

FILED
SUPREME COURT
STATE OF WASHINGTON
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BY ERIN L. LENNON
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No. 99591-5

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

Court of Appeals No. 37141-7-III
(consolidated with 36744-4-III)

Chelan County Superior Court
Cause No. 94-1-00444-2

State of Washington, Respondent

v.

Michael Randall Lauderdale, Petitioner/Appellant

RESPONDENT'S ANSWER TO PETITION FOR REVIEW

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I. ARGUMENT

A. As to the Sufficiency Issue, Lauderdale Fails to Establish a Basis

Under RAP 13.4(b) From Which Review May be Granted.

A petition for review will only be accepted by the Supreme Court if (1) the decision of the Court of Appeals (the Decision) is in conflict with a decision of the Supreme Court, (2) the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals, (3) a significant question of law under the Constitution of the State of Washington or the United States is involved, or (4) the petition involves an issue of substantial public interest that should be determined by the Supreme Court. RAP 13.4(b).

Regarding Lauderdale's petition for review based on the sufficiency of aggravated murder, none of the requirements for review in RAP 13.4(b) are satisfied. First and second, there is no conflict between the Decision and (1) any Supreme Court decision or (2) published Court of Appeals decision. Third, there is no significant question of law under either the State or Federal Constitution. Finally, the issue is not one of substantial public interest.

Rather, the issue of whether there was sufficient evidence for aggravated murder is extraordinarily fact-specific to this case. The Decision correctly noted that because it was a personal restraint petition,

Lauderdale had the burden of presenting competent evidence in support of his claim. Op. at 17; see *In re Pers. Restraint of Coats*, 173 Wn.2d 123, 132, 267 P.3d 324 (2011); *In re Pers. Restraint of Ruiz-Sanabria*, 184 Wn.2d 632, 639, 362 P.3d 758 (2015); *In re Pers. Restraint of Moncada*, 197 Wn. App. 601, 605, 391 P.3d 493 (2017). The Decision also correctly notes that because the record was partial or incomplete, the court would presume any conceivable state of facts within the pleadings and not inconsistent with the record that would sustain the ruling being complained of. Op. at 17; see *State v. Jasper*, 174 Wn.2d 96, 123-24, 271 P.3d 876 (2012). The court then provided multiple conceivable states of facts that would support the aggravated murder conviction. Op. at 19-21. Lauderdale simply failed to meet his burden, and despite what he argues, the incomplete record harms, rather than helps, his argument. There is no basis under RAP 13.4(b) to accept review.

B. As to the Sentencing Issue, the Court of Appeals Decision Appears to Be in Conflict With a Decision of the Supreme Court.

Specifically limited to the interpretation of article I, section 14 of the Washington State Constitution as it applies to 19 year old persons convicted of aggravated murder, the Decision appears to be in conflict with this Court's decision in *In re Pers. Restraint of Monschke*, 197 Wn.2d 305, 482 P.3d 276 (2021). Wash Const. art. I, § 14. To that extent, RAP

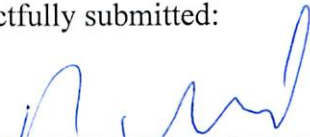
13.4(b)(1) applies; despite this, acceptance of review is nevertheless discretionary, and the State takes no position on whether it should be granted.

II. CONCLUSION

Lauderdale fails to identify any basis under RAP 13.4(b) to accept review regarding the sufficiency of the evidence for aggravated murder. However, as to the sentencing issue, there does appear to be a conflict between the Decision and *Monschke* that would allow but not require this Court to accept review.

DATED this 30th day of July, 2021.

Respectfully submitted:



Ryan S. Valaas, WSBA #40695
Deputy Prosecuting Attorney

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STATE OF WASHINGTON,

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MICHAEL RANDALL LAUDERDALE,

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DECLARATION OF SERVICE

I, Cindy Dietz, under penalty of perjury under the laws of the State of Washington, declare that on the 30th day of July, 2021, I caused the original RESPONDENT'S ANSWER TO PETITION FOR REVIEW to be filed via electronic transmission with the Court of Appeals, Division III, and a true and correct copy of the same to be served on the following in the manner indicated below:

Michael Randall Lauderdale (X) U.S. Mail, postage prepaid
DOC #731480 () Hand Delivery
Airway Heights Corrections Center () E-Service Via Appellate
P.O. Box 2049 Courts' Portal
Airway Heights, WA 99001

Signed at Wenatchee, Washington, this 30th day of July, 2021.



Cindy Dietz
Legal Administrative Supervisor
Chelan County Prosecuting Attorney's Office

CHELAN COUNTY PROSECUTING ATTORNEY

July 30, 2021 - 4:27 PM

Transmittal Information

Filed with Court: Supreme Court
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