

Dec 29, 2016, 11:06 am

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NO. 93589-1

IN THE  
STATE OF WASHINGTON SUPREME COURT

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WARREN E. BOHON,

Petitioner

v.

CITY OF STANWOOD,

Respondent.

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RESPONDENT CITY OF STANWOOD'S ANSWER TO  
"AMENDED" PETITION FOR REVIEW

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Jayne L. Freeman, WSBA #24318  
Keating Bucklin & McCormack, Inc., P.S.  
800 Fifth Avenue, Suite 4141  
Seattle, WA 98104-3189  
(206) 623-8861 Telephone  
(206) 223-9423 Facsimile

Attorney for Respondent City of Stanwood

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## **I. ISSUES PRESENTED FOR REVIEW**

Petitioner now lists (unidentified) “whistleblower laws” and “open public records laws (OPR)” as “new questions raised for review” in a document filed December 8, 2016. These are still not legal claims upon which the Court of Appeals ruled to dismiss his lawsuit, nor do they present any legal issues warranting review by this court.

Thus, they are irrelevant to this court’s decision as to whether this court should accept review of the appellate decision affirming dismissal of Petitioner Bohon’s claims. Petitioner still fails to present any identifiable legal issue for which he seeks Supreme Court review that he claims was improperly decided by the Court of Appeals, or that satisfies the standards set forth in RAP 13.4(b) required to accept review.

## **II. ARGUMENT WHY REVIEW SHOULD BE DENIED**

Petitioner’s “Amended” Petition for Review still fails to establish any of the standards in RAP 13.4(b) warranting review, or that he is entitled to file an “Amended” Petition for Review in violation of RAP 13.4 and 18.8.

### **A. Petitioner’s “Amended” Petition is Not Timely and Should Not be Considered by the Court.**

After filing an untimely Petition for Review to begin with, Petitioner filed a document titled “New Questions Raised for Review in Said Case Matters with the City of Stanwood” on December 8, 2016—approximately three months after his Petition for Review was due pursuant

to RAP 13.4(a). While he failed to provide “extraordinary circumstances” warranting any extension of time for filing his initial Petition for Review in an untimely manner, he provides no basis whatsoever for suddenly and inexplicably filing what the court now deemed an “Amended” Petition for Review. Thus, he has not met the requirements of RAP 18.8 to allow the court to consider this new document at this late date. It should be rejected in accordance with a denial of Petitioner’s Motion for Extension of Time to file Petition for Review.<sup>1</sup>

**B. Petitioner Still Fails To Identify Any Articulate Legal Issue for Review or Provide Any Legal Authority or Support for Review.**

Petitioner still fails to identify an articulable issue of law for the Supreme Court to review, assign error to any particular legal ruling or issue decided by the Court of Appeals, or to cite any legal authority or issue of law, thus making no attempt to establish that review may be warranted under RAP 13.4(b)(1)-(3). Thus, he fails to establish a legal basis for the Court to accept review and his “Amended Petition” should be disregarded or denied. *See, e.g. Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 808-809, 828 P.2d 549 (1992) (citing RAP 10.3(a)(5)) (grounds argued but not supported by any citation to authority are not considered by the court).

Petitioner’s new document references RCW 73.16.015

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<sup>1</sup> The court has indicated it intends to consider both Petitioner’s Motion for Extension of Time to file Petition for Review and the Petition for Review, if warranted, on the same date.

(Enforcement of a Preference Civil Action) and he attaches a copy of the statute to his pleading. However, this statute was never part of Plaintiff's Complaint filed in 2009 (CP 681-684), nor is related to any claim upon which the Court of Appeals ruled. Thus, it is irrelevant and outside the scope of any legal issue that could be presented to this court for review and should be disregarded. *See, e.g. State v. McFarland*, 127 Wn.2d 322, 332-33, 899 P.2d 1251 (1995) (“as a general rule, appellate courts will not consider issues raised for the first time on appeal”). *See also, Court of Appeals Opinion, p. 5.*

Petitioner also references “Open Public Records Laws (OPR)” in his Amended Petition, at p. 2. This matter has never involved any claims related to Washington’s Open Public Meetings Act or Public Records Act. *See, Plaintiff’s Complaint (CP 681-684); see also, Court of Appeals Opinion, p. 5.*

**C. Petitioner Still Fails to Cite To Any Portion of the Appellate Record.**

Petitioner’s “Amended” Petition still fails to cite to any portion of the appellate record that was before the Court of Appeals or that would be before the Supreme Court on Review. Thus, the unsupported factual allegations in this document should be disregarded and/or his “Amended” Petition denied. *See, e.g. Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 808-809, 828 P.2d 549 (1992) (grounds argued but not supported by any reference to the record are not considered by the court). Pursuant to RAP 10.3(a)(5), “references to the record must be included for

each factual statement.” Petitioner fails to cite to any portion of the record to support any of the factual statements included in his “Amended” pleading, and therefore it should be disregarded and/or review should be denied.

**D. Petitioner Still Fails to Provide and Substantive Basis for Granting Review in this Matter.**

The Court of Appeals properly dismissed Petitioner’s RCW Ch. 49.60 age discrimination claims and related, duplicative employment claims. His “Amended” Petition, repeating a litany of hiring decisions he disagreed with in the 1990s and 2001 do not raise any issues warranting review of the Court of Appeals’ 2016 decision. In fact, it is impossible to even identify a particular legal issue or issue proposed for review to even respond to the Petition or “Amended” Petition in more depth.

**III. CONCLUSION**

Based on the forgoing, Respondent City of Stanwood respectfully requests the Court deny Mr. Bohon’s Petition for Review.

DATED this 29th day of December, 2016.

KEATING, BUCKLIN & McCORMACK, INC., P.S.

By: *JL Freeman WSBA #24318*  
fo Jayne L. Freeman, WSBA #24318  
800 Fifth Avenue, Suite 4141  
Seattle, WA 98104-3175  
Phone: (206) 623-8861  
Fax: (206) 223-9423  
Email: jfreeman@kbmlawyers.com  
Attorney for Defendant City of Stanwood



**DECLARATION OF SERVICE**

I, Laila Z. Possani, being of lawful age, declare under penalty of perjury that on December 29, 2016, I sent out for filing with the Clerk of the State of Washington Supreme Court and for service on counsel of record, via U.S. first class mail in the above-entitled case. The envelope was plainly addressed to the following:

**Attorneys for Pro se Appellant**

Warren Bohon  
881 East Port Susan Terrace Rd  
Camano Island, WA 98292  
Email: teresab1567@yahoo.com

E-mail     United States Mail     Legal Messenger

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 29, 2016 at Seattle, Washington.



Laila Z. Possani, Legal Assistant  
800 Fifth Avenue, Suite 4141  
Seattle, WA 98104-3175  
Phone: (206) 623-8861  
Fax: (206) 223-9423  
Email: lpossani@kbmlawyers.com