NO. 99346-7

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

CRYSTAL JACKSON,

Petitioner.

PETITION FOR REVIEW AFTER
Appeal from the Superior Court of Pierce County
The Honorable Stanley Rumbaugh

No. 15-1-00698-5

STATE'S ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

The Defendant Crystal Jackson ran a sophisticated, interstate drug dealing operation coordinating with her gang members in San Quentin and employing distributors and enforcers. When she suspected young street dealer Jesus Isidor-Mendoza was stealing from her, the Defendant oversaw his killing and mutilation. The killing was done for her benefit, with her tools, in her home, and by her employees. She purchased the cleaning materials afterward and, with the assistance of one of her employees, dumped the dismembered body into a ravine.

Afraid that her employees would testify against her, the Defendant turned state's witness and entered into a plea agreement requiring her to testify truthfully at the trials of her co-defendants. When she breached the plea agreement, she obtained a new attorney who argued unsuccessfully that she lacked the mental capacity to testify truthfully, because she was slow and suggestible. The trial court found this claim "[flew] in the face of common sense." Not only did the Defendant have the mental capacity to run a complicated interstate drug enterprise, but she also withheld the truth only when it benefitted her.

The court of appeals' opinion affirmed the denial of the motion to withdraw plea. No RAP 13.4(b) consideration is present.

II. RESTATEMENT OF THE ISSUES

A. Where the evidence is that the murder was performed at the direction, under the supervision, and for the benefit of the Defendant, does the court of appeals' holding affirming a factual basis for the guilty plea raise any consideration of RAP 13.4(b)?

B. Where the Defendant's attorney specifically explained her liability for premeditated murder such that the Defendant understood the relationship of the law to the facts of her case, does the court of appeals' holding affirming that the Defendant understood the nature of the charges present a significant constitutional question or matter of substantial public interest?

III. STATEMENT OF THE CASE

The Defendant Crystal Jackson ran a sophisticated marijuana and methamphetamine distribution operation, earning $5500-8000 a month, holding as much as $15,000 in cash in the house, and making untraceable electronic transfers using Green Dot, Rush Cards, MoneyPak, and prepaid Visa. CP 331, 349, 369-70, 391-92, 522. She would purchase marijuana through dispensaries and individual growers and then ship the product to Tennessee, South Carolina, and California. CP 331, 369, 519 (vacuum-sealed and hidden in clothing). Through her connection at San Quentin, the Defendant arranged for methamphetamine to be mailed to her from California which she then distributed locally. CP 333-34, 370, 391-93. And she attempted to encapsulate and distribute MDMA (molly) but could not find the right clientele for the product. CP 349, 369.

The Defendant entangled many men. Darrell Daves was her tenant and distributor; and Daves' best friend Wallace Jackson (hereinafter "Wallace") was a distributor and the Defendant's occasional sexual dalliance. CP 329-35, 349, 372, 387, 547. Jakeel Mason was hired as her enforcer and also became her paramour, although she was engaged to an inmate in San Quentin. CP 314-16, 329-36, 368-70, 373, 376, 396, 530-31, 547. And yet another romantic interest, Nehemiah Weekly, provided her with cars and money. CP 329 ("pretty much whatever I wanted").

She ran with a rough crowd. Also known as "Lady Hoodsta," the Defendant and the three men who had fathered her children were members of a criminal street gang, the Rollin 90's Crips. CP 312, 337, 349-50, 364, 370, 388-89, 402. Her fiancé had also sold drugs before he went to prison for murdering a person who had robbed him during a deal. CP 402.

After 18-year old Jesus Isidor-Mendoza was caught stealing from the Defendant, his bisected, badly decomposed body was found in a ravine in plastic bags. CP 2, 314-17, 340. And when Wallace implicated her in Isidor-Mendoza's killing, the Defendant was determined to "get back" at him. CP 2-3, 348, 610-11, 613; 5RP 123-24. She made her own statement to police, accusing Wallace and Daves of raping, drowning, and dismembering Isidor-Mendoza in her detached garage. CP 3-4. All three were charged with murder. CP 1-2.

