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SUPREME COURT
STATE OF WASHINGTON
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NO. 89380-2

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SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

GUY ROOK,

Appellant.

ANSWER TO PETITION FOR REVIEW

DANIEL T. SATTERBERG
King County Prosecuting Attorney

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 ORIGINAL

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A. IDENTITY OF RESPONDENT

The State of Washington is the Respondent in this case.

B. COURT OF APPEALS DECISION

The Court of Appeals decision at issue is State v. Rook, No. 67572-9-I, filed June 24, 2013 (unpublished).

C. STATEMENT OF THE CASE

The relevant facts are set forth in the briefing before the Court of Appeals.

D. ARGUMENT WHY REVIEW SHOULD BE DENIED

The State's briefing at the Court of Appeals adequately responds to the issues raised in the Brief of Appellant in the Court of Appeals. The State submits this Answer in order to object to consideration of the many grounds for the Petition for Review that were raised by Rook in his pro se briefing in the Court of Appeals below and are not supported by analysis in the Petition for Review. The State further objects to consideration of matters outside the record referred to in the petition and in the Statement of Additional Grounds filed by Rook in the Court of Appeals.

Issues 6 through 10 in the Petition for Review were issues not raised in the Brief of Appellant in the Court of Appeals. The Court of Appeals did not ask counsel to file additional briefing addressing those issues pursuant to RAP 10.10(f), and thus, neither counsel did brief these issues. With respect to each of these issues, the Petition for Review cites general legal principles but includes no legal analysis or argument explaining how the facts of this case violated those principles, as required by RAP 13.4(c)(7). See Petition for Review, at 26-30. These potential issues should not be considered as they have not been properly presented.

Further, among other unsupported allegations, there are factual allegations that the defense trial counsel was ineffective for deciding not to call a witness, yet there is no record of what the witness would said if she had testified. Petition for Review, at 27-28. In addition, there is a claim that the trial court was biased, but there are no citations to the record in support of this allegation. Petition for Review, at 28. Grounds for review that include allegations premised on matters outside the record should be rejected. On direct appeal, a reviewing court will not consider matters outside the trial record. State v. McFarland, 127 Wn.2d

322, 335, 899 P.2d 1251 (1995). The proper avenue for review of these issues is a personal restraint petition. Id.

E. CONCLUSION

The State respectfully requests that the Petition for Review be denied.

DATED this 11th day of October, 2013.

Respectfully submitted,

DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: 
ANDREA R. VITALICH, WSBA #25535
Senior Deputy Prosecuting Attorney
Attorneys for Respondent
Office WSBA #91002

Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to Elaine Winters, the attorney for the petitioner, at Washington Appellate Project, 701 Melbourne Tower, 1511 Third Avenue, Seattle, WA 98101, containing a copy of the Answer to Petition for Review, in STATE V. GUY ROOK, Cause No. 89380-2, in the Supreme Court, for the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

U Brame

Name

Done in Seattle, Washington

10/11/13

Date

OFFICE RECEPTIONIST, CLERK

To: Vitalich, Andrea
Cc: Elaine Winters (elaine@washapp.org); Brame, Wynne
Subject: RE: State v. Guy Rook, No. 89380-2, Answer to Petition for Review

Rec'd 10-11-13

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Vitalich, Andrea [<mailto:Andrea.Vitalich@kingcounty.gov>]
Sent: Friday, October 11, 2013 3:41 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: Elaine Winters (elaine@washapp.org); Brame, Wynne
Subject: State v. Guy Rook, No. 89380-2, Answer to Petition for Review

Dear Supreme Court Clerk,

Attached for filing via email is the Answer to Petition for Review, with certificate of service, for State v. Guy Rook, No. 89380-2.

Thank you,

Andrea Vitalich, WSBA #25535
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