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NO. 99125-1

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**SUPREME COURT OF THE
STATE OF WASHINGTON**

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STATE OF WASHINGTON,

Respondent,

v.

RICKY RAY SEXTON,

Petitioner.

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Pierce County Superior Court Cause No. 17-1-00988-3

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# ANSWER TO PETITION FOR REVIEW

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## I. RESTATEMENT OF THE ISSUES

A. Should this Court deny review where the Court of Appeals properly concluded that the officers complied with the knock and announce rule by announcing their identity and purpose and waiting approximately 15 seconds before entering the residence?

B. Should this Court deny review where the Court of Appeals properly concluded that exigent circumstances justified an expedited entry into the residence where the SWAT team's approach was compromised after a man saw them, bolted inside the residence, and slammed the door and where officers had a reasonable concern for everyone's safety based on the threat assessment, Sexton's known possession of a firearm and history of drug convictions, and where the evidence could be easily destroyed?

C. Should this Court deny review where the Court of Appeals properly concluded that the jury instructions defining "dominion and control" were an accurate statement of the law and not an improper comment on the evidence?

## II. STATEMENT OF THE CASE

A confidential informant told the police that Ricky Ray Sexton was selling methamphetamine out of his home, and the police obtained a search warrant to search his residence. *State v. Sexton*, No. 52401-5-II, 2020 WL 4463525, at *1-2 (Wash. Ct. App. Aug. 4, 2020) (unpublished). The police seized a firearm, methamphetamine, other drugs, and items used to package drugs to sell. *Id.* Sexton filed a CrR 3.6 motion to suppress the evidence.

Three officers on the Special Weapons and Tactics (SWAT) team testified at the CrR 3.6 hearing. After conducting a threat assessment, the police identified the warrant as high risk and assembled a SWAT team based on significant concerns that Sexton was known to carry a firearm and

a dog roamed the property, which is commonly used for counter surveillance as a warning signal. 1RP 8-12, 15-19, 22-23, 27-28, 49-50, 52.[1] An officer also testified that drugs are easily destroyed, and it is common for individuals selling drugs to attempt to destroy them upon learning of an imminent search. 1RP 13-14.

As the SWAT team executed the search warrant at approximately 5:15AM, Deputy Philip Wylie saw a white male standing on the porch turn and look at him and then quickly go inside the residence. 1RP 14-15, 24-26, 31. Deputy Derek Nielsen testified that the male "obviously saw us and made the decision to bolt, run back into the house and slam the door." 1RP 54; *see* 1RP 67-68. This triggered the officers to call out that their approach had been compromised and expedite execution of the search warrant to secure the residence as quickly as possible. 1RP 17, 24-26, 29, 36. The compromise jeopardized everyone's safety, and there was concern that Sexton, the male on the porch, or anyone inside the house could arm themselves with a firearm. 1RP 27, 46-47.

Deputy Wylie testified that as the SWAT team approached the house on foot they were repeatedly yelling "police, search warrant" as they are trained to announce throughout the entire service of the search warrant. 1RP

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[1] The report of proceedings (RP) for the CrR 3.6 hearing will be referred to as "1RP" for the "February 13, 14, 2018" transcript and "2RP" for the "February 13, 2018" transcript.

30, 34-35. Deputy Nielsen remembered the officers yelling and announcing their presence from the time "compromise" was called to the time they finished searching the house. 1RP 57. He testified, "It is just what we do. We're taught from day one to continue to announce." 1RP 57. Deputy Roland Bautista testified that he repeatedly announced their identity and purpose over the loud public address (PA) system by repeatedly stating, "this is the police, we have a search warrant, get on the ground." 1RP 83-86, 91; *see* 1RP 48. The unchallenged finding of fact indicates that the PA system announcements were at a volume where the occupants of Sexton's residence "would have been able to clearly hear them." *See* CP 123. Deputy Bautista explained that he used the phrase "get on the ground" because their approach had been compromised, and he wanted to let the occupants know "exactly who we were and what our purpose was." 1RP 91.

There was conflicting testimony on how much time elapsed before entry into the residence. *See* 1RP 28, 55-57, 86. But Deputy Bautista, the officer who repeatedly made the announcement over the PA system, testified that "about 15 seconds" elapsed from the time he first made the announcement until entry into the residence. 1RP 86. The trial court found that approximately 15 seconds elapsed, and the Court of Appeals subsequently determined that the testimony adequately supported the

court's finding of a 15-second delay before entry into the residence. CP 126; *Sexton*, 2020 WL 4463525, at *5.