The Defendant desired to cooperate with the prosecution, hoping to avoid any charges at all. 5RP 121-24; 6RP 81. But the prosecutor approached Wallace and Daves first. CP 353; 5RP 40. Only when those discussions proved unsuccessful did the State enter into a plea deal for the Defendant's testimony against her co-defendants. CP 249, 302, 661-64; 5RP 140. Her proffer explained that: she was a drug dealer; Daves was her tenant and distributor; and Dave's best friend Wallace was also a distributor. CP 329-35, 349, 547. She said, although she was Isidro-Mendoza's supplier, all his business had been through a third party, and she did not know him at all. CP 250, 349. When $5000 went missing from her safe, she believed Daves and Wallace were responsible. CP 314. She used her enforcer Mason to strong-arm them. CP 314-16. Daves and Wallace blamed the theft on Isidor-Mendoza, and then, in an apparent effort to recover her money, the men proceeded to torture the boy in the Defendant's garage until he died. CP 250-51, 314-17, 340. Daves and Wallace cut Isidore-Mendoza's body into pieces with tools that they gathered from the Defendant's house. CP 319, 322-23. Afterwards, they cleaned up using the Defendant's cleaning supplies and bathroom. CP 251, 319, 326-27. The Defendant claimed she observed everything, but neither commanded nor prevented it. CP 317-19.

After the Defendant recorded her proffer of testimony, she pled guilty to amended charges of first-degree murder and second-degree manslaughter. 1RP. The plea agreement required the Defendant to give a complete and accurate account of events, to participate in interviews, and to testify at the trials of her co-defendants. CP 249, 302, 661-62; 4RP 27. If she fulfilled her obligations with complete honesty, the State would make a motion to vacate the murder count, and the Defendant would be sentenced only on the second count. CP 3-4, 249, 661-64.

At the change of plea, the Defendant's attorney Ann Mahony explained:

> I have represented Ms. Jackson on this matter for over a year. We've had extensive meetings. We discussed the evidence against her, what a trial would look like, what kind of defense would be put forth for her.
>
> She has made a proffer of testimony which has caused the State to make an offer to her. We have discussed that at length. I do believe that she is making a knowing and intelligent entry of these pleas. I would ask the Court to accept the pleas.

1RP 4.

A few months later, the Defendant acknowledged that she had not been completely truthful. CP 3, 438-39, 604-05, 612; 5RP 150. She had minimized her role in the crime to make herself look better and in order to persuade the prosecutor to enter into the plea agreement with her. CP 605-06, 611, 613; 4RP 41; 5RP 150. The prosecutor impressed on her again that

she needed to be 100% honest and complete in her statement going forward or she would be sentenced to murder in the first degree. 4RP 40-42, 49.

The Defendant then gave a revised[1] statement. CP 251, 436-37. Where she had previously denied knowing the victim, now the Defendant admitted that two months before the murder she had confronted Isidor-Mendoza over a drug debt and instructed him to deal directly with her from then on. CP 250, 396, 429-32, 609-10; 4RP 43. But Isidor-Mendoza stole from her again. CP 432-33 ("The first time, it was just drugs. … The second time was $5,000 came up missing out of my room, out of a safe.").

The Defendant also admitted that she had lied about fleeing the house with her children during the dismemberment of the body. CP 251-52, 439-40, 612-14; *Cf.* CP 320-21, 380-81, 400 (originally claiming she gathered the children so quickly that she left her young brother behind to barricade himself in his room); 4RP 44. In fact, she had only left the house by herself to buy cleaning supplies and breakfast. CP 440, 456.

The co-defendant cases were joined for trial, and the Defendant testified. CP 508-624. After her first day of testimony, it became apparent that she had been lying about the location of the crime. 4RP 57-58, 139-40, 146-48, 171-72; 5RP 13-14.

[1] The attorneys for Daves and Wallace testified that the Defendant gave 11 different statements before the co-defendants' trial and "every single time she talked, her story changed." 4RP 135-38, 151, 169, 174.

