Supreme Court No. _____
COA No. 85116-1-I

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

DONALD JANEL LEGRONE,

Petitioner.

ON APPEAL FROM THE SUPERIOR COURT
OF KING COUNTY

PETITION FOR REVIEW

OLIVER R. DAVIS
Attorney for Petitioner

WASHINGTON APPELLATE PROJECT
1511 Third Avenue, Suite 610
Seattle, Washington 98101
(206) 587-2711

TABLE OF CONTENTS

TABLE OF AUTHORITIES

A. IDENTITY OF PETITIONER

Donald Janel Legrone was the defendant in King County No. 21-1-05209-9 SEA, and the appellant in COA 85116-1, and is the Petitioner herein.

B. COURT OF APPEALS DECISION

1. Based on errors of law that should be reviewed by the Supreme Court, Mr. Legrone seeks review by this Court of the Court of Appeals decision in COA No. 85116-1-I, issued September 23, 2024, affirming his judgment for kidnapping and assault in a trial where his right to present a defense was violated, violating both the Sixth Amendment, and the Due Process guarantee of the Fourteenth Amendment. See Appendix A (decision).[1]

2. Review by the Supreme Court is also warranted where Mr. Legrone's sentence violates Article 1, section 14.

---

[1] Holmes v. South Carolina, 547 U.S. 319, 126 S.Ct. 1727, 164 L.Ed.2d 503 (2006); Crane v. Kentucky, 476 U.S. 683, 106 S.Ct. 2142, 90 L.Ed.2d 636 (1986); Chambers v.

C. ISSUES PRESENTED ON REVIEW

1. The complainant in Mr. Legrone's trial on charges of kidnapping, assault, and theft made a claim of kidnapping and assault against Mr. Legrone similar to the accusations in the present case, several months prior, and in that incident responding police officers determined that the victim was Mr. Legrone.

The defendant, who denied his presence anywhere near Ms. Rankin on the date claimed in the present case, proffered a police report and and also sought leave to introduce testimonial evidence regarding Ms. Rankin's claim several months previously, in March, that he had kidnapped and assaulted her. The responding police officers encountered an injured, bloodied Mr. Legrone, rejected Ms. Rankin's claim, and arrested her for assault instead - releasing her only after Mr. Legrone asked the officers to do so.

Mississippi, 410 U.S. 284, 93 S.Ct. 1038, 35 L.Ed.2d 297 (1973).

Did the court abuse its discretion under evidence rules ER 401, ER 404(b), and/or ER 608(b) in excluding evidence of Ms. Rankin's March accusation, which the police deemed unsupported, and which showed a motive to falsely accuse Mr. Legrone, a prior act of apparent dishonesty in accusing him of criminal conduct, and impeached her credibility as an accuser?

2. In so doing, did the court wrongly exclude evidence that was relevant and of high probative value, violating Mr. Legrone's right to present a defense, either by erroneous application of the evidence rules or under the constitution?

3. Is Washington's three-strikes law unconstitutional because it is imposed in a racially disparate manner?

D. STATEMENT OF THE CASE

A mere four months after making accusations of assault against Mr. Legrone which the police dismissed as false, his romantic partner Doris Rankin Cerbillo (referred to as "Ms. Rankin") made claims resulting in Mr. Legrone being charged

Kidnapping in the First Degree and Assault In The Second Degree. CP 1-2.

Although there were no eyewitnesses to the alleged incident - claimed to have occurred on July 29, 2021 - Ms. Rankin claimed that Mr. Legrone appeared outside her place of work at Pima Medical Care in Renton on that date. RP 3-518.[2] Ms. Rankin said that Mr. Legrone entered her car, threatened to kill her, and demanded that she drive. RP 3-521. Mr. Legrone allegedly took the wheel and supposedly tried to strangle Ms. Rankin, as he drove south toward Des Moines. RP 3-522-24.