The trial court denied Sexton's CrR 3.6 motion to suppress the evidence and issued written findings of fact and conclusions of law. CP 120-27. After a jury trial, Sexton was convicted of unlawful possession of a controlled substance, unlawful possession of a firearm in the first degree, and two counts of unlawful possession of a controlled substance with intent to deliver. CP 84, 86-88, 90-91. The court sentenced Sexton to 85 months in prison. CP 111. Sexton appealed.

In an unpublished opinion, the Court of Appeals held that the SWAT team's actions satisfied the knock and announce rule and were independently justified by exigent circumstances. *Sexton*, 2020 WL 4463525, at *1. The Court also held that the jury instructions defining "dominion and control" were an accurate statement of the law and did not constitute a judicial comment on the evidence. *Id.* Sexton seeks review of these holdings.

## III. ARGUMENT

### A. There is no basis for review under RAP 13.4(b) where the Court of Appeals followed well-established law in concluding that the officers complied with the knock and announce rule and that the expedited entry was justified based on exigent circumstances.

Prior to executing the search warrant, the officers repeatedly announced their identity and purpose and implicitly demanded admittance,

and the delay in entering the residence was reasonable. The Court of Appeals properly concluded that the officers complied with the knock and announce rule. The Court also properly concluded that exigent circumstances justified an expedited entry into the residence where the safety of the operation was jeopardized after the man saw the SWAT team approach and ran into the residence, and where Sexton was known to carry a firearm and the evidence could be easily and quickly destroyed. The Court of Appeals' decision does not conflict with any Washington appellate decisions under RAP 13.4(b)(1) or 13.4(b)(2). And the petition does not involve a significant question of constitutional law under RAP 13.4(b)(3) or an issue of substantial public importance under RAP 13.4(b)(4). Given the well-settled case law addressing the fact pattern presented by this case, Sexton resorts to referencing the national outrage regarding the tragic death of Breonna Taylor, who was shot in Kentucky when plainclothes officers executed a "no-knock" warrant. In stark contrast to the Taylor case, the officers in Sexton's case repeatedly announced themselves over a loud PA system as they approached the door. As a result, there is no basis for a comparison to the Taylor case. This Court should deny review.

**1. The Court of Appeals properly concluded that the officers complied with the knock and announce rule.**

Both the Fourth Amendment to the United States Constitution and article I, § 7 of the Washington Constitution require that the police comply

with the knock and announce rule before entering a residence without consent. *State v. Ortiz*, 196 Wn. App. 301, 307, 383 P.3d 586 (2016). Washington has codified this requirement in RCW 10.31.040, which provides that officers may break open any door or window of a house or building if, "after notice of his or her office and purpose, he or she be refused admittance." To comply with the statute, the police must announce their identity and purpose, demand admittance, and be explicitly or implicitly denied admittance. *State v. Coyle*, 95 Wn.2d 1, 6, 621 P.2d 1256 (1980). The requirement of a demand for admittance and an explicit or implicit denial of admittance have been merged into a "waiting period." *State v. Richards*, 136 Wn.2d 361, 370, 962 P.2d 118 (1998). A denial of admittance is not required when waiting for a response would be a "useless gesture." *State v. Garcia-Hernandez*, 67 Wn. App. 492, 495 n.1, 837 P.2d 624 (1992).

Whether an officer waited a reasonable time before entering a residence is a factual determination to be made by the trial court and depends on the circumstances of the case. *Richards*, 136 Wn.2d at 374. The reasonableness of the waiting period is evaluated in light of the purposes of the rules, which are: (1) the reduction of potential violence that might arise from an unannounced entry, (2) prevention of unnecessary property damage, and (3) protection of an occupant's right to privacy. *Id.* at 371-72.

Sexton focuses on his assertion that the announcement told the occupants to "get on the ground" rather than "open the door." But the rule does not require in every case that the police literally knock on the door and make an explicit demand for admission. Rather, as the Court of Appeals properly explained, the relevant inquiry is whether the officers effectuated the purpose of the rule and waited a reasonable time before entering the residence. *See Richards*, 136 Wn.2d at 372-74. A police officer who identifies himself and announces that he has a search warrant has implicitly demanded admission. *State v. Johnson*, 94 Wn. App. 882, 889, 974 P.2d 855 (1999); *State v. Lehman*, 40 Wn. App. 400, 404, 698 P.2d 606 (1985).