Confronted outside of the courtroom, the Defendant admitted that she had taken a picture of Isidor-Mendoza's mangled body and shown it to Mason on her phone. CP 252-53; 4RP 146, 148, 171-73; 14RP 60-61. (Previously she had claimed that she had not been in possession of her phone. CP 318-21.) Mason[2] had told police the body in the picture was in a bathtub. CP 253. Together with the blood evidence, this established that the events occurred in the Defendant's home, not Daves' garage residence. 4RP 139-40, 146-48, 171-72; 5RP 13-14.

During this conversation, the Defendant also admitted that another associate Demetrius "Fresh" Dixon had been at her house around the time of the murder and had participated in some sort of confrontation regarding the missing $5000. CP 253-54; 4RP 49-50, 103-04, 149-51, 175-77; 5RP 28, 163, 168; 6RP 40-41, 49; 13RP 78-79; 14RP 49-51. Mr. Dixon was unknown to the local police. 4RP 103-04. In earlier interviews, the Defendant had identified "Cue Bone," "Spodie," and other gang members who had come up from California. 5RP 30-32. Because she had acknowledged that she had access to out-of-state enforcers, the State was able to address these identified parties in a motion in limine. CP 495-97; 5RP 31. But the Defendant had never spoken of Mr. Dixon. 4RP 70.

[2] Mr. Mason passed away March 25, 2016, the month before the Defendant entered her guilty plea. CP 150, 554; 4RP 1016; 5RP 126-27; *State v. Min Sik Kim*, 7 Wn.App.2d 839, 841, 436 P.3d 425, 427 (2019).

These latest revelations were "completely inconsistent with everything else," and the prosecutor could not proceed. 4RP 135-35, 151-52, 170. Based on the untimely disclosures and the prosecutor's inability to continue to endorse the Defendant's testimony, a mistrial was declared, and the murder charges had to be dismissed against Daves and Wallace. 4RP 17, 152; 5RP 15, 19, 29, 41; 6RP 64. Wallace pled guilty to Rendering Criminal Assistance. CP 61; 5RP 41. Although Daves had confessed his culpability to an inmate and suggested the same in text messages, once the court struck the Defendant's testimony, the State was not able to proceed with any charges against Daves. 6RP 37-38, 51-52.

The State requested that the Defendant Jackson be sentenced on the murder after breaching her plea agreement. CP 302-626. Her new attorney Walter Peale, III delayed hearing, eventually filing a motion to withdraw the plea over a year after it had been entered. CP 13, 38, 40-41, 49-50, 57, 685-87. Over the next year, the court heard testimony on the parties' motions. Ms. Mahony's testimony was taken on four separate days over a period of five months – interrupted repeatedly for Mr. Peale to investigate mental health claims and seek out expert witnesses. CP 69-70; 6RP 3; 7RP 3, 5-23; 8RP 3, 6-13; 9RP 3.

Ms. Mahony testified that she became acquainted with her client's family circumstances, mental and physical health, and criminal history.

6RP 70. They had discussed the evidence, charges, accomplice liability, lesser included offenses, and possible defenses. 1RP 4; 6RP 72, 74, 79-80. She brought the discovery into the jail for the client to review at length but did not coach her on discrepancies between her statements and other evidence. 6RP 73-74, 76. Ms. Mahony had a DNA expert and an investigator on standby and was beginning the process of conducting witness interviews when the plea agreement was reached. 6RP 78, 81.

