NO. 93441-0

THE SUPREME COURT OF THE STATE OF WASHINGTON

In re the Detention of George Edward Hancock, Jr.:

STATE OF WASHINGTON,

Respondent.

v.

GEORGE EDWARD HANCOCK, JR.,

Petitioner,

ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

George Edward Hancock Jr. has a long history of sexually assaulting young children dating from the 1970s until his most recent conviction in 1999. He has been convicted of at least two sexually violent offenses in Washington State. He seeks review of the June 28, 2016 decision by the Court of Appeals affirming his commitment as a Sexually Violent Predator (SVP). *In re Det. of Hancock*, No. 47336-4-II, 2016 WL 3599162, (Wash. Ct. App. June 28, 2016). The petition raises no issues of substantial public importance. Instead, this case involves the application of well-established law by the trial court in providing jury instructions that accurately and clearly describe the law, and in exercising discretion in admitting an illustrative exhibit that aided the State's expert in explaining his opinion.

II. COUNTERSTATEMENT OF THE ISSUES

This Court should deny review because the decision below does not meet any of the RAP 13.4(b) criteria. However, if the Court were to accept review, the following issues would be presented:

A. **Where the jury was accurately instructed on all of the statutory elements of a sexually violent predator petition, did the trial court err in declining to instruct the jury that the term "likely to reoffend" required a numerical determination when neither the statute nor the Washington Pattern Instruction uses a numerical equation?**

B. **Did the trial court abuse its discretion in allowing the State to use an illustrative exhibit that the State's expert relied on to**

explain his opinion of Hancock's risk level and where the court specifically instructed the jury regarding the limitation of use of illustrative exhibits?

III. COUNTERSTATEMENT OF THE CASE

A. Relevant Criminal Sexual History

George Hancock was convicted of Rape of a Child in the First Degree in Kitsap County in 1999 and Indecent Liberties Against a Child Under Age 14 in Thurston County in 1983. CP at 1-4. He was also convicted in California in 1988 for Lewd and Lascivious Acts on a Child Under the Age of 14, (CP at 3) and Communication with a Minor for Immoral Purposes in Spokane County in 1978. CP at 7. In July, 2014 the State filed a SVP petition against him when he was about to be released from prison after serving his sentence for the 1999 offense.

Hancock has admitted that he has always been sexually attracted to children. RP at 678. His attraction is specifically to young girls between the ages of four and ten. RP at 759. He has digitally and orally raped girls as young as five and six, forced them to suck his penis, touched them on their breasts, licked their buttocks, and was convicted of inserting a vibrator in the vagina of a six-year-old. RP at 679; 772-774; 787-90; 792-94; 833.

In 1979, in Spokane, Washington, Hancock put a six-year-old boy's penis in his mouth. CP at 7. When the boy was interviewed by law enforcement, he said that Hancock had also wanted the boy to put Hancock's

penis in his mouth. CP at 8. The boy said that it had happened several times, and that Hancock told him not to tell. CP at 8. Hancock initially denied the act, but eventually admitted that it happened one time. CP at 8. Hancock was charged with Indecent Liberties Against a Child Under the Age of Fourteen. He ultimately pleaded guilty to one count of Communication with a Minor for Immoral Purposes and was sentenced to three months of supervision. CP at 8.

In 1980 in Tumwater, Washington, several witness reported to law enforcement that Hancock was behaving inappropriately with two young girls, aged five and six. CP at 3-4. The witnesses indicated that he was "humping" the girls, having them suck his penis and rub his crotch. CP at 3. After being contacted by law enforcement, Hancock ran away from home. Two years later, when he was under investigation for another crime, he admitted that he had undressed one of the girls, played with her vagina with his fingers, and put his mouth on her vagina. CP at 4. He said he had engaged in this contact for about four or five months. CP at 4. During this interview, he admitted that he had done the same thing to another girl who was five while he was staying with her family, but this girl was never located. CP at 4. In December 1982, Hancock pleaded guilty to one count of Indecent Liberties Against a Child Under the Age of 14. CP at 4.

