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SUPREME COURT
STATE OF WASHINGTON
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No. 100355-2

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

TAMEE MARIE PURDY,

Petitioner.

ANSWER TO
PETITION FOR REVIEW

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I. IDENTITY OF RESPONDENT

The State of Washington, respondent, asks that review be denied.

II. STATEMENT OF THE CASE

The facts are correctly set out in the Court of Appeals opinion.

III. ARGUMENT

A. THE COURT OF APPEALS CORRECTLY UPHELD THE EXCLUSION OF EVIDENCE THAT WAS AT MOST ONLY MARGINALLY RELEVANT.

The petitioner asks this court to review the exclusion of evidence. Such review involves two steps. First, the trial court's evidentiary rulings are reviewed for abuse of discretion. The appellate court will then review de novo whether those rulings violated the defendant's Sixth Amendment rights. State v. Arndt, 194 Wn.2d 784, 797-98 ¶¶ 24-25, 453 P.3d 696 (2019).

The Court of Appeals followed this analysis. It first determined that the trial court did not abuse its discretion

in holding the evidence irrelevant. Slip op. at 15-16. It then held that the evidence was not of sufficiently high probative value to require its admission. Slip op. at 16.

Under the circumstances of this case, the conclusion as to relevance essentially resolves the constitutional issue as well.

[A] defendant has no right to present irrelevant evidence. And the Constitution permits judges to exclude evidence that is repetitive[,] only marginally relevant[,] or poses an undue risk of harassment, prejudice, or confusion of the issues.

State v. Orn, 197 Wn.2d 343, 352 ¶ 16, 482 P.3d 913 (2021). Since the evidence here was at most only marginally relevant, excluding it was not a constitutional violation.

The petitioner claims, however, that the Court of Appeals applied the wrong standard for a Sixth Amendment violation. The court said that such a violation requires a showing that the excluded evidence had “extremely high probative value.” Slip op. at 16, quoting

State v. Case, 13 Wn. App. 2d 657, 669 ¶ 28, 466 P.3d 799 (2020). That analysis as well is consistent with Orn. This court said that if evidence is not “critically important,” its exclusion is reviewed for abuse of discretion. Orn, 197 Wn.2d at 353 ¶ 17. The Court of Appeals’ application of this standard does not warrant review.

B. THE COURT OF APPEALS APPLIED ESTABLISHED LAW IN ADMITTING EVIDENCE OF THE PETITIONER’S ACTIONS AND STATEMENTS CLOSE IN TIME TO THE ASSAULT.

The trial court admitted evidence of the petitioner’s statements and actions shortly before and after the charged assault. The Court of Appeals held that the evidence of pre-assault conduct was admissible under the “same transaction” or “res gestae” doctrine. Slip op. at 11-13. That doctrine allows the State to “complete the story of the crime on trial by proving its immediate context of happenings near in time and place.” State v. Lane, 125 Wn.2d 825, 831, 889 P.2d 929 (1995). The court’s application of that doctrine does not warrant review.

With regard to the post-arrest statements, the Court of Appeals cited a case holding similar statements to show the defendant's "state of mind and hostility toward the officer." Slip op. at 13, citing State v. Dillon, 12 Wn. App. 2d 133, 150, 456 P.3d 1199 (2020). "Both prior and subsequent hostile acts or declarations have been found admissible, to issues of motive, malice, deliberation and state of mind, where relevant to such conditions as of the time of the offense." State v. Finch, 137 Wn.2d 792, 822, 975 P.2d 967 (1999) (plurality op.). This doctrine has been applied to evidence of hostility to a group of which the victim was a member. See State v. Arredondo. 188 Wn.2d 244, 260-61 ¶¶ 33, 394 P.3d 348 (2017) (acts showing hostility towards the victim's gang). Again, the application of this doctrine does not warrant review.

IV. CONCLUSION

The petition for review should be denied.

This Answer contains 609 words (exclusive of appendices, title sheet, table of contents, table of authorities, certificate of service, and signature blocks).

Respectfully submitted on November 17, 2021.

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IN THE SUPREME COURT
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TAMEE MARIE PURDY,

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SIGNED IN SNOHOMISH, WASHINGTON, THIS 18th DAY OF NOVEMBER, 2021.



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SNOHOMISH COUNTY PROSECUTOR'S OFFICE

SNOHOMISH COUNTY PROSECUTOR'S OFFICE

November 18, 2021 - 8:05 AM

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