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SUPREME COURT NO. 94206-4

COURT OF APPEALS NO. 33568-2-III

IN THE SUPREME COURT

OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
RESPONDENT

V.

MICHAEL FRAZIER,
APPELLANT/PETITIONER

RESPONSE TO PETITION FOR REVIEW

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A. ISSUES PRESENTED FOR REVIEW

1. Did the State prove that Mr. Frazier "knowingly" engaged in sexual contact beyond a reasonable doubt?
2. Does a juvenile offender have a right to a jury trial?

B. STATEMENT OF THE CASE

1. Procedural Facts

Michael Frazier was charged with Indecent Liberties with Forcible Compulsion with M.B. as the alleged victim. Clerk's Papers 52-53 (hereinafter CP). On June 18, 2015, a bench trial was held in Okanogan County Superior Court. CP 1-25. The Court heard testimony from the State's witnesses: M.B., Vicky B., S.B., C.F. and Detective Deborah Behymer. CP 1-25. Mr. Frazier, was the sole witness called for the defense. CP 1-25. Mr. Frazier was found guilty, as charged. CP 22-25.

2. Substantive Facts

Mr. Frazier and M.B. were both sophomores at Okanogan High School during the 2014/2015 school year. RP 19-21. They dated briefly at the end of their eighth grade year. RP 20. M.B. was the one who ended the relationship. RP 20. That relationship consisted only of hugging and kissing and Mr. Frazier "probably" touched M.B.'s "butt'. RP 143,151. The relationship between Mr.

Frazier and M.B. was "awkward" after initially breaking up, but they later became friends and remained friends up until December 29, 2014. RP 22.

On December 29, 2014, Mr. Frazier was 15 years-old. CP 54-60. On this date, M.B. stopped by S.B.'s residence on her way to work. RP 23-25. Mr. Frazier and S.B. were playing video games. RP 26. M.B. stayed for approximately 10-15 minutes. RP 57. As M.B. was leaving, Mr. Frazier pulled her in for a hug. RP 26. Mr. Frazier then kissed her on the lips and she pulled away. RP 26, 59. Mr. Frazier responded by saying, "Okay, fine". RP 26. She did not kiss him back. RP 27. M.B. told Mr. Frazier that she was interested in another boy and she knew Mr. Frazier was dating someone else. RP 59. M.B. then got into her car and left for work. RP 27.

Later that evening, Mr. Frazier asked M.B. to come back and "hang out" with Mr. Frazier and S.B. after work. RP 27. M.B. met them at the fire hall in Okanogan at approximately 9:00 p.m. RP 28, 31. M.B.'s intention was not to stay very long. RP 80. M.B. knew she would be in trouble with her curfew otherwise. RP 80.

Upon meeting Mr. Frazier and S.B., the three sat in M.B.'s car while they waited for another youth to open the fire hall so they could play a game of pool. RP 29. S.B. went into the fire hall,

leaving M.B. and Mr. Frazier in her car alone. RP 20. M.B. was in the driver's seat and Mr. Frazier was in the passenger seat. RP 29-30. Mr. Frazier asked M.B. if she would drive him to a nearby parking lot so that they could talk. RP 30. M.B. agreed. RP 30. It was dark outside. RP 32. There wasn't anyone else in the parking lot. RP 31.

When Mr. Frazier and M.B. first arrived, they were sitting in her car talking. RP 32. Mr. Frazier turned the overhead light off and the music down. RP 32. Mr. Frazier then put his hand on her leg multiple times. RP 32-33. M.B. said "no" and pushed his hand away each time. RP 32-33. Mr. Frazier placed his hand higher on her leg each time. RP 33. Mr. Frazier then put his hand on M.B.'s vagina. RP 33-34. M.B. grabbed his hand, "threw it back at him" and said, "Stop it!". RP 34. Mr. Frazier grabbed her face, to kiss her. RP 34.

A struggle ensued and M.B. found herself trapped, with her back toward the driver's door. RP 34-35. M.B. was kicking at him. RP 74-75. Mr. Frazier was "kind of on top" of her and M.B. wasn't able to move or break free. RP 35-36. Mr. Frazier is much taller and stronger than M.B. RP 48. Mr. Frazier was 6'4", while M.B. was only 5'3". RP 48. During the struggle, Mr. Frazier touched M.B. a total of four times on her vagina, at one point touching her directly on her vagina under her clothing. RP 38. There was no penetration.