By 1988, Hancock had relocated to California. In June of that year, three young girls, one seven-year-old, and five-year-old twins, were diagnosed

with the sexually transmitted disease of gonorrhea.[1] CP at 4. The seven-year-old reported to law enforcement that "Eddie" had touched and licked her "peepee" and everywhere on her body. One of the twin five-year-olds reported that "Eddie" had kissed her vagina with his tongue. The other five-year-old said that he had touched her between the legs. Eddie was determined to be Hancock, whose full name is George Edward Hancock. CP at 6. Shortly after his initial denial, he admitted that he had been aroused to young girls for a long time. CP at 6. He admitted molesting the girls, with the exception of one of the twins. He acknowledged that he had such strong sexual feelings for girls, that sometimes he cannot remember what he had done. CP at 6. He admitted putting his fingers and tongue inside the girls' vaginas and rectum, but denied using his penis. CP at 6-7. Hancock was initially charged with fifteen counts of Lewd and Lascivious Conduct with a Minor Under the Ager of 14 and pleaded guilty to one count. CP at 7.

Hancock's most recent sexual offense took place in 1999, shortly after he was released on the 1988 offense. In Bremerton, Washington, where Hancock had relocated, a girl whom Hancock had been babysitting disclosed that he had touched her "peepee," kissed her on the lips, "peepee," butt, and breasts. CP at 2. She also reported that he had inserted a "buzzing thing" in her

[1] The trial court excluded any mention of the fact that Hancock had transmitted gonorrhea to the girls, ruling that the probative value was substantially outweighed by the prejudicial effect. CP at 736.

vagina that she described as red and rounded like a marker. CP at 2. She said Hancock had asked her to touch and lick his "peepee" but she had refused. CP at 2. This girl was examined by medical professional who determined that she had contracted gonorrhea,[2] and had "penetrating trauma based on decreased hymenal tissue." CP at 2. Hancock denied that he had ever touched the child and claimed he had never been alone with her. He was charged with three counts of Rape of a Child in the First Degree. CP at 3. He was found guilty of one count and sentenced to 171 months in prison. CP at 3. Hancock steadfastly denied committing this offense until part-way through the sexually violent predator trial, when for the first time he admitted sexually assaulting her. RP at 676-85. He was scheduled to be released on July 27, 2014 when the State filed this SVP petition.

B. The SVP Proceedings

The State retained Richard Packard, Ph.D., to evaluate Hancock. CP at 9. Dr. Packard is a licensed psychologist who specializes in the assessment and treatment of sexual offenders. CP at 9. He has frequently qualified as an expert in SVP proceedings in Washington. CP at 9. Dr. Packard reviewed over 2,200 pages of records pertaining to Hancock, including criminal history records, police reports, parole violation reports, victim

[2] As previously noted, all references to Hancock giving the children gonorrhea was excluded from the trial. CP at 736.

statements, and records from the Department of Corrections. CP at 9. He also interviewed Hancock twice, first in 2012 and then again in 2014.

During his interview, Hancock told Dr. Packard that he had a life-long arousal to kids: "As long as I can remember I've had problems with sexually abusing them." RP at 750. Hancock acknowledged to Dr. Packard that he currently found children sexually arousing, that he had sexual fantasies about children, and that he was trying not to masturbate to those fantasies. RP at 797-98.

In his deposition conducted a month before the commitment trial began, Hancock denied committing the 1999 offense. RP at 676-77; 683; 826. Mid-way through trial, he admitted for the first time that he had sexually assaulted the girl. RP at 676-85. Hancock's version of the extent of his sexual criminal history varied also. During the 1999 investigation, when asked how many girls he had touched, Hancock said he did not know because he had lost count. He told Dr. Packard that he thought he had molested "ten or perhaps more" children. RP at 797. Dr. Packard testified that he had read Hancock's prior statements where he had admitted molesting as many as 35 victims. RP at 799.

The case proceeded to trial in early February 2015. The State called Dr. Packard as its main witness. Dr. Packard testified that Hancock had a long history of offending with children. RP at 902-03. It was especially troubling

to Dr. Packard that Hancock was caught sexually assaulting several girls in 1988, and despite his previous conviction, he still believed no one had been harmed and thought the children were initiating the sexual contact. RP at 918.

After considering all of the voluminous information, Dr. Packard determined that Hancock met the criteria as an SVP, meaning that he suffers from a mental abnormality and or personality disorder that renders him likely to commit acts of sexual violence. CP at 9-12. At trial, Dr. Packard testified that Hancock meets the criteria for several disorders, listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM-V).[3] Dr. Packard diagnosed Hancock as suffering from, among other disorders, Pedophilic Disorder and Antisocial Personality Disorder. RP at 754; 813. Dr. Packard described Hancock's pedophilic disorder as "a fundamental orientation" that will be a "lifelong chronic problem" that is not likely to go away. RP at 803-804. Dr. Packard determined that both Hancock's mental abnormality and a personality disorder make him likely to commit predatory acts of sexual violence if not confined to a secure facility. RP at 826-30; 834; 941.