Here, there was no unannounced entry—the officers repeatedly announced their identity and purpose, including over a PA system. CP 123-26. They repeatedly yelled "police, search warrant" as they are trained to announce throughout the entire service of the search warrant. 1RP 30, 34-35; *see* 1RP 57. Deputy Bautista testified that he repeatedly announced their identity and purpose over the loud PA system by repeatedly stating, "this is the police, we have a search warrant, get on the ground." 1RP 83-86, 91. He explained that he used the phrase "get on the ground" because the operation had been compromised and he wanted to let the occupants know "exactly who we were and what our purpose was." 1RP 91.

The Court of Appeals properly noted that the announcement was similar to the announcement in *Richards* where the officer announced simply, "Police. We have a search warrant" and this Court concluded that the announcement constituted an implicit demand for entry. *See Richards*, 136 Wn.2d at 365, 372-74. The Court of Appeals correctly concluded that the officers announced their identity and purpose and implicitly demanded admission by telling the occupants they had a search warrant and to get on the ground. *See Sexton*, 2020 WL 4463525, at *5. The officers took sufficient steps to reduce the potential for violence by repeatedly announcing their identity and purpose, and their valid search warrant significantly reduced Sexton's expectation of privacy. *See Garcia-Hernandez*, 67 Wn. App. at 496-97. Further, nothing in the record indicates that the occupants were sleeping. Sexton testified that the lights and radio were on and the occupants were awake, and one of his witnesses testified that the occupants were using drugs. *See* 2RP 7-8, 19, 31, 56-64, 83-88.

Washington courts have held that a delay of 5 to 10 seconds after the police announce their presence and purpose is a reasonable time to comply with the knock and announce rule. *See, e.g.*, *Johnson*, 94 Wn. App. at 889-91. In *Garcia-Hernandez*, the court held that officers substantially complied with the knock and announce rule by yelling "police, search warrant" and that the delay of 5 seconds was reasonable where the people

on the porch may have alerted the defendant to their presence. *Garcia-Hernandez*, 67 Wn. App. at 494, 496-98. The court explained that the defendant's failure to respond during the 5-second delay was an implicit denial of admission. *Id.* at 498. In *State v. Schmidt*, 48 Wn. App. 639, 643-46, 740 P.2d 351 (1987), the court held that the knock and announce rule was not violated when the officers failed to specifically demand entry and that the 3-second delay after the knock and announce and before entry was reasonable where barking dogs may have alerted the occupants of the officers' approach.

As this Court explained in *Richards*, the knock and announce rule does not require the police to wait longer when doing so would be futile: "To wait for grant or denial of admission after an occupant has been made aware of a police officer's presence and purpose would serve no logical purpose. The police officer is already authorized by the search warrant to enter the premises without permission from the occupant." *Richards*, 136 Wn.2d at 378.

Given the factually dependent nature of the inquiry, the Court of Appeals properly deferred to the trial court's evaluation of the credibility of the officers and agreed with the trial court that the 15-second delay in entering Sexton's residence was reasonable under the circumstances. *See Sexton*, 2020 WL 4463525, at *6. The Court of Appeals followed well-

established law in determining that the officers adequately announced their presence and purpose and waited a reasonable amount of time before entering the residence. "It would have served no logical purpose for the officers to delay their entry any longer where they were already broadcasting their presence and purpose over a loudspeaker." *Id.* The Court of Appeals correctly concluded that the officers complied with the knock and announce rule.

**2. The Court of Appeals properly concluded that exigent circumstances justified expedited entry after the officers announced their identity and purpose.**

Strict compliance with the knock and announce rule is not required if exigent circumstances exist or compliance would be futile. *Richards*, 136 Wn.2d at 372. Strict compliance is not required if the State can show that the police had "a reasonable suspicion that knocking and announcing their presence, under the particular circumstances, would be dangerous or futile, or that it would inhibit the effective investigation of the crime by, for example, allowing the destruction of evidence." *State v. Cardenas*, 146 Wn.2d 400, 411, 47 P.3d 127 (2002).