RP 38. Mr. Frazier also touched M.B. on her breast. RP 39. He pushed her breast upward and bit her breast, causing her pain. RP 40.

M.B. was attempting to push Mr. Frazier away and was yelling at Mr. Frazier to stop and get off of her, however he refused multiple times. RP 36, 41, 76. Mr. Frazier said, "Everything is going to be okay" and "calm down". RP 41. He told her that no matter how many times she said his name, he wasn't going to stop. RP 41. When M.B. asked her why he was doing this, he said he "wanted" her "too much" and told her to "...just give him that night". RP 41. M.B. was crying and eventually got Mr. Frazier to stop touching her. RP 42.

M.B. was left with bruising to both of her legs from Mr. Frazier holding her down with his elbows. RP 45-46. She was also left with a bite mark on her breast and her neck. RP 45-46, 74. M.B. also testified about the emotional impact of this incident. RP 46.

M.B. confided in her friend, C.F., about what happened. RP 46-47. C.F. confronted Mr. Frazier about the incident. RP 118. Mr. Frazier said, "Yeah, I feel bad about it." RP 119. C.F. then said, "Were you just thinking with your dick?" RP 120. Mr. Frazier responded, "Yes, I was just thinking with my dick." RP 120. C.F. asked if M.B. told him to stop and Mr. Frazier admitted that she told him to stop four or five times. RP 121.

C. ARGUMENT

Review must be denied because the decision of the Court of Appeals is in accord with existing case law. The question of whether a juvenile has a right to a jury trial has been decided by this Court. Petitioner cites no reason to overturn long-standing precedent. There is no basis to grant review under RAP 13.4(b).

1. The Petition for Review should be denied because the decision of the Court of Appeals is not in conflict with any decision of this Court.

The Petitioner argues that the trial court committed error in failing to consider Mr. Frazier's actions from the perspective of a "reasonable child" in determining whether he had the knowledge to commit this offense. Petition for Review (hereinafter Petition), p. 5-10. The reasonable person standard, found in RCW 9A.08.010(b)(ii), is an *alternative means* of proving that a person acted "knowingly". The State need not prove this alternative when the State has proven actual knowledge. Because the State proved that Mr. Frazier had actual knowledge of sexual contact with his victim, the reasonable person analysis is inapplicable to this case. C.O.A. Opinion, p. 5. The decision of the Court of Appeals is not in conflict with any precedent set by the Supreme Court and thus, the Petition for Review must be denied. RAP 13.4(b).

A. <u>The State proved that Mr. Frazier acted "knowingly" beyond any reasonable doubt.</u>

"The test for determining the sufficiency of the evidence is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt." *State v. Salinas,* 119 Wash. 2d 192, 201, 829 P.2d 1068, 1068 (1992) (citing *State v. Green*, 94 Wash. 2d 216, 220-222, 616 P.2d 628 (1980)). "When the sufficiency of the evidence is challenged in a criminal case, all reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant." *Id.* (citing *State v. Partin*, 88 Wash. 2d 899, 906-907, 567 P.2d 1136 (1977)).

"A person is guilty of indecent liberties when he or she knowingly causes another person to have sexual contact with him or her or another by forcible compulsion." RCW 9A.44.100(1)(a). The definition of "knowingly" is found in RCW 9A.08.010(b): "A person knows or acts knowingly or with knowledge when: (i) he or she is aware of a fact, facts, or circumstances or result described by a statute defining an offense; or (ii) he or she has information which would lead a reasonable person in the same situation to believe that facts exist which facts are described by a statute as defining an offense." The reasonable person standard, found in subsection (ii), is

an *alternative means* of proving that a person acted "knowingly".

The trial court properly considered all of the evidence presented in determining that Mr. Frazier did act "knowingly" when committing this offense. CP 23. Included in such evidence was that M.B. told Mr. Frazier "no" and "stop" over and over. RP 32-33. M.B. was kicking at him. RP 32-33. Despite her continued pleas and physical resistance, Mr. Frazier refused to stop RP 35. When confronted about the incident, Mr. Frazier admitted he was just "thinking with" his "dick" and admitted that M.B. told him to stop four or five times. RP 120-121. It is clear from the evidence that Mr. Frazier had actual knowledge of sexual contact with M.B.