The court, expert, prosecutor, and defense counsel all agreed the Defendant was competent. CP 255; 6RP 61, 69; 7RP 6-7, 15-16; 9RP 38, 79-80, 96; 13RP 99; 16RP 367-68. However, the Defendant's retained experts depicted her as cognitively incapable of complying with the plea agreement. Exhibits 17 and 21. This portrayal was inconsistent with the Defendant's many interviews in which she described juggling jobs and men in a busy, eventful life. The Defendant had earned a high school diploma and taken classes at the Seattle Vocational Institute in business management and at Bates Technical College. CP 365. She had been employed in floral design, food preparation, hospitality, sales, and as a nurse's aide with senior care. CP 366-67. She had five young children and was raising four of them by herself while also caring for younger siblings. CP 365, 371; 5RP 44. At the time of her arrest, on top of her drug operation, she was earning income by renting out her detached garage, by selling T-shirts to raise cultural

consciousness, and from public assistance. CP 330, 369, 390. And she was active in the conscious community, attending lectures and traveling to California to record her own lectures and music videos on Facebook and YouTube under her African praenomen Amenet Ma'at. CP 342, 364, 368, 389, 390, 402, 493-94.

Isidor-Mendoza was murdered for stealing from the Defendant. CP 314-17, 340. While she was aware that Isidor-Mendoza was being tortured on her behalf and with her children in the house, she got high and had sex. CP 398-99. After disposing of the body, she texted her fiancé:

> I'll bet he won't be able to steal anything anymore. Fucking dope feens. SMH. LOL. Now I can rest. I'm done running the streets. 'Cause this one was way messy Crip King.

CP 336-37.

The superior court did not give credence to the expert testimony that the Defendant was able to manage a "sophisticated" drug operation by "merely following simple instructions." CP 255. Nor did it find that the Defendant misunderstood the "straightforward" requirement that she "provide truthful answers" to questions. CP 254-55. Her deceptions were conscious and goal directed. CP 257. They always benefitted her whether by minimizing her criminal culpability, distancing Mason from the crime in order to hide the intimacy of that relationship from her fiancé, or inventing

a tale of concern for her children's security. CP 257; 4RP 119; 13RP 105-18, 143-44, 153.

The trial court denied the Defendant's motions, found a breach of the plea agreement, and sentenced her accordingly. CP 248-70, 282-95.

IV. ARGUMENT

A. Legal standards.

In the appeal, among other issues the Defendant challenged the factual basis for her plea and whether she understood how the law related to the facts in her case. Brief of Appellant at i-ii, 2, 28, 38. The enforcement of valid plea agreements is of profound public importance. *State v. Codiga*, 162 Wn.2d 912, 922, 175 P.3d 1082 (2008). Therefore, a defendant must prove to the superior court that a withdrawal of the plea is "necessary to correct a manifest injustice." CrR 4.2(f). A manifest injustice is one that is obvious, directly observable, overt, and not obscure. *State v. Pugh*, 153 Wn. App. 569, 577, 222 P.3d 821 (2009).

> "Without question, this imposes upon the defendant a demanding standard." *Taylor,* 83 Wash.2d at 596, 521 P.2d 699. This heavy burden is justified by the greater safeguards protecting a defendant at the time she enters her guilty plea. *See Taylor,* 83 Wash.2d at 596, 521 P.2d 699 (discussing CrR 4.2 requirements which are "carefully designed to insure that the defendant's rights have been fully protected *before* a plea of guilty may be accepted"). Accordingly, trial courts should exercise greater caution in setting aside a guilty plea once the required safeguards have been employed. *Taylor,* 83 Wash.2d at 597, 521 P.2d 699.

State v. Wilson, 162 Wn. App. 409, 414, 253 P.3d 1143, *review denied* 173 W.2d 1006, 268 P.3d 943 (2011).

Failing that, the defendant seeking appellate review must establish that the denial of the motion was an abuse of discretion. *Wilson*, 162 Wn. App. at 414.

> A trial court abuses its discretion if its decision "is manifestly unreasonable or based upon untenable grounds or reasons." *State v. Powell,* 126 Wash.2d 244, 258, 893 P.2d 615 (1995). A court's decision "is based on untenable reasons if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard." *In re Marriage of Littlefield,* 133 Wash.2d 39, 47, 940 P.2d 1362 (1997). "A court's decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard." *Id.* The "untenable grounds" basis applies "if the factual findings are unsupported by the record." *Id.*

State v. Lamb, 175 Wn.2d 121, 127, 285 P.3d 27, 30–31 (2012).