The State's evidence included testimony by Ms. Rankin's friend Ms. Gabriela Wheeler, who Rankin said she had contacted on her cell phone using the "FaceTime" application when she saw Mr. Legrone outside her work. RP 3-517, RP 3-702. The "Face Time" application allowed Ms. Wheeler to overhear what was happening in the interactions between Mr.

Legrone and herself. RP 3-708. Ms. Wheeler, who called 911, stated that she heard Mr. Legrone - or a man she said was Mr. Legrone - yelling and cursing at Ms. Rankin about why she would not love him, among other complaints, and saying he would kill her. RP 3-704. Ms. Wheeler also said she could hear Ms. Rankin being assaulted. RP 3-703; Trial Exhibit List filed 11/23/2022) (exhibit 6 (911 call transcript), Exhibit 7 (recording)).

Prior to trial, the court denied the defense motion to introduce evidence of the incident occurring several months previously, ruling that there was "nothing to show" that Ms. Rankin' prior similar accusation of kidnapping and assault against Mr. Legrone was not deemed true. RP-2-468-469.

As a result of the trial court's outcome-determinative evidentiary ruling, Mr. Legrone's defense was materially impaired. He was convicted by the jury and sentenced to a

---

[2] The transcripts and the pages therein have been numerated by the transcriptionist to identify the pages by

three strikes sentence of life without possibility of parole. CP 228. Mr. Legrone appealed, CP 235, but the Court of Appeals denied relief. Appendix A.

E. ARGUMENT

1. Review by the Supreme Court is warranted in Mr. Legrone's appeal under RAP 13.4(b)(3) because the erroneous decision of the Court of Appeals presents significant constitutional questions regarding Mr. Legrone's right to present a defense, which is guaranteed by the Sixth and Fourteenth Amendments.

RAP 13.4 warrants review of a Court of Appeals decision where "a significant question of law under the Constitution of the State of Washington or of the United States is involved." RAP 13.4(B)(3). The present case involves Mr. Legrone's right to present a defense to the charges against him, a right guaranteed by both the Sixth Amendment, and the Due Process guarantee of the Fourteenth Amendment. Holmes v. South Carolina, 547 U.S. 319, 324, 126 S.Ct. 1727, 164 L.Ed.2d 503 (2006); Crane v. Kentucky, 476 U.S. 683, 690, 106 S.Ct. 2142,

---

volume number, followed by a dash and then the page number.

90 L.Ed.2d 636 (1986). Further, the right to present evidence in one's defense must override state rules of evidence in the appropriate case, even, *arguendo*, where the state rules might exclude the evidence. Chambers v. Mississippi, 410 U.S. 284, 291–94, 93 S.Ct. 1038, 35 L.Ed.2d 297 (1973). Review is warranted under RAP 13.4(b)(3).

(a) Evidence in support of Mr. Legrone's defense.

According to the prosecution's own description of the March 20 incident four months prior to the current allegations, "there was a situation in which officers responded and which Ms. Rankin was determined to be an aggressor based on Mr. Legrone's apparent injury despite her report to officers that she had been assaulted as well and that she had been kidnapped[.]" RP 2-82-2-83.

As the defense made clear, supported by police documentation, on March 20, 2021 in Federal Way, multiple police officers were called based on a report of a domestic dispute. At that location, the complainant in the present case,

Ms. Rankin, claimed that Mr. Legrone had kidnapped her and punched her. CP 259-62 (Defense trial brief). During the investigation of that incident by law enforcement at the scene, including obvious, bleeding facial injuries suffered by Mr. Legrone, the officers rejected Ms. Rankin's claim of assault and kidnap and instead arrested Ms. Rankin – not Mr. Legrone. CP 259-62.