Mr. Frazier also did not present any evidence or argument at trial to show that he did not act "knowingly". Mr. Frazier's entire defense was based on a general denial. RP 150-168. Generally, an issue cannot be raised for the first time on appeal, unless it is a manifest error affecting a constitutional right. RAP 2.5(a).

B. The decision of the Court of Appeals is in accord with existing case law.

The Petitioner asks this Court to accept review because the analysis of the Court of Appeals "conflicts with growing jurisprudence from this court and the United States Supreme Court". Petition, p. 4. The Petitioner, however, cites numerous cases that are

misplaced and do not apply to this analysis. The Petitioner cites no authority to show that the decision of the Court of Appeals conflicts with any higher precedent for this issue.

To support his argument, Petitioner cites *J.D.B. v. North Carolina,* 564 U.S. 261, 273, 131 S. Ct. 2394, 2493, 180 L. Ed. 2d 310 (2011). Petition, p. 4. *J.D.B. v. North Carolina*, however, is a case that addresses *custodial interrogation* of a thirteen year-old, where age is, of course, appropriate to the analysis.

Petitioner also cites *State v. O'Dell,* 183 Wash. 2d 680, 88, 358 P.3d 359 (2015). Petition, p. 4. *State v. O'Dell,* however, is an adult sentencing case and is inapplicable to this analysis. Petitioner also cites the following cases to argue that the courts "must take youth into consideration when determining a child's culpability": (1) *Miller v. Alabama*, 567 U.S. _____, 132 S. Ct 2455, 2464, 183 L. Ed. 2d 407 (2012); (2) *Graham v. Florida*, 560 U.S. 48, 68, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (2010); and (3) *Roper v. Simmons,* 543 U.S. 551, 569, 125 S. Ct. 1183, 161 L. Ed. 2d 1 (2005). Petition, p. 5-6. These cases, however, considered youth who were sentenced to *life imprisonment without the possibility of parole or death*, where age was appropriately considered as a factor.

Petitioner also cites several capacity cases: (1) *State v. J.P.S.*,

135 Wash. 2d 34, 39, 954 P.2d 894 (1998); (2) *State v. Linares,* 75 Wn.App. 404, 414, n. 12, 880 P.2d 550 (1994); (3) *State v. J.F.,* 87 Wn.App. 787, 790, 943 P.2d 303 (1997); and (4) *State v. Erika D.W.,* 85 Wn.App. 601, 607, 934 P.2d 704 (1997). Petition, p. 6. There is a presumption of capacity for youth over the age of 12. RCW 9A.04.050. Because Mr. Frazier was 15 at the time of this offense, the capacity analysis does not apply to his case.

While Petitioner is correct, the Court in *State v. Marshall* did determine that age is a relevant factor in determining whether a person "acted reasonably", the Court also noted that "[b]y implication, children over 12 years have criminal capacity". *State v. Marshall*, 39 Wash. App.180, 692 P.2d.855 (1984). The Court in *State v. Marshall* also determined that "…the Legislature intended the reasonable man standard of RCW 9A.08.010(1)(c) apply to juveniles over 12". *Id.* at 183. Petitioner fails to cite any authority to show that the decision of the Court of Appeals is contrary to any decision of this Court. Review must be denied.

2. Mr. Frazier was not denied the right to a jury trial because such right does not exist for juveniles under the Washington State Constitution or the United States Constitution.

Petitioner argues that because the juvenile system is becoming more akin to our adult system, the right to a jury trial for

juveniles should be restored. These arguments are contrary to long-standing precedent and they are without merit.

A. RCW 13.04.021(2) does not violate the Sixth Amendment to the United States Constitution.

The Sixth Amendment to the United States Constitution provides that, "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury…" U.S. Const. amend. VI. Juvenile court proceedings, however, are not *criminal prosecutions* within the "meaning and reach of the Sixth Amendment" and therefore the Sixth Amendment right to a jury trial does not apply. *McKeiver v. Pennsylvania*, 403 U.S. 528, at 541, 91 S. Ct 1976, 29 L. Ed. 2d 647 (1971). This Court has since held that *McKeiver v. Pennsylvania* is controlling as to the federal constitution and declined to adopt a more stringent rule under the Washington State Constitution. *State v. Lawley*, 91 Wash. 2d 654, 659, 591 P.2d 772 (1979). Thus, RCW 13.04.021(2), which provides that, "cases in the juvenile court shall be tried without a jury" does not violate the Sixth Amendment to the United States Constitution.