Here, a man on the porch saw the SWAT team approaching Sexton's house and immediately "bolt[ed]" inside the house and slammed the door. 1RP 53-55; *see also* 1RP 24-26, 68. The SWAT team was involved with serving the warrant because it was identified as "high risk" based on the

criteria in the threat assessment form, including that Sexton was known to carry a firearm and had a dog roaming the property as a potential warning signal for counter surveillance. *See* 1RP 8-12, 15-23, 27-28, 49-50, 52. The officers repeatedly announced their presence by yelling "police, search warrant, police, search warrant." 1RP 26-27, 30, 34-36, 64-65; *see* 1RP 44, 47, 57, 61-62. And approximately 15 seconds elapsed from the time the officer started the loud announcement over the PA system until entry into the residence. 1RP 83-86; CP 126.[2]

Sexton cites extensively to *State v. Jean-Paul*, 295 P.3d 1072 (N.M. Ct. App. 2013), a New Mexico case concluding that a wait of only one to five seconds after knocking and announcing violated the New Mexico constitution. *Jean-Paul* does not provide a basis for review under RAP 13.4(b).

In *Jean-Paul*, the court's explanation that "the mere fact that officers have been observed by a home's occupants does not relieve them of the knock-and-announce requirement" focused on the fact that it is the *announcement of the warrant* that alerts a person that it is lawful for the police to enter regardless of his wishes. *Jean-Paul*, 295 P.3d at 1078. The

[2] Although there was conflicting testimony on how much time elapsed, the trial court found the testimony that 15 seconds elapsed credible, and the Court of Appeals determined that the testimony adequately supported the court's finding of a 15-second delay. CP 126; *Sexton*, 2020 WL 4463525, at *5.

court explained that the occupant observed an officer outside the home and merely moved away from the window without "running or taking other action that would suggest a frantic response" to the police presence. *Id.* at 1083-84. And the court explained that an affirmative act by an occupant of the premises demonstrating refusal to admit police—such as saying "Oh shit!" after seeing officers approach the house and attempting to close the door—renders futile any further efforts by the police to knock and announce. *Id.* at 1078-79. *Jean-Paul* is distinguishable from Sexton's case where the officers repeatedly announced their identity and purpose and where the man on the porch made an affirmative act after seeing the SWAT team by running into the residence and slamming the door, thereby suggesting "a frantic response" that made further efforts by the police to knock and announce their presence futile.

Sexton did not cite to *Jean-Paul* below, but the Court of Appeals properly distinguished the Washington cases relied on by Sexton. In *State v. Edwards*, 20 Wn. App. 648, 581 P.2d 154 (1978), a man appeared at a window then quickly disappeared after *plainclothes* officers knocked on the door—the officers did not announce either their identity or purpose until they kicked in the door. Similarly, in *State v. Ellis*, 21 Wn. App. 123, 125-26, 584 P.2d 428 (1978), *plainclothes* officers knocked on the door and used a ruse to get the defendant to open the door. The court explained that it was

understandable that the defendant, upon discovering the deception, instinctively closed the door to protect himself and that these ambiguous circumstances did not create exigent circumstances to excuse compliance with the knock and announce rule. *Id.* at 127-29. In Sexton's case, the man on the porch observed the SWAT team in full uniform and then bolted inside the residence and slammed the door. *See* 1RP 17, 53-55. This compromised the approach of the officers who then repeatedly announced their identity and purpose before forcing entry into the residence approximately 15 seconds later. *See* CP 126; *see also Sexton*, 2020 WL 4463525, at *5 (testimony supported trial court's finding that approximately 15 seconds elapsed between announcement and entry).

Exigent circumstances justified entry after the officers announced their identity and purpose, particularly where the evidence could be easily destroyed and where they waited a reasonable time before entering. In *State v. Wilson*, 9 Wn. App. 909, 913, 515 P.2d 832 (1973), officers knocked and announced their identity and purpose and waited 10 seconds before forcing entry. The court held that the forcible entry was reasonable in light of the officer's justified concern for their safety where they knew the defendant carried a gun and was an experienced drug dealer with several narcotics convictions who had served time in prison and where there was concern that the evidence would be destroyed. *Id.* at 912-15.

Here, the officers had reasonable grounds to be concerned for their safety because Sexton was known to carry a firearm and was an experienced drug dealer with six prior felony narcotics convictions. *See* CP 18-19; 1RP 18-19. Further, when the man ran inside and slammed the door, that added an element of urgency and jeopardized the safety of the entire operation, including the safety of the officers and every person inside the residence. *See* 1RP 26-28, 36, 45-47, 83. As Deputy Nielsen testified, "now they have the ability to go arm themselves or possibly destroy evidence." 1RP 46.

