

FILED
SUPREME COURT
STATE OF WASHINGTON
8/26/2024 11:20 AM
BY ERIN L. LENNON
CLERK

SUPREME COURT
OF THE STATE OF WASHINGTON

SHEILA LAROSE,

Petitioner,

v.

KING COUNTY,

Respondent,

and

PDA, dba THE DEFENDER
ASSOCIATION, a non-profit
corporation,

Defendant.

No. 103248-0

RAP 10.8 STATEMENT
OF ADDITIONAL
AUTHORITY

In *Okonowsky v. Garland*, ___F. 4th ___, 2024 WL 3530231 (9th Cir. 2024), a key Title VII published opinion, the Ninth Circuit reaffirmed that hostile work environment (“HWE”) claims are evaluated under the totality of the circumstances of the plaintiff’s harassment. The court rejected any notion that a HWE is confined to the employer’s physical workplace in light of the ubiquitous nature of social media. This court further concluded that a male correctional staff’s cyber-harassment of a

female prison psychologist was imputable to the employer where the prison's remedial measures for the harassment were a jury question.

As LaRose has argued in seeking review of Division II's outlier opinion on the scope of an HWE claim, after *Okonowsky*, courts do not tolerate the notion that female employees like LaRose must tolerate unacceptable sexual harassment as a condition of employment.

The *Okonowsky* court made clear that courts must look to the totality of the circumstances of the harassment that establishes a HWE. *Id.* at *8. Here, that includes Sheila's TDA employment leading up to her County employment. Moreover, the harassment is not confined to the physical workplace, contrary to Division II's erroneous HWE conception, and extends to harassment having a nexus to a plaintiff's employment. *Id.* at 10 ("... even if discriminatory or intimidating conduct occurs wholly offsite, it remains relevant to the extent it affects the employer's working environment.")

Division II should not have ruled as a matter of law that Client A's conduct was not imputable to the County, as this was a fact question and the jury resolved it. *Id.* at * 12-15.

This document contains 265 words, excluding the parts of the document exempted from the word count by RAP 18.17.

DATED this 26th day of August, 2024.

Respectfully submitted,

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DECLARATION OF SERVICE

On said day below, I electronically served a true and accurate copy of the *Statement of Additional Authority* in Supreme Court Cause No. 103248-0 to the following parties:

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Original electronically filed by appellate portal to:
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Clerk's Office

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

DATED: August 26, 2024 at Seattle, Washington.

/s/ Brad Roberts
Brad Roberts. Legal Assistant
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TALMADGE/FITZPATRICK

August 26, 2024 - 11:20 AM

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Appellate Court Case Number: 103,248-0
Appellate Court Case Title: Sheila LaRose v. King County
Superior Court Case Number: 15-2-13418-9

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