B. RCW 13.04.021(2) does not violate Article 1, §21 or § 22 of the Washington State Constitution.

Despite many changes to the law over time, Washington courts have consistently held that the right to a jury trial does not

exist for juvenile offenders. Thus, RCW 13.04.021(2), also does not violate Article 1, § 21 or § 22 of our Washington State Constitution.

In 1968, the Washington State Supreme Court held that jury trials in juvenile proceedings is not a constitutional requisite. *In re the Welfare of Estes v. Hopp,* 73 Wash. 2d 263, 438 P.2d 205 (1968). The Court in *Estes v. Hopp*, was asked to reexamine the right to jury trials as they pertain to juveniles given the United States Supreme Court's 1967 decision in *In re Gault*, which extended many rights held by adults to juveniles. *In re Gault,* 387 U.S. 1, 87 S.Ct. 1428, 18 L. Ed. 2d 368 (1970). This Court, however, clarified that the Supreme Court was quite careful to narrowly define both the scope of its inquiry and the effect of its holding and declined to extend the right to jury trials to juveniles, citing the substantial benefits of the informal juvenile process. *Estes v. Hopp,* 73 Wash. 2d at 267-268.

This Court was asked to reconsider in *State v. Lawley* after sweeping changes were made via the 1977 Juvenile Justice Act (hereinafter J.J.A.). In *Lawley*, the argument was almost identical to Mr. Frazier's, that the changes made via the J.J.A. altered the law's focus from concern for treatment and rehabilitation to punishment. While the Court in *Lawley* recognized that the legislature "substantially restructured the manner in which juvenile offenders

are to be treated" the Court determined that a juvenile charged with an offense is not constitutionally entitled to a jury trial. *State v. Lawley*, 91 Wash. 2d 654, 591 P.2d 772, 654 (1979).

This question was again raised in 1987, in *State v. Schaaf*, 109 Wash. 2d 1, 743 P.2d 240 (1987). Considering amendments to the J.J.A. that increased emphasis on punishment of juveniles, this Court held that such amendments created no right to a trial by jury because juvenile proceedings remained rehabilitative in nature and distinguishable from adult criminal proceedings. *Id.*

Petitioner argues that *State v. Smith*, 150 Wash. 2d 135, 75 P.3d 934 (2003) should be persuasive regarding the analysis of the *Gunwall* factors found in *State v. Gunwall*, 108 Wash.2d 54, 720 P.2d 808 (1986). Petitioner argues that because a juvenile in 1889 had the right to a jury, so does a juvenile in 2017. Petition, p. 20.

The Court in *Smith*, however, did not consider whether a juvenile offender has a right to a jury trial under the *Gunwall* analysis. The Court in *Schaaf* did. Thus, *Schaaf* is controlling precedent as to this issue. Interestingly, *Schaaf* did consider and rejected this same argument posed by Mr. Frazier. *State v. Schaaf*, 109 Wash.2d at 14. The Court opined: "We are not impressed by the implicit suggestion that the state of Washington should regress to

territorial days and adopt a system where juveniles are treated like adult criminals and are afforded no special protections." *Id.* at 15.

In 2008, this Court was again asked to reconsider jury trials for juvenile offenders charged with serious violent offenses. *State v. Chavez*, 163 Wash. 2d 262, 180 P.3d 1250 (2008). The Court in *Chavez* determined: "This court has consistently concluded that because of well-defined differences between Washington's juvenile justice and adult criminal systems, the J.J.A. does not violate these constitutional provisions." *Id.* at 267. The Court held "that the juvenile justice system has not been so altered that juveniles charged with violent and serious violent offenses have the right to a jury trial". *Id.* at 272. And this remains true today.

C. The juvenile justice system and adult system in Washington State still retain significant differences in purpose, procedure and result.

Petitioner argues that because the juvenile system is becoming sufficiently like the adult criminal system, the right to a jury trial for juveniles should be restored. Petition, p. 10-20. Juvenile courts and adult courts in Washington still retain very significant differences at all levels and thus, jury trials are not necessary to protect the rights of youth accused of offenses.

i. The primary purpose of the J.J.A. is still rehabilitation, which is in contrast to the adult system.