Below, the defense was crucially, seeking to admit the facts and circumstances of Ms. Rankin's clearly apparent falsity shown by lack of police credence to the degree she was arrested following her assault and kidnap accusation against Mr. Legrone. When police arrived they spoke to Ms. Rankin who claimed that Mr. Legrone had kidnapped her in a car and punched her. CP 262. The police report stated:

> [Ms. Rankin] said Donald became extremely agitated and turned around in his seat and punched her in the center of her face with a closed fist on his left hand. There were no visible injuries on Ms. Rankin, and she stated she did not need medical attention. There were no visible marks on Donald's left hand from

> striking [Ms. Rankin] [and the] other responding officers stated Donald had noticeable injuries, and was bleeding from the mouth. There were also visible drops of blood on the ground near the vehicle (BVA1294) that they had been traveling in, and signs of a struggle [yet] Ms. Rankin had no injuries. Ms. Rankin claimed that Mr. Legrone "kidnapped" her and that she hit him in self-defense. Mr. Legrone first stated that she punched him four times in the mouth and cracked his tooth. Officers saw him bleeding from his tooth and gums. [However, w]hen Mr. Legrone saw Ms. Rankin arrested he recanted and did not cooperate. Charges were ultimately dropped.

CP 261; see Federal Way Police reports, CP 269-77 (police report, as Attachment A to Defense trial brief).

(b). This Court should grant review where the Court of Appeals misapplied the constitutional requirements at issue, misread the case of State v. Young, and where the recent persuasive authority of Bradford demonstrates the importance of the defendant's right to introduce evidence in his defense.

Mr. Legrone notes that recent case law recognizes that introduction of prior incidents as generally probative of the relationship dynamics in an assault case is required under the evidence rules. In State v. Bradford, the trial court admitted allegations of previous abuse by Bradford, against him as a

party, in the presence of the proffering State's concession that the matter carried prejudice, where it carried probative value as to matters including the dynamics of the relationship. State v. Bradford, COA No. 85536-1 (Division One, Sept. 20, 2024) (2024 WL 4367053, at *2-3) (cited pursuant to GR 14.1(a)).

The past incident need not be established through a mini-trial or evidentiary hearing - the long-standing rule is that an offer of proof is all that is required. State v. DeJesus, 7 Wn. App. 2d 849, 878, 436 P.3d 834 (2019). If the incident in Bradford "help[ed] to explain [the complainant's] inconsistent statements regarding the assault and aids the jury in evaluating her credibility," see Bradford, at *3, the same must be true regarding admissibility of the recent relationship dynamics in his case - relevant evidence that the claimed victim had accused him in the past under circumstances assessed by the police that was inconsistent with being an assault victim. Mr. Legrone's right to introduce relevant evidence in his defense is of a higher order - it is a right guaranteed by the constitution protecting his

right to present a defense. Chambers v. Mississippi, supra, 410 U.S. at 291-94.

Chambers is important because although the evidence rules required admission of the evidence, even if they did not Chambers v. Mississippi required that the evidence rules bend to the defendant's constitutional rights where highly probative evidence is involved.

This argument was proffered below. The defense offered multiple theories of admissibility, but ultimately made clear that Chambers v. Mississippi provided all the authority that was necessary given the importance of the March incident to Mr. Legrone's defense. First, with regard to ER 404(b), although the majority of case law relating to ER 404(b) is addressed to bad acts of the defendant, the rule is equally applicable to witnesses and alleged victims. Under ER 404(b), "[e]vidence of other . . . acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as motive[.]"

The Court of Appeals misread the important case of State v. Young in this regard. More pointedly, ER 404(b) does not bar evidence of prior conduct simply because it has occurred prior to the time of the crime. As the Court of Appeals noted in State v. Young, 48 Wn. App. 406, 412, 739 App.2d 1170 (1987), these principles "should be equally available to a defendant when used to prove his theory of defense." State v. Young, 48 Wn. App. at 412. In Young, the defendant sought to admit evidence that the victim had grabbed the steering wheel of drivers previously, which was relevant to his theory of proximate cause of a vehicle accident. Young, 48 Wn. App. at 410.

The trial court excluded the evidence, but the Court of Appeals reversed, noting that "[g]generally, any circumstance inadmissible which reasonably tends to establish the theory of the party offering it, to explain, qualify or disprove the testimony of his adversary." Young, 48 Wn. App. at 410.

