

FILED
SUPREME COURT
STATE OF WASHINGTON
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BY SUSAN L. CARLSON
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No. 96885-3

SUPREME COURT
OF THE STATE OF WASHINGTON

DONNA ZINK,

Appellant,

v.

JOHN DOE L, et al.,

Respondents.

ANSWER TO PETITION FOR REVIEW

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[4824-3345-3966]

TABLE OF CONTENTS

TABLE OF CONTENTS..... i

TABLE OF AUTHORITIES ii

I. IDENTITY OF RESPONDENTS..... - 1 -

II. COURT OF APPEALS OPINION - 1 -

III. STATEMENT OF THE ISSUE..... - 1 -

IV. STATEMENT OF THE CASE..... - 1 -

V. ARGUMENT - 2 -

 A. The question of whether unredacted SSODA
 evaluations may be disclosed to the public has already
 been decided by the Supreme Court. - 2 -

VI. CONCLUSION..... - 4 -

TABLE OF AUTHORITIES

Cases

| | |
|--|------|
| <i>Deer v. Dep't of Soc. & Health Servs.</i> , 122 Wn. App. 84, 91, 93 P.3d 195 (2004)..... | 3 |
| <i>John Doe G v. Department of Corrections</i> , 190 Wn.2d 185, 410 P.3d 1156 (2018) | 3, 4 |
| <i>John Doe L v. Pierce County</i> , 433 P.3d 838 (2019) | 1 |
| <i>State v. A.G.S.</i> , 182 Wn.2d 273, 278-80, 340 P.3d 830 (2014) | 1, 3 |

Statutes

| | |
|---------------------------|------------|
| RAP 13.4(b) | 1, 2, 4 |
| RCW 13.40.162 | 2 |
| RCW 13.50 | 1, 2, 3, 4 |
| RCW 13.50.010(1)..... | 2 |
| RCW 13.50.050(1)(c) | 3 |
| RCW 13.50.050(2)..... | 2 |
| RCW 13.50.050(3)..... | 2 |

I. IDENTITY OF RESPONDENTS

Respondents John Does L, M, N, and O—Plaintiffs below—ask the Court to deny Donna Zink’s Petition for Review.

II. COURT OF APPEALS OPINION

On January 23, 2019, the Court of Appeals filed *John Doe L v. Pierce County*, 433 P.3d 838 (2019) and held that unredacted Special Sex Offender Disposition Alternative (SSODA) evaluations are exempt from disclosure under RCW 13.50 and Supreme Court case law, *State v. A.G.S.*, 182 Wn.2d 273, 340 P.3d 830 (2014).

III. STATEMENT OF THE ISSUE

SSODA evaluations are exempt from public disclosure as confidential juvenile records under RCW 13.50 and Supreme Court case law, *State v. A.G.S.*, 182 Wn.2d 273, 340 P.3d 830 (2014). Because this is settled law, has Donna Zink failed to raise an issue of substantial public interest under RAP 13.4(b)?

IV. STATEMENT OF THE CASE

For purposes of this answer, Plaintiffs rely on the facts as presented in the Court of Appeals opinion, *John Doe L v. Pierce County*, 433 P.3d 838 (2019).

V. ARGUMENT

A Petition for Review will be accepted by this Court only if (1) the Court of Appeals' decision conflicts with a decision of the Supreme Court; (2) the Court of Appeals' decision conflicts with another published decision of the Court of Appeals; (3) a significant question of law under the Washington State Constitution or the United States Constitution 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).

A. The question of whether unredacted SSODA evaluations may be disclosed to the public has already been decided by the Supreme Court.

Juveniles facing a first-time conviction for certain sex offenses in Washington may seek an alternative to traditional sentencing pursuant to a SSODA. RCW 13.40.162. Unredacted SSODA evaluations are exempt from disclosure under RCW 13.50. Washington classifies records pertaining to a juvenile's criminal offense into three categories: (a) the official juvenile court file, which includes court filings, orders, and the like; (b) the "social file," which contains reports of the probation counselor; and (c) other miscellaneous records. RCW 13.50.010(1). While the official court file is open to the public unless sealed, RCW 13.50.050(2), the other juvenile offense records are generally confidential. RCW 13.50.050(3).

RCW 13.50 is an “other statute” that exempts confidential juvenile records from the Public Records Act (PRA). *Deer v. Dep’t of Soc. & Health Servs.*, 122 Wn. App. 84, 91, 93 P.3d 195 (2004). SSODA evaluations are not part of the court file and are therefore confidential juvenile records. *State v. A.G.S.*, 182 Wn.2d 273, 278-80, 340 P.3d 830 (2014).

In her petition for review, Ms. Zink argues incorrectly that the change in the definition of “official juvenile court file” impacts the Court’s analysis in *State v. A.G.S.* Though the legislature amended RCW 13.50.010(1)(c) in 2016 to add specific court documents to the definition of “official juvenile court file,” the documents in question are not similar to, or implicate in any way, SSODA evaluations. As the Court in *State v. A.G.S.* made clear, “[o]n its face, the SSODA evaluation does not belong in the court file.... Put simply, it is not a court document.” *State v. A.G.S.*, 182 Wn.2d at 278.

Ms. Zink also argues incorrectly that this Court’s decision in *John Doe G. v. Department of Corrections*, 190 Wn.2d 185, 410 P.3d 1156 (2018), is in conflict with *State v. A.G.S.* The *Doe G* case involved the issue of whether Special Sex Offender Sentencing Alternative (SSOSA) evaluations are exempt from disclosure under the PRA because they contain “health care information.” *Doe G* did not involve SSODA

evaluations or RCW 13.50. Thus, there is no conflict between the *Doe G* case and the *A.G.S.* case.

Because the Washington State Supreme Court has definitively decided that unredacted SSODA evaluations are exempt from disclosure under RCW 13.50, Donna Zink does not raise an issue of substantial public interest, nor any other ground justifying review, under RAP 13.4(b).

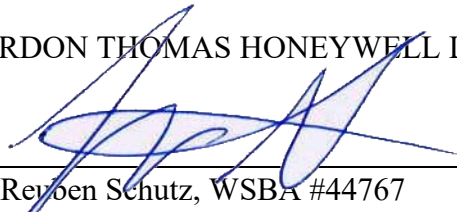
VI. CONCLUSION

The Court should deny Donna Zink’s Petition for Review pursuant to RAP 13.4(b).

Dated this 22nd day of March, 2019.

Respectfully submitted,

GORDON THOMAS HONEYWELL LLP

By 

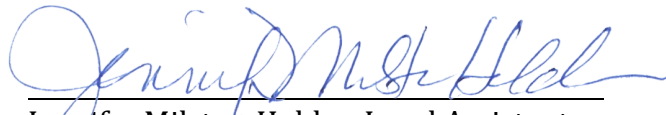
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CERTIFICATE OF SERVICE

I declare under penalty of perjury of the laws of the State of Washington as follows:

On March 22, 2019, I sent a true and correct copy of the Answer to Petition for Review to the following parties of record, via email to the following:

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