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NO. 101464-3

THE SUPREME COURT
OF THE STATE OF WASHINGTON

ERIC HOOD

Appellant

v.

CENTRALIA COLLEGE,

Respondent.

REPLY TO MOTION FOR ADDITIONAL EVIDENCE ON
REVIEW

Eric Hood, Pro Se
PO Box 1547
Langley, WA 98260
360.632.9134
ericfence@yahoo.com

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I. ARGUMENT

A. New evidence accords with purpose of review.

A petition for review should be presented to this Court only if decisions conflict or when a decision impacts constitutional law, circumstances which should and sometimes do substantially interest the “public.” RAP 13.4(b). In other words, because this Court’s vision is expansive rather than narrowly focused, it grants a petition when a decision below is *consequential*.

The new evidence shows that Division II’s opinion resonates far beyond the dispute between Hood and College, i.e., this Court’s review is necessary precisely *because* the opinion influenced “an entirely different government entity (City of Asotin), well after the events in this matter....” *Answer*, p. 1.

College mistakenly argues that “additional facts are not necessary to fairly resolve the issue on review [because] evidence in the record support[s] the finding that the College conducted a statutorily adequate response.” *Answer*, p. 2-3. But

“evidence in the record” did not include the *impact* of Division II’s opinion, which is this Court’s express purview.

College inaccurately claims, “The issue on review is the appropriateness of the College’s response to a public records request.” *Answer*, p. 2. The issue on review is whether *any* public agency may interpret “all” to mean “some.” *Petition for Review*, p. 6-7 (summarized).

In short, facts attesting to the consequentiality of a decision must be considered to “serve the ends of justice.” *Motion For Additional Evidence On Review* (“*Motion*”), p. 5.¹

B. Unusual circumstances merit this Court’s consideration of new evidence created solely because of opinions below.

College “does not dispute” that a public agency, City of Asotin, invoked Division II’s opinion to argue that a request for “all records it got from the auditor” and “all records of its response to the audit” did “not [...] concern the actual audit

¹ Hood’s *Motion* inadvertently omitted tables, included in the attached Appendix.

process itself.” *Compare Answer*, p. 1 with *Hood Decl.* Exhibit 1 (emphasis in original). That is, City of Asotin parroted Division II’s opinion to conclude that a request for identifiable records did not identify records and justified withholding.

College argues there is already “enough evidence in the record.” *Answer*, p. 3. But Division II’s ruling that a request for identifiable records does not identify records is unprecedented, as was Asotin’s use of the ruling. This Court may waive RAP 9.11(a) when, as here, “new evidence” fosters an “unusual situation.” *Washington Federation of State Employees, Council 28 v. State*, 99 Wash.2d 878, 884-886 665 P.2d 1337 (1983).

Circumstances here are analogous to *Washington Federation*. First, Hood submitted “new evidence” (*id.*) created as a direct result of an authority’s decision. *Compare* Hood’s challenge of Division II’s opinion *with id.* (evidence “was created after initiation of this lawsuit [...] in immediate response to Governor’s announcement.”) Second, the evidence Hood wants this Court to consider is “consistent with the arguments

[Hood] previously made.” *Id.* Finally, the evidence shows that arguments in Hood’s petition are not merely “hypothetical.” *Id.*

The requirements of RAP 9.11(a) may be waived.

C. Applicable requirements of RAP 9.11(a) are met.

True to form, College responded not to the plain language in Hood’s motion but to College’s self-serving interpretation: “[Hood] only asserts the first two of six requirements [of RAP 9.11(a)] are satisfied.” *Answer*, p. 2. In fact, Hood asserted that only the first two requirements “apply.” *Motion*, p. 7. Since the evidence that Hood wants this Court to consider was not available when Division II rendered its opinion, then the other requirements are simply inapplicable. In short, even if this Court does not waive RAP 9.11(a), all applicable requirements are met.

D. Evidence showing the consequence of Division II’s opinion is within this Court’s purview.

Hood’s motion for additional evidence does not seek this Court’s opinion on the “appropriateness” of either the College’s defense or City of Asotin’s response to his records request.

Answer, p. 2. Hood's motion seeks to introduce evidence showing that Division II's opinion is consequential.

Ignoring the evidence in Hood's motion would prevent this Court from considering that Division II's opinion has already empowered agencies to withhold records. That opinion *and* its consequences conflict with higher court decisions, affect all citizens' Constitutional right and obligation to hold government accountable and are of immediate interest to the public.

II. CONCLUSION

This Court must consider the consequential evidence presented in Hood's motion.

Dated this 10th day of December, 2022, by

s/Eric Hood
ERIC HOOD, pro se

Pursuant to RAP 18.17(b), this brief contains 721 words

CERTIFICATE OF SERVICE

I certify under the penalty of perjury under the laws of the State of Washington that on the below date in Langley, WA, I emailed the foregoing documents to counsel for Centralia College

By: /s/ Eric Hood Date: December 10, 2022
ERIC HOOD

APPENDIX 1 (Tables inadvertently omitted from Hood’s
Motion For Additional Evidence On Review)

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ERIC HOOD

December 10, 2022 - 5:27 AM

Transmittal Information

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- krystal@f2vm.com

Comments:

Sender Name: Eric Hood - Email: ericfence@yahoo.com
Address:
PO Box 1547
Langley, WA, 98260
Phone: (360) 321-4011

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