

IN THE SUPREME COURT OF THE STATE OF  
WASHINGTON

STATE OF  
WASHINGTON,  
Respondent,

v.

LAVELLE JOHNSON,  
Petitioner.

No. 103461-0

STATEMENT OF  
ADDITIONAL  
AUTHORITIES

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Per RAP 10.8, Petitioner Lavelle Johnson alerts this Court to the Court of Appeals’s decision in *State v. Bauer*, No. 86608-7-I (Wash. Ct. App. Dec. 16, 2024) (unpub.). *Bauer* supports denying the prosecution’s request for review because the prosecution’s cross appeal was improper under RAP 2.2(b) and RAP 3.1. Reply to Ans. to Pet. for Review at 6–18.

In *Bauer*, Mr. Bauer, the appellant, was convicted of all counts alleged against him. Slip op. at 7. Mr. Bauer raised evidentiary and instructional errors on appeal. *Id.* at 1. In a cross appeal, the prosecution also

raised alleged evidentiary errors. *Id.*

The Court of Appeals agreed with Mr. Bauer's arguments and reversed his convictions. *Id.* at 2.

The court then turned to the prosecution's cross appeal. The court noted that the trial court's ruling refusing to admit certain evidence was not among the appealable orders listed in RAP 2.2(b). *Id.* at 29–30. It also observed that the prosecution "received a unanimous guilty verdict on all charged offenses" and therefore was not "aggrieved" as RAP 3.1 requires. *Id.*

Because the prosecution's appeal did not meet the criteria of RAP 2.2(b) or RAP 3.1, the Court of Appeals refused to address the appeal. *Id.* at 30.

The same conclusions follow here. Like the ruling in *Bauer*, the trial court's findings following a *Franks* hearing are not among the orders listed in RAP 2.2(b). Reply to Ans. to Pet. for Review at 9–10. And the

prosecution is not an aggrieved party because the trial court did not suppress any evidence or dismiss any charges, and the jury convicted Mr. Johnson of every alleged offense. *Id.* at 12–13; CP 154, 188, 597.

Because the issue is not properly before this Court, the prosecution’s request for review should be denied.

Per RAP 10.8(b), the undersigned certifies this statement contains 298 words.

DATED this 27th day of December, 2024.



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The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original of the document to which this declaration is affixed/attached, was filed in the **Washington State Supreme Court** under **Case No. 103461-0**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office or residence address as listed on ACORDS:

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Date: December 27, 2024

# WASHINGTON APPELLATE PROJECT

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