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SUPREME COURT  
STATE OF WASHINGTON  
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No. 99700-4  
COA NO. 54084-3-II

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON,

Respondent,

v.

SAMUEL BEAM,

Petitioner.

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR THURSTON COUNTY

The Honorable Christine Schaller, Judge  
Cause No. 17-1-01000-34

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ANSWER TO PETITION FOR REVIEW

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A. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Whether this Court should accept review of the decision of the Court of Appeals interpreting the meaning of the word injure, where the interpretation is consistent with case law and statutes.

B. STATEMENT OF THE CASE

Following his termination from drug court, the trial court found Beam guilty of harming a police dog, assault in the third degree, criminal impersonation in the first degree, obstructing a law enforcement officer and bail jumping in this case and possession of stolen property in the second degree in Thurston County cause number 16-1-02236-34. CP 38-39, RP 4-5. Beam was sentenced to 29 months on cause number 16-1-02236-34 concurrent with the sentence in this case. RP 13. For the charges in this case, the trial court imposed 365 days on the charge of harming a police dog, 51 months on the charge of assault in the third degree, 365 days on the charge of criminal impersonation in the first degree, 365 days on the charge of obstructing a law enforcement officer, and 51 months on the charge of bail jumping. RP 13, CP 40. The sentences were run concurrent to one another. CP 42, 13-14. Beam appealed only the conviction for harming a police dog.

The stipulated facts relied upon by the trial court on that charge included the police report which indicated that while being apprehended by Thurston County K9 Jaxx, the officer observed Beam “punch K9 Jaxx in the head and K9 Jaxx let go of his bite” at that time. CP 28. When K9 Jaxx reengaged, the officer observed Beam “punch K9 Jaxx 4-5 times more with a closed fist but K9 Jaxx” maintained contact with the suspect. CP 28. The report noted that K9 Jaxx took Beam to the ground, but Beam was still actively fighting with the K9. CP 28.

On appeal, Beam argued that the police reports considered during his stipulated facts bench trial were insufficient to support a conviction for harming a police dog. State v. Beam, No. 54084-3 (unpublished opinion) slip op. at 1. The decision of the Court of Appeals applied the dictionary meaning to the term “injure” in concluding that sufficient evidence existed to support the conviction. *Id.* at 3-4. Beam now seeks review of this Court.

C. ARGUMENT

A petition for review will be accepted by this 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 a published 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). Beam argues that the decision of the Court of Appeals failed to follow rules of statutory construction, however a close reading of the decision reveals otherwise. There is no basis upon which this Court should accept review.

1. The Court of Appeals correctly determined that the word “injure” as “to give pain to” correctly followed precedent regarding statutory interpretation.

A person is guilty of harming a police dog if he maliciously injures, disables, shoots, or kills by any means any dog that the person knows or has reason to know to be a police dog. RCW 9A.76.200(1), State v. Kisor, 68 Wn. App. 610, 614-615, 844 P.2d 1038 (1993). A person acts maliciously if they act with an evil intent, wish, or design to vex, annoy, or injure. RCW 9A.04.110(12); State v. Clark, 78 Wn. App. 471, 480, 898 P.2d 854 (1995). The State generally agrees that the term “injure” is not defined in RCW chapter 9A.76. However, RCW 9A.04.110(4)(a) defines bodily injury, physical injury, or bodily harm as “physical

pain or injury, illness, or impairment of physical condition.” In the context of the hit and run statute, the Court of Appeals has found that the term “injury” “interchangeably means bodily injury, physical injury, or bodily harm as defined in RCW 9A.04.110(4)(a). State v. Perry, 6 Wn. App.2d 544, 554, 441 P.3d 543 (2018).

When a nontechnical statutory term is undefined, its meaning may be defined from its dictionary definition. State v. Kintz, 169 Wn.2d 537, 547, 238 P.3d 470 (2010). Injure is defined as “to inflict bodily hurt on” or “to impair the soundness of” or “to harm, impair, or tarnish the standing of” or “to give pain to.” “Injure,” Merriam-Webster.com Dictionary, <http://www.merriam-webster.com/dictionary/injure> (May 13, 2020).

“Hurt” is defined as “to inflict with physical pain” or “to do substantial or material harm to” or “to cause emotional pain or anguish to” or “to be detrimental to.” “Hurt,” Merriam-Webster.com Dictionary, <http://www.merriam-webster.com/dictionary/injure> (May 13, 2020). Taking the definition in RCW 9A.04.110(4)(a) together with the dictionary definitions of injury and hurt, it is clear that the term “injures” means to inflict with physical pain.

When interpreting the meaning of a word contained in a list, a court should “take into consideration the meaning naturally

attaching to them from the context and ...adopt the sense of the words which best harmonize the concept.” State v. Gonzalez-Flores, 164 Wn.2d 1, 12, 186 P.3d 1038 (2008); State v. Roggenkamp, 153 Wn.2d 614, 623, 106 P.3d 196 (2005). The list in RCW 9A.76.200 demonstrates an intent from the legislature to show acts by degree of severity. Disables is generally less severe than shoots, which is less severe than kills. In context, it stands to reason that the term injures would mean something less severe than disables. When the dictionary definition and the definition in RCW 9A.04.110(4)(a) are considered, the infliction of pain, even if no disability is caused, is consistent with RCW 9A.76.200(1).

Here, the Court of Appeals decision correctly acknowledged and followed the principles of statutory interpretation. The Court of Appeals decision noted,

We discern a statute’s meaning from the ordinary meaning of the language at issue, the context of the statute in which that provision is found, related provisions, and the statutory scheme as a whole. And we give nontechnical statutory terms their dictionary meaning.

Unpublished Opinion, at 3 (internal citations omitted). The Court of Appeals correctly defined the non-technical term “injure” as “to give



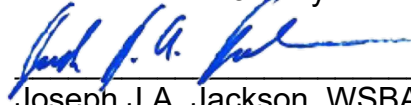
pain to.” Using that definition, sufficient evidence supported Beam’s conviction. As the Court of Appeals noted, the evidence shows that Beam punched the police dog in the head, causing the dog to break its grip on Beam. The evidence also shows that Bram continued to punch the police dog in the head with a closed fist several more times thereafter.

Unpublished Opinion, at 4. There was no error in the Court of Appeals decision and there is no basis under RAP 13.4(b) upon which this Court should accept review.

D. CONCLUSION

For the reasons stated herein, the State respectfully requests that this Court deny review of the decision of the Court of Appeals.

Respectfully submitted this 13<sup>th</sup> day of May, 2021.



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Joseph J.A. Jackson, WSBA# 37306  
Attorney for Respondent

**DECLARATION OF SERVICE**

I hereby certify that on the date indicated below I electronically filed the foregoing document with the Clerk of the Court of Appeals using the Appellate Courts' Portal utilized by the Washington State Court of Appeals, Supreme Court, for Washington, which will provide service of this document to the attorneys of record.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Olympia, Washington.

Date: May 13, 2021

Signature: 

**THURSTON COUNTY PROSECUTING ATTORNEY'S OFFICE**

**May 13, 2021 - 1:40 PM**

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