As Mr. Frazier points out, children *are* different than adults. These differences demand a unique system tailored to the needs of our youth, with the goal of rehabilitation. The J.J.A. provides the necessary tools to accomplish these goals. The primary purpose of the adult system remains punishment, while the primary purpose of the juvenile system is still rehabilitation of our delinquent youth. *State v. Rice*, 98 Wash. 2d 384, 393, 655 P.2d 1145 (1982). This is clear from a comparison of RCW 9.94A.010, which sets forth the purposes of the Sentencing Reform Act (hereinafter S.R.A.), with RCW 13.40.010, which sets forth the purposes of the J.J.A.

Engrossed Substitute House Bill 2906, which was recently enacted in 2016, even further clarified the intent of the Legislature with regard to rehabilitation of juvenile offenders. Engrossed Substitute H.B. 2906, 64th Leg., Reg. Sess., Chapter 136 (Wash. 2016). This act is known as S.O.A.R. (Strengthening Opportunities and Rehabilitation for Reintegration of Juvenile Offenders). Several changes were made to the J.J.A., Title 13, as well as related laws.

E.S.H.B. 2906 amended RCW 13.40.010, to provide an additional purpose of the J.J.A. to "Provide for the rehabilitation and

reintegration of juvenile offenders". *Id.* at 2. RCW 13.40.020 was also amended to add restorative justice programs to the definition of "community-based rehabilitation." *Id.* at 3. RCW 13.40.127 was amended to require a "strong presumption" that a deferred disposition "will be granted." *Id.* at 8.

ii. <u>The J.J.A. has become even less punitive since this issue was last addressed in *State v. Chavez.*</u>

E.S.H.B. 2906 also amended several laws, removing some of the punitive consequences of juvenile adjudications: (1) RCW 13.40.308 was amended to remove all mandatory fines for motor vehicle crimes (*Id.* at 12-13); (2) RCW 10.99.030 was amended to allow for prosecutorial discretion in charging domestic violence (*Id.* at 16); and (3) RCW 13.40.265 and related statutes were amended, providing that Department of Licensing notification for youth adjudicated of unlawful possession of alcohol, drugs, and firearms be done only on the second or subsequent offense, rather than on a first offense, as previously required. (*Id.* at 17-25). The Legislature has made it abundantly clear, in the passing of E.S.H.B. 2906, that the purpose of the juvenile justice system remains rehabilitative in nature, rather than punitive.

In addition, in 2014, Juvenile sealing laws under RCW

13.50.260 were amended to require mandatory administrative sealing hearings for most offenses. In 2015, RCW 7.68.035 and RCW 13.40.127 were amended to remove the previously mandatory Crime Victim's Compensation in most cases and to allow for dismissal of a deferred disposition, even with unpaid restitution.

iii. <u>Adult scoring of juvenile offenses does not require jury trials for juvenile offenders.</u>

Petitioner argues that the right to jury trials for juveniles should be restored because his juvenile history may be counted in his adult score. This issue has been addressed by our courts.

The use of juvenile offenses in adult scoring has been in place even prior to the implementation of the S.R.A. and survived with the implementation of S.R.A. scoring. *State v. J.H.*, 96 Wash. App. 167, 976 P.2d 1121(1999); *State v. Schaaf*, 109 Wash. 2d at 11. "Changes in the way juvenile offenses are treated as prior offenses ... do not affect the punishment imposed upon the juvenile for the juvenile offense, and so do not support a conclusion that juveniles are entitled to jury trials. *State v. JH.*, 96 Wash. App at 178. *See also State v. Weber*, 159 Wash. 2d 252, 264, 149 P.3d 646 (2006).

Mr. Frazier cites *Apprendi v. New Jersey*, 530 U.S. 466, 494, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000); *Blakely v. Washington*,

542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004); and their progeny. Petition, p. 15-16. These cases, however, do not discuss whether juveniles are entitled to jury trials. Because juveniles have no right to a jury trial, *Blakely's* rule designed to protect the right to a jury trial under the Sixth Amendment, does not apply. *State v. Meade*, 129 Wash. App. 918, 925, 120 P.3d 975 (2005).

"The *Blakely* Court showed no intention... to overrule its well-established holding that the right to a jury does not attach to the traditional juvenile justice system." *Id.* at 925-926 (citing *McKeiver v. Pennsylvania*, 403 U.S. at 543). "Blakely did not alter long-standing rules regarding when the right of a jury attaches, it merely broadened and delineated the scope of that right when it does attach." *Id.* at 926 (citing *United States v. Mora*, 293 F.3d 1213, 1219 (10th Cir.), cert. denied, 537 U.S. 961, 154 L. Ed. 2d 315, 123 S. Ct.388 (2002)). *See also State v. Tai N.*, 127 Wash. App. 733, 738, 113 P.3d 19 (2005).

iv. The requirement of sex offender registration does not mandate jury trials for juvenile offenders.

