision, the Court of Appeals below determined that Grant's admissions of perjury were contrary to his "pecuniary … interest" within the meaning of this rule and remanded for the superior court to conduct the "trustworthiness" analysis referenced in the last sentence of the rule. *Hor*, 477 P.3d at 521.

Hor moved for reconsideration on grounds that the "trustworthiness" analysis is limited to criminal cases. "By its terms, the rule requires an independent showing of corroboration and trustworthiness only in criminal cases." 5C Wash. Prac., Evidence Law & Practice § 804.35 & n.1. "This independent showing is not required when a statement against interest is offered in a civil case." *Id.*

This Court applies a 9-factor test to determine the trustworthiness of statements against interest in criminal cases to satisfy the requirements of the Confrontation Clause of the

Sixth Amendment to the U.S. Constitution. *State v. Roberts,* 142 Wn.2d 471, 497, 14 P.3d 713 (2000). The Confrontation Clause provides "[i]n all ***criminal prosecutions***, the accused shall enjoy the right … to be confronted with the witnesses against him." U.S. Const. Amend. VI (brackets, emphasis & ellipses added). "By definition, confrontation clause issues arise only when a hearsay statement is offered by the prosecution" against an accused. *Id.*, 142 Wn.2d at 497 n.8. The 9-factor test does not apply when an admission against interest is offered by the accused him- or herself because the Confrontation Clause is inapplicable under these circumstances. *Id.* at 497. There is a "presumption of admissibility and not exclusion" when the Confrontation Clause is not implicated. *Id.* at 497. This includes civil cases such as this one. *Aiken v. Aiken*, 187 Wn.2d 491, 501, 387 P.3d 680 (2017).

In response to the motion for reconsideration, the Court issued a new opinion that deleted its discussion of ER 804(b)(3), and stated that it was unnecessary to reach the issue

in light of its decision regarding the admissibility of statements of the decedent against their estate under ER 801(d)(2)(i). *Hor*, 493 P.3d at 157-58. If the Court accepts review of any evidentiary issues, it should also review the admissibility of Grant's statements against interest under ER 804(b)(3).

CONCLUSION

This Court should accept review, grant relief from judgment, and remand for a new trial on the merits.

This document contains 4,963 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Respectfully submitted this 22nd day of October, 2021.

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CERTIFICATE OF SERVICE

The undersigned does hereby declare the same under oath and penalty of perjury of the laws of the State of Washington:

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