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SUPREME COURT
STATE OF WASHINGTON
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SUPREME COURT NO. 1002769
COURT OF APPEALS NO. 81024-3-I

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

CHAZ BUTLER,

Petitioner.

STATE'S ANSWER TO PETITION FOR REVIEW

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A. IDENTITY OF RESPONDENT

Respondent, the State of Washington, asks this Court to deny the petition for review.

B. COURT OF APPEALS OPINION

The Court of Appeals decision at issue is State v. Butler, No. 81024-3-I, filed August 2, 2021 (unpublished).

C. STATEMENT OF THE CASE

The relevant facts are set forth in the briefing before the Court of Appeals and in its opinion below.

D. THIS COURT SHOULD DENY THE PETITION FOR REVIEW

“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).

This Court should deny Butler’s petition for review.

Neither of the issues he raises qualifies for review under RAP 13.4. The Court of Appeals thoroughly and correctly addressed the issues Butler raised below. The State’s responsive briefing below, both in its brief of respondent and its response to Butler’s motion to reconsider, thoroughly addressed Butler’s claims.

The State files this short answer to point out that Butler continues to misapprehend the State’s position in its motion below to publish the opinion of the Court of Appeals, which was denied. In Butler’s petition for review, just as in his motion for reconsideration below, he asserts that the State’s motion to publish the opinion meant that it “understands that this Court expanded the definition of third-degree assault,

making it easier to prove this crime than the legislature intended” and “creates new law.” Pet. for Review at 6. As the State responded below, it did not assert any such thing. The State sought publication because the Court of Appeals’ statutory interpretation clarified the type of transit workers that the legislature had always intended to be protected by the statute. The State believed that publication would have provided clarity to future courts faced with the same issue. It did not concede or assert in any way that the Court of Appeals’ statutory interpretation “expanded” the statute beyond what the legislature originally intended.¹

¹ As the State noted in its brief of respondent below, when the legislature in 1999 was considering the bill that amended RCW 9A.36.031(1)(b), proponents testified that the bill was “part of an overall plan to improve security on all transit systems throughout the state,” and that “[r]aising this type of assault to a felony will help *private security people* be more effective.” Historical Bill Report, HB 1442 (emphasis added), <http://lawfilesexternal.wa.gov/biennium/1999-00/Pdf/Bill%20Reports/House%20Historical/1442%20BRH%20PL.pdf?q=20210202113759>.

The opinion of the Court of Appeals was sound statutory interpretation of the plain meaning of RCW 9A.36.031(1)(b) and the transit personnel protected by it. The Court of Appeals carefully and properly determined that the plain meaning of the statute included contracted transit-security workers. In doing so, it rejected Butler's reading as leading to absurd results that the legislature did not intend. Rather than "expanding" the statute, the Court of Appeals merely disagreed with Butler's too-narrow reading.

The holdings of the Court of Appeals, that substantial evidence supported Butler's assault convictions and that the trial court did not abuse its discretion by not giving a cross-racial-identification instruction, were correct. Butler's petition for review should be denied.

E. CONCLUSION


For the foregoing reasons, the petition for review should be denied.

This document contains 599 words, excluding the parts of the document exempted from the word count by RAP 18.17.

DATED this 7th day of October, 2021.

Respectfully submitted,

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KING COUNTY PROSECUTOR'S OFFICE - APPELLATE UNIT

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