Dr. Packard assessed Hancock's risk for re-offense using, among other tools and psychological testing, the Static-99R. RP at 836. He determined that Hancock scored in the high risk group. RP at 860. Based on his dynamic risk factors, Hancock was appropriately compared to individuals

[3] American Psychiatric Ass'n, *Diagnostic and Statistical Manual of Mental Disorders,* (5th Ed.) (DSM-V).

in the "high risk/high needs" normative group on the actuarials. RP at 861-62. Of the individuals who scored similarly to Hancock in the high risk/high needs group, 42.8 percent were either charged or convicted of a new offense within 10 years. RP at 863. Hancock scored higher than 97.2 percent of all the sex offenders in the development sample. RP at 864. On the Violence Appraisal Guide (VRAG), another actuarial instrument used by Dr. Packard, Hancock scored in the highest group, and 90 percent of offenders in the development sample who scored the same were returned to a secure facility for a new offense within 15 years. RP at 880-81. Dr. Packard testified that the developers of the actuarials acknowledge that the results represent an underestimate of risk for re-offense. RP at 884.

At trial, the State used an illustrative exhibit to assist Dr. Packard in explaining how the actuarials were underestimates of risk. *See* RP at 882-84. Prior to allowing the jury to see Exhibit 44, the State submitted an offer of proof by having Dr. Packard testify about the exhibit and his testimony concerning the actuarial instruments. RP at 782-791. The exhibit helped Dr. Packard explain to the jury the concept that the actuarial instruments were unable to measure true risk because not all sexual offenses are reported, and of those that are reported, not all result in charges or convictions. RP at 782-791. Dr. Packard explained at length the concept that comparing Hancock to

group data about offenders who had been convicted did not tell an accurate picture of risk because there are an unknown number of undetected offenses.

Hancock urged the court to instruct the jury that "the term 'more likely than not' as used in these instructions means that the probability of respondent's reoffending exceeds 50%." CP 473. The court declined and instructed the jury in accord with the statute, that "likely to engage in predatory acts of sexual violence if not confined to a secure facility" means "the person more probably than not will engage in such acts if released unconditionally from detention." CP at 1074-1098. This is in accord with the Washington Pattern Instructions. WPI 365.14.

In late February 2015, a unanimous jury determined that Hancock was a sexually violent predator. He appealed the commitment and the Court of Appeals affirmed the commitment. *See Hancock*, 2016 WL 3599162. The Court of Appeals rejected Hancock's suggested mathematic formula for instructing the jury, holding that the trial court "followed the language of RCW 71.09.060(1) and RCW 71.09.020(7) nearly verbatim. Therefore, the trial court's instruction accurately states the law." *Hancock*, 2016 WL 3599162, at *4. The court further ruled that the trial court did not abuse its discretion in permitting the State's expert to rely on an illustrative exhibit that Hancock disliked and that Hancock's argument goes towards the weight of the evidence, not the admissibility. *Id.* at *6.

IV. REASONS REVIEW SHOULD BE DENIED

A. Standard Of Review

Pursuant to RAP 13.4(b), a petition for review will be accepted by the Supreme Court only:

> (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
> (2) If the decision of the Court of Appeals is in conflict with another decision of the Court of Appeals; or
> (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
> (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

RAP 13.4(b). Hancock seeks review of the two issues only under RAP 13.4(b)(4), arguing that the issues are of substantial public interest that should be determined by the Supreme Court. Petition at 9, 14. He is incorrect and review should be denied.

B. The Law Regarding Jury Instructions is Well-Settled and Does Not Merit Review by this Court

The petition fails to raise an issue of substantial public interest because this case involves a straightforward application of this Court's jurisprudence regarding failure to give proposed jury instructions. The standards for reviewing claims of failure to give a jury instruction are well-settled and are not challenged by Hancock. A trial court's refusal to give a proposed jury instruction is reviewed for an abuse of discretion.

In re Det. of Pouncy, 168 Wn.2d 382, 390, 229 P.3d 678 (2010). Jury instructions are sufficient when they allow parties to argue their case theories, do not mislead the jury and, when taken as a whole, properly inform the jury of the law to be applied. *Cox v. Spangler*, 141 Wn.2d 431, 442, 5 P.3d 1265 (2000). When read as a whole, jury instructions must make the applicable legal standard " 'manifestly apparent to the average juror ' " *State v. LeFaber*, 128 Wn.2d 896, 900, 913 P.2d 369 (1996) (quoting *State v. Allery*, 101 Wn.2d 591, 595, 682 P.2d 312 (1984)).

