

FILED
SUPREME COURT
STATE OF WASHINGTON
10/11/2023 2:35 PM
BY ERIN L. LENNON
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NO. 102312-0

SUPREME COURT OF THE STATE OF WASHINGTON

JOHN PATRICK BLACKMON,

Petitioner,

v.

MELISSA ANDREWJESKI, et al.,

Respondents.

**ANSWER TO MOTION FOR DISCRETIONARY
REVIEW**

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The Respondents, respectfully request the Court deny Blackmon's motion for Discretionary Review.

I. STATEMENT OF THE CASE

Blackmon filed his Petition for Writ of Mandamus in Franklin County Superior Court Cause No. 22-2-50371-1. Respondents filed a Motion to Dismiss, which was granted on November 2, 2022. Blackmon appealed the decision denying his writ of mandamus and dismissing his case to the Court of Appeals, Division Three. It was assigned Case No. 39220-1-III. As part of that appeal he petitioned the Supreme Court for expenditure of public funds. Washington Supreme Court Case No. 101510-1. The Court denied Blackmon in expenditure of public funds on February 8, 2023.

Blackmon subsequently requested that the Court in Division Three order the expenditure of public funds. The Court declined to grant the request and ultimately dismissed the appeal on its on motion when Blackmon was failed to pay the necessary

fees as ordered. Blackmon filed a motion for reconsideration which was denied on August 2, 2023. This motion followed.

II. STANDARD OF REVIEW

The standard of review applied to a motion for discretionary review is set forth in RAP 13.4(b). RAP 13.5A(b). In order to be entitled to discretionary review, Blackmon must show that: 1) the decision by the Court of Appeals is in conflict with a decision of the Supreme Court; 2) the decision by the Court of Appeals is in conflict with another decision of the Court of Appeals; 3) the decision by the Court of Appeals involves a significant question of law under the Constitution of the State of Washington or of the United States; or 4) the Petition involves an issue of substantial public interest that should be determined by the Supreme Court. RAP 13.4(b).

III. ARGUMENT

Blackmon has not met his burden of showing that this case falls within any of the categories enumerated in RAP 13.4(b) for

discretionary review of an order dismissing his petition. The decision by the Court of Appeals is **NOT** in conflict with a decision of the Supreme Court. RAP 13.4(b)(1). This Court has already denied Blackmon expenditure of public funds on February 8, 2023.

The decision by the Court of Appeals is **NOT** in conflict with another decision of the Court of Appeals and the Court of Appeals acted within its authority in upholding that finding and dismissing the underlying appeal on its own motion based upon the ruling from the Washington State Supreme Court. RAP 13.4(b).

IV. CONCLUSION

Blackmon has not established that discretionary review is warranted under RAP 13.4(b). Based on the foregoing, Respondents respectfully request that Blackmon's Motion for Discretionary Review be denied.

V. CERTIFICATION

This document contains 432 words, excluding the parts of the document exempted from the word count by RAP 18.17.

RESPECTFULLY SUBMITTED this 11th day of October, 2023.

ROBERT W. FERGUSON
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s/ Kelly A. Fitzgerald

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused the foregoing Answer to Motion for Discretionary Review to be filed with the Clerk of the Court using the electronic filing system and that I caused the document to be mailed to the following non electronic filing participants:

JOHN BLACKMON
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I certify under the laws of the state of Washington that the foregoing is true and correct.

DATED this 11th day of October, 2023, at Spokane, Washington.

s/ Kelly A. Fitzgerald
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CORRECTIONS DIVISION ATTORNEY GENERAL'S OFFICE

October 11, 2023 - 2:35 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 102,312-0
Appellate Court Case Title: John Patrick Blackmon v. Melissa Andrewjeski, et al.
Superior Court Case Number: 22-2-50371-1

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