Mr. Legrone properly argued that based on the first-hand testimony of the officers Officers Oppenheimer and Borders, who investigated the March incident and would be called to testify, the defense could place their theory of the defense in front of the jury that Ms. Rankin was making yet another accusation against the defendant because of the fractiousness of their relationship. RP 2-84.

Defense witnesses waiting in the wings would be able to testify that "Ms. Rankin was jealous of Mr. Legrone's relationship with other women and falsely accused [him] of assault and kidnapping." CP 261-62; RP 2-85-86 (noting defense witnesses). And during a defense interview, Ms. Rankin herself had adamantly denied that she and the defendant were in a relationship still, and claimed that she had not seen him since November of 2020. RP 2-85. This was deemed unsupported, as the March 2021 police report would show. RP 2-86; CP 269-77.

Mr. Legrone argued that this incident was relevant because the jury could conclude that it was a false accusation, showed Mr. Rankin's motive to accuse Mr. Legrone out of jealousy regarding what was actually an ongoing relationship, and impeached her credibility in the making of her new claims - making the matter critical to Mr. Legrone's defense. CP 25-29; RP 2-80 to 2-85 (citing ER 404(b); ER 608(b); Chambers v. Mississippi, 410 U.S. 284 at 291-94. Evidence Rule 608(b) provides:

> Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

ER 608(b). The more crucial and central the witness's credibility to the case, the more likely that court will should let it in. State v. McSorley, 128 Wn. App. 598, 613, 116 P.3d 431 (2005).

Below, Ms. Rankin's credibility or lack thereof was central to the case. There were no corroborating witnesses, Mr. Legrone had made no admissions, and there was no forensic evidence connecting Mr. Legrone to injuries. The entire case came down to whether the jury believed Ms. Rankin beyond a reasonable doubt. Her credibility could not have been more central to the case. In such instances, the right to present a defense under Chambers required that Mr. Legrone be entitled to impeach Ms. Rankin with her with specific instance of falsely accusing Mr. Legrone of assaulting and kidnapping her in March of 2021.

At the very minimum, as counsel argued, without abandoning its contention that this evidence was relevant to the defense and necessary under the constitutional dictate of

Chambers, counsel argued that the evidence was admissible under evidence rule 608(b) regarding prior acts that tended to show lack of credibility. RP 281. ER 608(b) allows introduction of specific instances of a witness's conduct, introduced for the purpose of attacking his or her credibility, to be inquired into on cross examination of the witness concerning the witness' character for truthfulness or untruthfulness." ER 608(b).

The defense argued that the prior incident indicated that Ms. Rankin had previously made what appeared to have been a false accusation of kidnapping against Mr. Legrone, which was relevant and highly probative to the defense that Mr. Legrone did not kidnap and assault Ms. Rankin on the date of the alleged offense as she claimed.

The prosecutor and the trial court proffered various arguments and made several rulings that were erroneous and the court ultimately abused its discretion and violated Mr.

Legrone's right to present a defense by excluding evidence of this event which had occurred only four months previously.

The trial court abused its discretion, initially in two different manners. First, the court concluded that Mr. Legrone had failed to show that the accusation of kidnap and assault that Ms. Rankin had made was deemed false by the investigating police. Defense counsel made clear that the evidence from the police report showed that the prior accusation was not credible, based on the fact that police investigating the matter arrested Ms. Rankin, concluding that her claim of kidnap and assault against Mr. Legrone did not warrant his arrest, including because he was the party who was visibly injured and bleeding. As counsel argued the evidence placed before the jury would prove to it, as the trier of fact, that Ms. Rankin's claim at that time was false and impeached her current accusation.

Further, the court wrongly viewed some of the evidence that the defense was offering to be inadmissible hearsay. As counsel urged the court, to the contrary, the incident with Ms.

Rankin and the police officers were being offered for the fact of the police rejection of her claims. RP 2-79. Thus the defense also properly offered the evidence as evidence of motive. RP 2-84. It showed that Ms. Rankin was involved in an ongoing relationship with Mr. Legrone at the time of the March assault, contrary to statements she herself made that she was not involved in relationship with Mr Legrone at that time.