C. The Trial Court Properly Instructed The Jury Using The Statutory Definition Of A Sexually Violent Predator

Hancock argues that the jury should have been instructed that it was the State's burden to prove that Mr. Hancock's risk exceeds 50 percent. Pet. at 1, 9. This misconstrues both the statutory elements and the case law analyzing the statute. The Court of Appeals properly rejected his argument and found that "the trial court properly informed the jury of the applicable law and standard." *Hancock*, 2016 WL 3599162, at *4. The State's burden in civil commitment cases pursuant to RCW 71.09 is to prove beyond a reasonable doubt that the individual is "likely to engage in predatory acts of sexual violence if not confined in a secure facility." RCW 71.09.020(18). The jury was not, as Hancock suggests, left to guess

what this term meant, because the court properly instructed the jury according to the statute, as well as the Washington Pattern Instructions:

> The trial court instructed the jury that the State had the burden to prove each element beyond a reasonable doubt, including whether Hancock was " 'likely to engage in predatory acts of sexual violence if not confined to a secure facility.' " CP at 1082 (Jury Instruction No. 6). The trial court also instructed the jury that " 'likely to engage in predatory acts of sexual violence if not confined in a secure facility,' " means that Hancock "more probably than not will engage in such acts if released unconditionally from detention in this proceeding." CP at 1085 (Jury Instruction No. 9). The trial court's instructions followed the language of RCW 71.09.060(1) and RCW 71.09.020(7) nearly verbatim. Therefore, the trial court's instruction accurately states the law.

Hancock, 2016 WL 3599162, at *4.

While Hancock argues that the statutory phrase is not "manifestly clear" (Pet. at 10), his assertion is false. The court gave the attorneys freedom to explain what the "likely" requirement meant. The trial court permitted the experts to testify that the risk should be over 50 percent and allowed the attorneys to argue the same in closing. RP at 36-37. The jury thus had a very clear definition upon which to base its decision and they were not left to guess at its meaning. Hancock offers nothing to show that this is an incorrect statement of the law, because it is not, nor how it precluded him from arguing his theory of the case.

Despite his claim to the contrary (Pet. at 13), the court specifically allowed Hancock to make the numeric argument. RP at 34-36. Indeed, his

expert was able to testify about statistical percentages exactly as Hancock wished. RP at 1089; 1119; 1129; 1139. The trial court ruled that the parties were "free to argue about what 'more probably true than not'" means. 1 VRP at 34. Hancock presented evidence of his theory through his expert, Dr. Fisher. Dr. Fisher testified that " '[l]ikely means more likely than not or greater than 50 percent.' 8 VRP at 1089." *Hancock*, 2016 WL 3599162, at *5.

Hancock also asserts that the State argued below that "more probably than not" does not equate to a risk level greater than 50 percent and cites to CP 575-576 in support of this claim. Pet. at 7. The record does not support his contention. The cited reference is the State's response to Motions In Limine, and CP 575-76 is an analysis of *Brooks*.[4] The State was refuting Hancock's contention that the standard for determining risk in SVP cases requires a "*predicted recidivism rate* exceeding 50%." CP 575 (emphasis added). However, "predicted recidivism rates" are not the standard for commitment; likelihood of re-offense is the correct standard. The State was merely arguing that the actuarial results do not have to be over 50 percent to sustain a commitment. CP 575.

As he did below, Hancock now argues that the Supreme Court "held in *Brooks* that a jury was required to find that a person was more than 50% likely to reoffend." Pet. at 11. The Court of Appeals dispensed

[4] *In re Det. of Brooks*, 145 Wn.2d 275, 36 P.3d 1034 (2001).

with Hancock's flawed argument. "The *Brooks* court, however, did not address jury instructions and it did not hold that the 'more probably than not' standard is unclear." *Hancock*, 2016 WL 3599162, at *4 (citing *Brooks*, 145 Wn.2d at 284). The Court of Appeals correctly noted that "*Brooks* rejected the argument that chapter 71.09 RCW violated his due process and equal protection rights" and nowhere does the opinion "require the trial court to instruct the jury that 'more probably than not' means that the likelihood of Hancock engaging in predatory acts of sexual violence exceeds 50 percent. *See* WPI 365.14." *Hancock*, 2016 WL 3599162, at *5 (citing *Brooks*, 145 Wn.2d at 296–98).