Petitioner argues that the requirement of sex offender registration requires that he be afforded a jury trial. RCW 9A.44.143, however, provides juveniles with relief from the duty to register. This

Court concluded that the burdens of registration are a collateral consequence of the underlying conviction and the Legislature's purpose in requiring registration was regulatory, not punitive. *State v. Ward*, 123 Wash. 2d 488, 511, 869 P.2d 1062 (1994).

v. The potential for civil involuntary commitment does not require jury trials for juvenile offenders.

Petitioner argues that he may be involuntarily committed, under RCW 71.09, without committing an adult offense, thus entitling him to a jury trial. Petition, p. 13. A jury finding, however, is not required for involuntary commitment under RCW 71.09.

vi. Other collateral consequences of juvenile adjudications do not mandate jury trials for juvenile offenses.

Mr. Frazier makes many other arguments that were all considered and rejected by *State v. Chavez*: (1) "adjudication" and "conviction" have the same meaning under RCW 13.40.011(1); (2) He must submit to a DNA sample and fingerprinting under RCW 43.43.754 and RCW 43.43.735; (3) He has the possibility of being transferred to adult prison to complete his sentence, RCW 13.40.280; and (4) Mr. Frazier's record will never be sealed, pursuant to RCW 13.50.260. Petition, p. 12-14; *State v. Chavez*, 163 Wash. 2d at 268.

While considering these same arguments posed by Mr.

Frazier, the Court in *State v. Chavez* held that the reasoning in *State v. Schaff* still applies. Enough distinctions still exist between juvenile court proceedings and adult proceedings and thus there is no need to insert jury trials into the juvenile system. *State v. Chavez*, 163 Wash.2d at 269. *See also State v. JH*, 96 Wash. App at 177.

The Court in *Monroe v. Soliz* also considered RCW 13.40.280, which allows juvenile offenders to be transferred to the Department of Corrections. "The Court, applying the reasoning in *Schaaf*, concluded the amendment did not create a right to a jury trial." *State v. JH*, 96 Wash. App at 171-172 (discussing *Monroe v. Soliz*, 132 Wash.2d 414, 420, 939 P.2d 205 (1997).

vii. The vast differences in penalties in adult court and juvenile court continue to demonstrate their unique purposes and results.

The penalty, is yet another factor that distinguishes the juvenile code from the adult criminal system. *State v. Chavez*, 163 Wash.2d at 271 (citing *State v. Schaaf*, 108 Wash.2d at 7-8). While Mr. Frazier was ordered to serve a range of 15-36 *weeks* in Juvenile Rehabilitation (RCW 13.40.0357), he would have faced 51-68 *months* in the adult criminal system for the same offense. S.R.A. and RCW 9.94A.507.

viii. Practical reasons dictate retaining our current system of informal juvenile proceedings.

"If the jury trial right were to be injected into the juvenile court system as a matter of right, it would bring with it into that system the traditional delay, the formality, and the clamor of the adversary system..." *McKeiver v. Pennsylvania,* 403 U.S. at 550. "Juvenile offenders are afforded special protections under the present system, and we perceive no valid reason to jeopardize those protections by making juvenile proceedings fully akin to adult proceedings". *State v. Schaff,* 96 Wash. App. at 181.

D. CONCLUSION

The decision of the Court of Appeals is not in conflict with any decision of this Court. Despite many changes to the laws affecting juveniles over time, this Court has consistently held that juveniles have no right to a jury trial. Petitioner cites no reason to overturn long-standing precedent. There is no basis to grant review under RAP 13.4(b).

DATED this 16th day of March, 2017.

Respectfully submitted,

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PROOF OF SERVICE

I, Shauna Field, do hereby certify under penalty of perjury that on the 17th day of March, 2017, I provided service to the following via email, a true and correct copy of the Response to Petition for Review:

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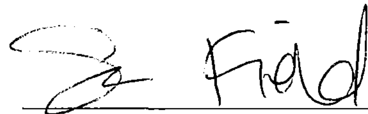

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