In addition, trial witnesses, had the court ruled properly, would also testify that Ms. Rankin was frequently jealous and therefore angry at Mr. Legrone during the time of their ongoing relationship. See RP 2-85-86 (noting defense witnesses).

As counsel argued, the prior incident was therefor also relevant to the question of motive and supported an argument that Ms. Rankin was fabricating the present claim that she had encountered Mr. Legrone kidnapped and assaulted her in her vehicle. Multiple times prior to trial defense counsel made clear that the defense theory was that Ms. Rankin had lied about being kidnapped in the previous incident, and was lying with

regard to the present allegations, but emphasized that it was for the jury to decide whether Ms. Rankin had in fact lied in a pattern of falsehoods both then and now, impeaching her accusations as a whole. The trial court abused its discretion when it excluded the evidence, because in part, it ruled that Mr. Legrone was required to but did not show that Ms. Rankin's March accusation of kidnap was false.

As counsel contended, however, the question whether there were aspects of the previous incident that indicated that Ms. Rankin had lied, while there were also reasons to believe that perhaps she had not lied, albeit no identifiable reason to that effect, it was for the jury to decide that question.

Instead, the court ruled that the defense failed to prove by a preponderance of the evidence that Ms. Rankin actually lied to the police about kidnapping. RP 2-468. The court then found that although the incident had been shown to have occurred, there was "nothing to show that Ms. Rankin actually lied to the police and this was particularly true given the

dynamics surrounding domestic violence relationships." RP 2-468.

The trial court appeared to be making its own finding that cases involving female victims of domestic violence often do not proceed forward as a result of fear, despite the original claims of the woman involved that they had been treated violently by their partner. RP 2-468-69. This was not a ruling within the court's discretion based on the facts.

Even if the defendant was required to prove by something more than a police report under penalty of perjury that the prior accusation was officially rejected, cases supporting any remotely comparable notion are entirely different from Mr. Legrone's.

The Court of Appeals simply did not address the importance of State v. Demos, which does not support exclusion of the March incident on the theory that it was not proved to be false. There, the victim reported a rape 13 months previously, but no suspect was located and the police were

unable to contact the victim later, since she had left town. State v. Demos, 94 Wn.2d 733, 737, 619 P.2d 968 (1980).

As noted, Mr. Legrone had documented police reports of an official law enforcement investigation in which Ms. Rankin alleged assault and kidnap, but the police arrested her instead - not Mr. Legrone. The prosecution of Ms. Rankin did not go forward only because Mr. Legrone did not want Ms. Rankin to suffer criminal conviction. The facts of Demos are completely unlike Ms. Rankin's recent allegation of kidnap and assault by the defendant himself, which the police investigation led to arrest of the accuser, not Mr. Legrone.

Also unsupportive of exclusion is State v. Harris, 97 Wn. App. 865, 872, 989 P.2d 553 (1999). There, the Court of Appeals affirmed the exclusion of an allegedly false rape accusation, stating that "[g]enerally, evidence that a rape victim has accused others is not relevant and, therefore, not admissible, unless the defendant can demonstrate that the accusation was false." Harris, at 872. But just as in Demos, the Harris Court's

reasoning that the defendant could not prove the prior accusation was false was in the context of the fact that the accused person had nothing to do with the case. Harris, at 872. This aspect of cases where prior accusations were excluded has even held true where a complainant admitted to falsely accusing another person of rape in the past. State v. Lee, 188 Wn.2d 473, 490–91, 396 P.3d 316 (2017). That is not the circumstance here. This Court should reverse Mr. Legrone's conviction for kidnap and assault.

2. Scholarly studies continue to demonstrate that the sentence handed down from the bench upon on Mr. Legrone is imposed in a manner that unlawfully imprisons the citizens of this State in a racially disparate manner.