The Court of Appeals ruled that the instructions accurately reflected the law and allowed Hancock to argue his theory of the case. *Hancock*, 2016 WL 3599162, at *5. The jury was properly instructed as to the legal requirements of the statute. Hancock has failed to show any basis for this Court's review.

D. The Trial Court Did Not Abuse Its Discretion When It Allowed The State To Use An Illustrative Exhibit During Expert Testimony To Explain Why The Actuarial Assessment Is An Underestimate Of An Individual's Risk

Hancock argues that it is a matter of substantial public interest whether the trial court admitted irrelevant and prejudicial evidence. Pet. at 14. Hancock's claim ignores the offer of proof the State provided before the trial

court ruled that the illustrative exhibit could be used, ignores the testimony explaining the exhibit, and ignores that the law regarding admission of illustrative exhibits is well-settled and not in controversy here. This Court should deny review because the trial court's proper and fact-bound use of discretion in allowing the State to use an illustrative exhibit to explain the expert's opinion is not an issue of substantial public interest.

The use of demonstrative or illustrative evidence is to be favored and the trial court is given wide latitude in determining whether or not to admit illustrative evidence. *State v. Lord*, 117 Wn.2d 829, 855, 822 P.2d 177 (1991). Ordinarily, only minimal foundation is required for a purely illustrative exhibit. *Reitz v. Knight*, 62 Wn. App. 575, 585, n. 6, 814 P.2d 1212 (1991). Expert opinion may be given even where the underlying factual material would otherwise be inadmissible. ER 703; *see Group Health Coop. of Puget Sound, Inc. v. Department of Rev.*, 106 Wn.2d 391, 400, 722 P.2d 787 (1986). Use of charts is generally permitted at the court's discretion to illustrate expert testimony. *State Dep't of Fisheries v. Gillette*, 27 Wn. App. 815, 826, 621 P.2d 764 (1980). The trial court's discretion with respect to evidentiary matters is broad, and a decision of the trial court is reversed only if the court abuses its discretion. Discretion is abused if it is based on untenable grounds or for untenable reasons. *Day v. Santorsola*, 118 Wn. App. 746, 76 P.3d 1190

(2003). ER 703 provides that if "facts or data ... upon which an expert bases an opinion or inference ... [are] of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence." *Det. of Marshall v. State*, 156 Wn.2d 150, 161, 125 P.3d 111, 116 (2005).

The trial court held a pre-trial hearing regarding the use of the exhibit, and subsequently ruled that it could be admitted for illustrative purposes. RP at 782-90. The exhibit was briefly shown to the jury during the expert's testimony, and was used to help explain the limitations on the actuarial risk assessment instruments. RP at 882-84. Furthermore, Dr. Packard explained the concept carefully to the court, and subsequently to the jury, making sure they knew that the concentric circles were a "concept" and not actual numbers. RP at 883. Dr. Packard was cross-examined at length about his reliance on the actuarials (RP at 993-1012) and it was not an abuse of discretion to allow him to use an illustrative exhibit to explain why he determined that the actuarial risk assessment was not an accurate reflection of Hancock's true risk.

Furthermore, the exhibit did not go back into the jury room and the jury was instructed about its limited purpose ("This exhibit is itself not an exhibit; rather, it's one party's illustration offered to assist you in explaining and evaluating the evidence in the case"). RP at 739-40.

Thirty-four admitted exhibits went back to the jury room (RP at 1423), but illustrative exhibit 44 did not.

The Court of Appeals held that the trial court did not abuse its discretion in admitting exhibit 44 for illustrative purposes. It "was related to, and used to illustrate, Dr. Packard's testimony about the limitations of the risk assessment tools." *Hancock*, 2016 WL 3599162, at *6. Dr. Packard clarified that the question under RCW 71.09 is not limited to a specific time frame, but that he is looking at the risk for re-offense over the rest of Hancock's lifetime. RP at 863-864; 882. Because the jury was tasked with determining if Hancock was likely to offend (as opposed to whether he was to be charged or convicted of an offense), it was important for the jury to be aware of their limitations. Actuarials measure only charges and convictions. RP at 788. They are considered to underestimate risk. RP at 788. It is widely known that sex offenses are under-reported and a larger group of sex offenses that are committed but not reported. RP at 788. Dr. Packard explained that the actuarial instruments were not designed to answer the specific question about likelihood of re-offense. RP at 844. The instruments look only at detected offenses that occur within a limited time period. RP at 847. He explained that this is a significant limitation on the risk assessment, because a person can engage in the behavior, not be detected, and that person will count in the research data as a non-recidivist. RP at 847. The exhibit was "intended to

reflect the concept that there is underreporting." *Hancock*, 2016 WL 3599162 at *6. The Court of Appeals found Hancock's argument that the jury would believe the exhibit was proportionate to actual crime numbers to be unfounded: "Furthermore, the record contains no indication that either the State or Dr. Packard represented that exhibit 44 was proportionate to the known data." *Id.* The trial court's decision to allow the illustrative exhibit was not based on untenable reasons; it was directly related to a visual illustration of the expert's testimony.