The Court of Appeals properly concluded that it was reasonable for the officers to conclude that the man on the porch fled inside to warn the other occupants. The Court of Appeals also properly concluded that the officers were reasonably concerned for their safety based on the threat assessment, which included knowledge that Sexton had a firearm, and that the totality of circumstances justified expedited entry into the residence to avoid endangering the safety of the officers, occupants, and operation. *See Sexton*, 2020 WL 4463525, at *7; *see also Cardenas*, 146 Wn.2d at 412 (exigent circumstances justified warrantless entry where officers reasonably believed suspects were armed and had used force against the robbery victims and where they observed the suspects running away from the door and the evidence was easily disposable).

The Court of Appeals properly distinguished *State v. Dugger*, 12 Wn. App. 74, 528 P.2d 274 (1974) where the officers forced entry into a home without a search warrant, without knocking or announcing their presence, and without any evidence that the defendant possessed a weapon. In *Dugger*, the court concluded that the mere possibility of destruction of evidence and a general fear for officer safety without any reasonable grounds to support the concern did not create exigent circumstances. *Dugger*, 12 Wn. App. at 81-83.

The Court of Appeals properly relied on *State v. Carson*, 21 Wn. App. 318, 584 P.2d 990 (1978) to support its analysis. There, the court held that the officers' forcible no-knock entry was justified during execution of the search warrant where they had prior information that the defendant kept a shotgun by the door for protection when selling narcotics and saw him quickly close the door and move away when he saw the officers. *Id.* at 321-22. The court explained that this could reasonably be interpreted as creating a risk that evidence would be destroyed or that officers' lives were in danger and that "neither common sense nor law requires an officer to ignore such a warning." *Id.* at 322.

The trial court properly determined that exigent circumstances justified an expedited entry into Sexton's residence where the safety of the operation was jeopardized after the man saw the SWAT team approach and

ran into the residence and where Sexton was known to carry a firearm and the evidence could be easily and quickly destroyed. *See* CP 121-26. The Court of Appeals properly concluded that the trial court's findings support its conclusion that exigent circumstances justified an expedited entry into Sexton's residence. There is no basis for review under RAP 13.4(b).

**B. There is no basis for review under RAP 13.4(b) where the Court of Appeals properly concluded that the jury instructions defining "dominion and control" were an accurate statement of the law and not an improper comment on the evidence.**

"Judges shall not charge juries with respect to matters of fact, nor comment thereon, but shall declare the law." Wash. Const. art. IV, § 16. Judges are prohibited from conveying their personal attitudes regarding the merits of the case or instructing a jury that matters of fact have been established as a matter of law. *State v. Jackman*, 156 Wn.2d 736, 743-44, 132 P.3d 136 (2006). A jury instruction that resolves a contested factual issue is an improper comment on the evidence because it relieves the State of its burden of proving an element of the crime. *State v. Brush*, 183 Wn.2d 550, 557, 353 P.3d 213 (2015). But a jury instruction that does no more than accurately state the law does not constitute an impermissible comment on the evidence. *Id*.

Here, the jury instructions defining "dominion and control" for possession of a controlled substance and possession of a firearm were not an improper comment on the evidence. The court instructed the jury on the

definitions of actual and constructive possession, including that constructive possession occurs when there is “dominion and control” over the substance or item. CP 61, 76. The instruction provided, in relevant part:

> In deciding whether the defendant had dominion and control over a substance, you are to consider all the relevant circumstances in the case. Factors that you may consider, among others, include whether the defendant had the ability to take actual possession of the substance, whether the defendant had the capacity to exclude others from possession of the substance, and whether the defendant had dominion and control over the premises where the substance was located. No single one of these factors necessarily controls your decision.

CP 61; *see* CP 76 (same instruction defining “dominion and control” of a firearm but replacing “substance” with “item.”); *see also* Washington Pattern Jury Instructions—Criminal (WPIC) 50.03 and WPIC 133.52.