The law in this matter has reached a tipping point which Mr. Legrone argues must be recognized by the Court just as the import of facts required the outcome in Gregory. In Washington, 37% of three-strikes inmates are Black in a state where just 4.4% of the population is Black. The three-strikes law is unconstitutionally racially disproportionate as applied to

all defendants. In State v. Gregory, 192 Wn.2d 1, 427 P.3d 621 (2018), the Court held the death penalty violated article I, section 14 as administered. Gregory, 192 Wn.2d at 5 (lead opinion of Fairhurst, C.J.); id. at 36 (Johnson, J., concurring); Const. art. I, § 14. The Court cited a statistical study demonstrating that in Washington, Black defendants were more than four times as likely to be sentenced to death as other defendants. Id. at 12 (citing Katherine Beckett & Heather Evans, The Role of Race in Washington State Capital Sentencing, 1981-2014 (Oct. 13, 2014)). The Court concluded, "[w]hen the death penalty is imposed in an arbitrary and racially biased manner, society's standards of decency are even more offended. Our capital punishment law lacks fundamental fairness and thus violates article I, section 14." Id. at 24.

In reaching this result, the Court rejected the idea of requiring "[mathematically] indisputably true social science to prove that our death penalty is impermissibly imposed based on

race," id. at 21, and took "judicial notice of implicit and overt racial bias against black defendants in this state." Id. at 22.

After Gregory, people who committed aggravated murder, including people who committed multiple aggravated murders, now receive the same sentence as those convicted of lesser crimes under the three strikes law - as Mr. Legrone has been sentenced here. Gregory, 192 Wn.2d at 36 ("All death sentences are hereby converted to life imprisonment" without the possibility of parole.). The principles set forth in Gregory compel the Court to ask of a life sentence without the possibility of parole - whether it is fairly applied, if there is a disproportionate impact on minority populations, and whether there are state constitutional limitations to such a sentence. See State v. Moretti, 193 Wn.2d 809, 840, 446 P.3d 609 (2019) (Yu, J., concurring).

The answers to these questions are: (1) No, it is not fairly applied; (2) Yes, there is a disproportionate impact on minority populations; and (3) Yes, there are state constitutional

limitations to such a sentence. The three strikes law is not fairly applied; instead there is an extraordinarily disproportionate impact on minority populations. The Caseload Forecast Council (CFC) has tracked the race of all defendants sentenced under the POAA since the law went into effect. The Sentencing Guidelines Commission (SGC) compiled the first fifteen years' worth of data (through June 2008) and found only 52.2% of defendants sentenced under the three-strikes law were White, while 40.4% were Black. State of Washington Sentencing Guidelines Commission, Two-Strikes and Three-Strikes: Persistent Offender Sentencing in Washington State Through June 2008, 10 (February, 2009).

The next year, Columbia Legal Services issued a report similarly concluding that, as of 2009, only 47% of three-strikes defendants were White, while 39.6% were Black. Columbia Legal Services, Washington's Three Strikes Law: Public Safety & Cost Implications of Life Without Parole, 8 (2009). The report emphasized the extraordinary nature of the disparity

given that only 3.9% of the state's population was Black. Id. at 7. Despite the dire data these reports highlighted, stark racial disproportionalities continued after 2009. Data from the Caseload Forecast Council and the Sentencing Guidelines Commission show that by 2021, Black people made up 41% of those sentenced to die in prison under the three-strikes law, while White people made up only 52%.

The Legislature recently removed second-degree robbery from the list of strike offenses, and made the amendment retroactive, partly because of concerns about racial disproportionality. Nina Shapiro, Legislature moves to resentence up to 114 people serving life without parole under Washington's three-strikes law, Seattle Times (Apr. 8, 2021).

Given that only 4.4% of the population is Black, but 37% of remaining three strikes defendants are Black, Black people are overrepresented relative to their share of the population by a factor of 8.4. These data cannot be dismissed as representing differences in crime commission rates. Rather, racial and

ethnic bias distorts decision-making at various stages in the criminal justice system, thus contributing to disproportionalities in the criminal justice system. See Task Force 2.0 at 7; Task Force on Race & Criminal Justice Sys., Preliminary Report on Race and Washington's Criminal Justice System (2011).