Hancock was able to admit significant testimony through his expert countering the State's reliance on the actuarials. RP at 1127-77. Hancock's expert, Dr. Chris Fischer, acknowledged that it is hard to measure data about sexual assaults and under-reporting. RP at 1267. He acknowledged that Dr. Karl Hanson, the developer of the Static-99, states clearly that the actuarial results are underestimates because not all offenses are detected. RP at 1268. Dr. Fischer admitted "not all offenses are reported. Everyone acknowledges that." RP at 1268. Hancock's attorney also agreed with the facts contained in the illustrative exhibit, that is, that sex offenses are underreported and that both experts would testify as such. RP at 674.

The Court of Appeals also properly rejected Hancock's argument that the exhibit should have been excluded because Dr. Packard did not relate it to the underreporting of predatory acts of sexual violence (Pet. at

15) because he failed to raise that claim below.[5] *Hancock*, 2016 WL 3599162, at *7 (citing RAP 2.5; *State v. Powell*, 166 Wn.2d 73, 82, 206 P.3d 321 (2009) (holding that an appellate court will not reverse the trial court's decision to admit evidence where the defendant argues for reversal based on an evidentiary rule not raised at trial)). Because he did not raise it below, this Court should also deny review on those grounds.

Hancock's concern that the exhibit "prejudiced" him is unsupported by facts, and is not the proper question. The correct test is whether its "probative value was substantially outweighed by the danger of unfair prejudice." ER 403. It was not, because the exhibit assisted the expert in explaining his risk assessment, and was subject to cross-examination about all the weaknesses in the numbers. Hancock further asserts that there is a reasonable probability that this exhibit materially affected the outcome of the trial. Pet at 15. He offers nothing more than this assertion because there is no evidence to support this claim. Hancock's trial lasted for over two weeks, with two experts and multiple victims testifying. The jury heard in detail about Hancock's lifelong sexual deviancy, his sexual attraction to children, and the numerous young

[5] "At trial, Hancock only argued that the trial court should exclude exhibit 44 because it was not to scale as to generally 'unreported sex offenses, arrested ones, charged ones, [and] convicted ones,' not specifically as to 'predatory acts of sexual violence.' *Compare* 5 VRP at 673–74, *with* Br. of Appellant at 32." *Hancock*, 2016 WL 3599162, at *7.

children he had molested and raped. They also heard testimony about the significantly smaller number of charges and convictions he received. This exhibit represented the uncontested fact that more sexual offenses take place than are charged or convicted. The testimony involving the exhibit was brief – 2 pages out of a 1,500 page transcript. Rather than "bolster" the State's case, the exhibit explained the expert's opinion that the actuarial instruments were not an accurate assessment of Hancock's risk. The trial court had wide latitude in allowing the exhibit to be used, and did not abuse its discretion. This Court should deny review.

V. CONCLUSION

Hancock has not demonstrated that this case merits review pursuant to RAP 13.4(b). This case involves issues of well-settled evidentiary and instructional law, does not conflict with any decisions of this Court or any other appellate court, and does not present an issue of substantial public interest. For the foregoing reasons, the State respectfully requests that this Court deny review.

RESPECTFULLY SUBMITTED this 26th day of August, 2016.

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NO. 93441-0

THE SUPREME COURT OF THE STATE OF WASHINGTON

In re the Detention of: GEORGE EDWARD HANCOCK, JR., Petitioner.	DECLARATION OF SERVICE

I, Lucy Pippin, declare as follows:

On August 26, 2016, I served, via electronic mail and regular USPS mail, a true and correct copy of the Answer to Petition for Review and Declaration of Service addressed as follows:

SKYLAR BRETT
PO Box 18084
Seattle, WA 98118
skylarbrettlawoffice@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 26th day of August, 2016, at Seattle, Washington.

LUCY PIPPIN