

FILED
SUPREME COURT
STATE OF WASHINGTON
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No. 103104-1
COA No. 57713-5-II

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

ADAM E. PARIS,

Appellant.

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

The Honorable Mary Sue Wilson
Cause No. 19-1-00469-34

ANSWER TO PETITION FOR REVIEW

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A. ISSUES PERTAINING TO REVIEW

1. Whether this Court should accept review of a claimed erroneous removal of a juror under RAP 13.4(b) where the decision of the Court of Appeals was consistent with the prior precedent of this Court.

B. STATEMENT OF THE CASE

PMM (11/14/2004) and her sister KGR (08/22/2007) were sexually and physically abused by the Appellant, Adam Paris, while he was living in the same home as the sisters as their stepfather. RP 629, 646, 666-67, 705, 720, 730, 737. A jury found Paris guilty of counts two and three, rape of a child in the first degree and counts four and five child molestation in the first degree, for the sexual abuses he committed against PMM and KGR. CP 252-58. Paris was acquitted on counts one and six. CP 252, 258. Paris was sentenced to a minimum of 292 months to life for counts two and three and was sentenced to a minimum of 182 months to life for counts four and five. CP 340.

Paris appealed his convictions. Division II of the Court of Appeals affirmed his convictions. Unpublished Opinion, No. 57713-5-II, at 1. In a Statement of Additional Grounds, Paris argued that the trial court erroneously struck an empaneled juror for cause. The Court of Appeals found, “The trial court did not excuse Juror 11 based on concern about the juror’s view of the merits of the evidence presented.” Id. at 16. The Court of Appeals noted that alternate jurors are presumed unbiased, and found that “as a result, the release of Juror 11 had no substantial influence on the outcome of the trial and any error was harmless.” Id.

Paris seeks review of that issue. Additional facts were included in the argument section before.¹

C. ARGUMENT

¹ For a more complete recitation of the facts, please refer to the Statement of the Case in the Brief of Respondent, No. 57713-5-II.

1. The decision of the Court of Appeals was correct and consistent with precedent set forth by this Court. There is no basis for which review should be accepted under RAP 13.4(b).

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). Paris argues that the decision of the Court of Appeals is contrary to this Court’s decision in State v. Sassen Van Elsloo, 191 Wn.2d 798, 425 P.3d 807 (2018). However, the Court of Appeals’ decision is consistent with the opinion in Sassen Van Elsloo.

A reviewing court reviews a trial court's decision to discharge a juror for abuse of discretion. State v. Depaz, 165 Wn.2d 842, 858, 204 P.3d 217 (2009). The trial court "has the advantage of observing a juror's demeanor" and is "in the best position to determine a juror's ability to be fair and impartial." State v. Teninty, 17 Wn.App.2d 957, 964, 489 P.3d 670 (2021). RCW 2.36.110 imposes a duty on the trial judge to "excuse from further service any juror, who in the opinion of the judge, has manifested unfitness as a juror by reason of bias ..."

Defendant's do not have a right to any particular juror, and even if erroneous, the dismissal of a potential juror does not cause a biased juror to be impaneled. Sassen Van Elsloo, 191 Wn.2d at 817. "Erroneous dismissal of a potential juror does not automatically violate a defendant's constitutional right to an impartial jury, and for this reason, a defendant must prove that the improper dismissal of a potential juror was prejudicial to a new trial."

Id. The erroneous dismissal of an impaneled juror does not violate constitutional rights, as long as the dismissal does not stem from views on the case. Id. at 822. A new trial is warranted if there exists a reasonable possibility that the trial judge dismissed an impaneled juror because of that juror's "views of the sufficiency of the evidence." Id. at 822-823.

Here, the prosecutor asked to dismiss Juror 11 after the parties became aware that Juror 11 had spent time with Paris "approximately 20 times in the last year and has spent more time with him within the last two years." RP 1271. The prosecutor also noted that Juror 11 had connections with Paris and to Paris' "circle" or "support group" that had been in the courtroom. RP 1271-1272. The trial court ruled,

We do have a circumstance where the same juror shook the hand of a spectator that the circumstantial evidence suggests the spectator is here for the defendant and has just told the court on the record that he has played music

together with the defendant for about 20 times over the last year. That close connection can lead to an inference of bias and prejudice and not being able to be impartial.

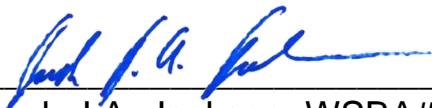
RP 1273. On that record, the trial court did not abuse its discretion by dismissing Juror 11. Perhaps more importantly, it was abundantly clear from the record that the trial court did not dismiss Juror 11 based on their views of the sufficiency of the evidence. The Court of Appeals correctly ruled “the release of juror 11 had no substantial influence on the outcome of the trial and any error was harmless.” Unpublished Opinion, at 16. The decision was consistent with the holding of Sassen Van Elsloo. Review is not warranted.

D. CONCLUSION

For the reasons stated herein, the State respectfully request that this Court deny the petition for review. There is no basis under RAP 13.4(b) upon which review is warranted.

I certify that this document contains 993 words, not including those portions exempted from the word count, as counted by word processing software, in compliance with RAP 18.17.

Respectfully submitted this 21st day of June 2024.



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, in The Supreme Court, for Washington.

I hereby also certify that on the date indicated below I placed a true and correct copy of the foregoing document in the US Postal Service with appropriate postage paid to the defendant, Damien Harris, at the following address:

Adam Ezra Paris, DOC 435137
Airway Heights Corrections Center
P.O. Box 2049
Airway Heights, WA 99001.

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.

Dated this 21st day of June 2024.

Signature: Stephanie Johnson

THURSTON COUNTY PROSECUTING ATTORNEY'S OFFICE

June 21, 2024 - 10:54 AM

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