The court of appeals did not find an abuse of discretion. Notwithstanding this high standard, the Defendant seeks review.

B. The court of appeals applied existing law to determine a factual basis that the Defendant knew in advance of her co-conspirators' intent to murder Isidor-Mendoza on her behalf.

The Defendant argues that the court of appeals' opinion expands the concept of accomplice liability to make landlords and property owners liable for their tenants' crimes. Petition at 14-15. It does no such thing.

The court of appeals held that there was a factual basis for premeditation even in the Defendant's first minimized version of events.

Unpub. Op. at 17. The Defendant was conscious of developments from moment to moment as she checked in on the prolonged period of torture and permitted her co-conspirators to borrow the alleged instrumentalities of the killing (a bucket and machete).

> A trier of fact could reasonably have concluded that she did not merely fail to act, but was present and ready to render aid, and that she did render aid by providing the supplies and the venue they needed to complete the murder. Indeed, Mahony testified that she encouraged Jackson to agree to the plea bargain because although the evidence of premeditated murder was thin, the "ready to assist" language in the accomplice liability pattern jury instruction convinced her that going to trial created a real risk that a trier of fact would find Jackson guilty. *See* WPIC 10.51.
>
> A rational trier of fact could also have inferred that Jackson had motive to solicit or at least knowingly promote Isidor-Mendoza's death. This inference is supported by Jackson's daughter's statement that Isidor-Mendoza stole from Jackson and is further reinforced by Wallace's report that Jackson said Isidor-Mendoza had "f***ed up." CP at 3. Moreover, Jackson's actions after Isidor-Mendoza's death—concealing his body and disposing of it—were evidence of guilt even if concealment did not prove premeditation in this case.

Unpub. Op. at 17-18.

The probable cause declarations describe an impersonal, remorseless assassination in the context of drug dealing. CP 2-10. The Defendant knew Isidor-Mendoza and knew where he lived. CP 5 (the month before, she had shown up at his house and given him a ride). She lied about this to police. CP 3 (describing him only as a "boy"). On the day

he was killed, Isidor-Mendoza was summoned to the Defendant's home where he met with her. CP 3, 5. She lied about this to the police. CP 3 (saying Isidor-Mendoza walked to the back of the home to meet Daves and Wallace only).

The Defendant permitted drug dealers Daves and Wallace to live in her detached garage and was their source of drugs. CP 3 (Wallace said when the Defendant invited him to her house, he expected she would provide him with methamphetamine). Wallace felt threatened by her and did what she told him. CP 3 (she pulled out a handgun and demanded his identification, and he helped her dispose of a body).

The Defendant's daughter told police Isidor-Mendoza had been caught stealing from the Defendant. CP 5. It was impressed upon him that he had "fucked up." CP 3. In service of the Defendant's cause, the group set upon Isidor-Mendoza, raping, beating, and eventually drowning him. CP 4. It was not a quick death and involved much "more than a moment in point of time." RCW 9A.32.020(1)(a).

After this barbarism, there was nothing left but to destroy the evidence. They killed him, dismembered him, and cleaned up. CP 2-5. The Defendant did nothing to prevent or report the attack. Indeed, the acts were committed for her benefit by persons who depended upon her for a residence and drugs and whom she had threatened.

From this record, a jury could conclude that the Defendant, alone or with accomplices, intentionally killed Isidor-Mendoza as retribution and deterrence. Isidor-Mendoza was punished for a theft, and the killing deterred others from considering stealing from her.

This motive, which can be inferred from the probable cause statement, became more explicit in later interviews. The murder would have been "to make an example." CP 323. "[A]s a drug dealer … if she doesn't send a message when the money comes missing, it keeps happening over and over again." 4RP 115-16.

> [Stealing is] the type of stuff that people do when they're not afraid of you. They're -- they're just testing you to see how far they can get away with whatever. That's how the drug game is. Like, and that's why I had Jakeel.

CP 495. The Defendant's enforcer Jakeel Mason was connected with more dangerous people in California who could come to Washington, take care of business, and leave the state. CP 495-97.