Sexton argues that the instructions defining “dominion and control” improperly create definitional instructions from sufficiency of the evidence case law. He relies on *Brush*, where this Court explained that “legal definitions should not be fashioned out of courts’ findings regarding legal sufficiency.” *See Brush*, 183 Wn.2d at 558. This is because such findings are merely “whether the specific facts in that case were legally sufficient” to uphold the jury’s finding. *Id.*; *State v. Sinrud*, 200 Wn. App. 643, 650, 403 P.3d 96 (2017). Appellate courts review sufficiency of the evidence for whether any rational jury could have found guilt beyond a reasonable doubt

and construe facts in the light most favorable to the State, whereas juries must find guilt beyond a reasonable doubt. *State v. Sandoval*, 8 Wn. App. 2d 267, 278-79, 438 P.3d 165, *review denied*, 193 Wn.2d 1028, 445 P.3d 562 (2019). Thus, fashioning a jury instruction based on an appellate court's sufficiency of the evidence holding replaces the jury standard with the lesser appellate standard. *Id.* at 279.

The policy implications regarding the *Brush* admonition are not implicated by the jury instructions in Sexton's case. *See Sandoval*, 8 Wn. App. 2d at 279-80. The Court of Appeals properly concluded that the instructions did not replace the jury standard with the lesser appellate standard. In *Brush*, the court instructed the jury that a "prolonged period of time" for purposes of an aggravated domestic violence offense "means more than a few weeks" based on a prior case that determined that two weeks was not legally sufficient to be a prolonged period of time. *Brush*, 183 Wn.2d at 554-58. This Court held that the instruction did not accurately state the law and was an improper comment on the evidence because it resolved a contested factual issue and relieved the State of its burden to prove the abuse occurred over a "prolonged period of time." *Id.* at 557-59. But here, the jury instructions accurately stated the law and did not resolve a contested factual issue for the jury. Rather, the instructions properly allowed the jury to determine whether Sexton had dominion and control over the items.

In *Sinrud*, the court instructed the jury that to convict the defendant of possession of a controlled substance with intent to deliver, the "law requires substantial corroborating evidence of intent to deliver in addition to the mere fact of possession." *Sinrud*, 200 Wn. App. at 649-50. In the very next sentence, the instruction stated that "[t]he law requires at least one additional corroborating factor." *Id.* at 650-51. The instruction conflated the two requirements such that a reasonable juror would have interpreted the second sentence as defining the first. *Id.* at 651. The court held that this was a comment on the evidence because it improperly implied that the presence of only one additional factor necessarily established "substantial corroborating evidence" and meant that the jury should find intent. *Id.* at 651-52. The court explained that it is unknown whether the jury "considered all of the evidence" because it was instructed that finding one additional factor was enough. *Id.* at 652.

Unlike the jury instructions in *Brush* and *Sinrud*, the Court of Appeals properly concluded that the instruction here did not resolve the factual issue of dominion and control for the jury. The instructions correctly stated that there are several possible indicia of dominion and control, any or none of which the jury "may consider" along with "all the relevant circumstances in the case." *See* CP 61, 76. Here, the jury was explicitly instructed "to consider all the relevant circumstances" and that it "may

consider" the three listed factors "among other" factors but that "[n]o single one of these factors necessarily controls your decision." CP 61, 76. Unlike *Sinrud*, the instructions do not indicate that one of the listed factors would be sufficient to convict.

The Court of Appeals properly concluded that the jury instructions in Sexton's case do not suffer from the same flaws as *Brush* or *Sinrud* and do not constitute an improper comment on the evidence. This decision does not conflict with *Brush* under RAP 13.4(b)(1) or *Sinrud* under RAP 13.4(b)(2). And Sexton's case does not involve a significant issue of constitutional law under RAP 13.4(b)(3) or an issue of substantial public importance under RAP 13.4(b)(4). This Court should deny review.

## IV. CONCLUSION

For the foregoing reasons, this Court should deny Sexton's petition for review.

RESPECTFULLY SUBMITTED this 24th day of February, 2021.

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Certificate of Service:
The undersigned certifies that on this day she delivered by E-file to the attorney of record for the petitioner true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington on the date below.

*2-24-21* *s/Therese Kahn*
Date Signature

## PIERCE COUNTY PROSECUTING ATTORNEY

## February 24, 2021 - 4:05 PM

## Transmittal Information

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| **Appellate Court Case Number:** | 99125-1 |
| **Appellate Court Case Title:** | State of Washington v. Ricky Ray Sexton |
| **Superior Court Case Number:** | 17-1-00988-3 |

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