There is a factual basis for premeditation.

At great length, the Defendant challenges the inferences drawn against her. Petition at 15-17. But this petition is not closing argument, and the standard on review after a guilty plea is not beyond a reasonable doubt.

> The factual basis requirement of CrR 4.2(d) does not mean the trial court must be convinced beyond a reasonable doubt that defendant is in fact guilty. "It should be enough if there

is sufficient evidence for a jury to conclude that he is guilty."

State v. Osborne, 102 Wn.2d 87, 95, 684 P.2d 683, 689 (1984) (quoting *State v. Newton,* 87 Wn.2d 363, 370, 552 P.2d 682 (1976) (quoting United *States v. Webb,* 433 F.2d 400, 403 (1st Cir.1970))). The sufficient evidence standard admits the truth of the state's evidence, drawing all reasonable inferences in favor of the state and most strongly against the defendant. *State v. Scanlan*, 193 Wn.2d 753, 770, 445 P.3d 960, 968 (2019), *cert. denied,* 140 S. Ct. 834, 205 L. Ed. 2d 483 (2020).

The Defendant does not specify which subsection of RAP 13.4(b) applies. None does. The Unpublished Opinion is not in conflict with any law. It simply applies existing law.

C. The Defendant's failed attempt to characterize herself as incompetent in the face of her proven competencies does not establish a significant constitutional question or matter of substantial public interest.

The Defendant argues that she did not understand the law in relation to the facts. Petition at 20, 23. This is not the record.

The Defendant knew that premeditation was an element of the offense. She had received the amended information and reviewed the elements therein. CP 13. "The defendant's understanding of the nature of the charges against [her] is assured by [her] acknowledgment that [she] received a copy of the information and that [she] read and understood it." *Matter of Taylor*, 31 Wn. App. 254, 258, 640 P.2d 737, 739 (1982).

The Defendant had also read and reviewed "every paragraph" of the two probable cause declarations and the plea statement with her attorney "line by line" and had all her questions answered to her satisfaction. CP 30. The Defendant's attorney advised her that there was evidence of premeditation. Unpub. Op. at 17. The evidence and inferences are that this crime was for the Defendant's benefit. It occurred under her watchful eye. Her employees did her bidding. And then she oversaw the disposal of the evidence from the cleaning to the dumping of the body.

The Defendant complains that she was "the easiest target" to flip. Petition at 24. This is incorrect. She was never a target. She was a volunteer from her first contact with police. The prosecutor would have preferred to negotiate with the foot soldiers, but Wallace and Daves refused to testify against the Defendant.

Nor was it "predictable" that the Defendant's testimony would "f[a]ll apart." Petition at 24. The Defendant had a clever explanation for every discrepancy until Wallace's attorney Brett Purtzer listened to a dead man's interview and realized that Isidor-Mendoza had been dismembered in the Defendant's bathroom, not in Daves' living quarters. CP 252-53; 4RP 57-58, 139-40, 146-48, 171-73; 5RP 13-14; 14RP 60-61. In her backpedaling this time, the Defendant tried to blame a dead man from California and even her own attorney. CP 253-54. This time her

explanations did not dig her out but only dug her in deeper. If not for Mr. Purtzer's meticulous review, two men may have been imprisoned for a crime that it is possible that henchmen from California committed. This outcome was not a foregone conclusion.

The Defendant appeals to the court's sympathies by claiming an intellectual disability. However, the trial judge who reviewed all the evidence (including multiple, transcribed interviews with the Defendant) and heard the Defendant's testimony was not persuaded. CP 254-67. The judge found no suggestion that the Defendant lacked understanding at the time of her guilty plea. CP 263.

The Defendant's persistence does not establish a consideration under RAP 13.4(b).

V. CONCLUSION

The State requests this Court deny the petition for review.

RESPECTFULLY SUBMITTED this 20th day of January, 2021.

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on the date below.
1-20-21 s/ Therese Kahn
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PIERCE COUNTY PROSECUTING ATTORNEY

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