This racial disparity, combined with the fact that only 10 other states impose mandatory life without parole upon a third strike, shows the three strikes law does not comport with "evolving standards of decency that mark the progress of a maturing society." Gregory, 192 Wn.2d at 23 (quoting State v. Fain, 94 Wn.2d 387, 397, 617 P.2d 720 (1980)).

Further, a new statistical report compiling data from the Caseload Forecast Council through fiscal 2023 concludes these stark racial disparities persist to this day. Civil Rights Clinic at Seattle Univ. School of Law, et al, Justice Is Not a Game: The Devastating Racial Inequity of Washington's Three Strikes Law 5 (June 2024). See https://digitalcommons.law.seattleu.edu /cgi/viewcontent.cgi?article=1124&context=korematsu_center.

"Black people are represented in the three-strikes population at a rate more than 8 times greater than their population in the state." Id. Black people now make up 4.6% of Washington's population, but over 37% of the population imprisoned for life under the three-strikes law. Id. at 8. Black people account for 33% of those condemned to die in prison based in part on second-degree assault strikes, meaning Black individuals are represented in this population at a rate more than 7 times greater than their population in Washington. Id. at 10.

This stark racial disproportionality was purposeful. Id. at 4-5, 15, 26. "[R]acial animus and *3 racist ideology are shown to prevail in statements made by the architects and advocates of the POAA." Id. at 4. One prominent proponent "espoused his view that crime rates would go down if all Black babies were aborted." Id. Another repeatedly invoked "racially coded language," insisting the law was necessary to rid the streets of "dangerous thugs." Id. at 26. The messaging worked, and the

resulting law imprisons Black people at a grossly disproportionate rate. Id. at 4-12, 32-35.

Based on the gross racial disparity established in the report, the racial animus that drove the three-strikes law's adoption, and the gross disproportionality of death-in-prison sentences based on second-degree assault, this Court should hold Mr. Legrone's sentence impermissible under law.

F. CONCLUSION

Mr. Legrone asks the Court to grant review, and reverse his convictions and sentence and remand to the trial court.

This brief is composed in font Times New Roman size 14 contains 4,725 words.

DATED this 23rd day of October, 2024.

/s/ Oliver R. Davis

Washington Bar Number 24560
Washington Appellate Project
1511 Third Avenue, Suite 610
Seattle, WA 98102
Telephone: (206) 587-2711
Fax: (206) 587-2710
E-mail: Oliver@washapp.org

APPENDIX A

FILED
9/23/2024
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

THE STATE OF WASHINGTON, Respondent, v. DONALD JANEL LEGRONE, Appellant.	No. 85116-1-I UNPUBLISHED OPINION

BOWMAN, J. — Donald Janel Legrone appeals his jury convictions and sentence for first degree kidnapping and second degree assault, both with domestic violence (DV) designations. Legrone argues the trial court violated his constitutional right to present a defense by excluding evidence and erred by imposing a sentence of life without the possibility of parole (LWOP) under the Persistent Offender Accountability Act of the Sentencing Reform Act of 1981 (POAA), chapter 9.94A RCW. He also makes several arguments in three statements of additional grounds for review (SAGs). We remand to the trial court to strike the $500 victim penalty assessment (VPA) from Legrone's judgment and sentence. Otherwise, we affirm.

FACTS

In September 2021, the State charged Legrone with one count of DV first degree kidnapping of his former girlfriend, Dorin Rankin Cerbillo, one count of DV

second degree assault of Rankin,[1] and one count of theft of Rankin's motor vehicle. Legrone pleaded not guilty.

At trial, Rankin testified that on July 29, 2021, she was completing her evening shift as a security guard at Pima Medical Institute in Renton. At around 11:00 p.m., Legrone showed up at her work, and another employee let him in "to use the restroom." At the time, Rankin was on the phone with her best friend, Gabriella Wheeler. When Rankin left work and got to the parking lot, she saw Legrone standing by her car. She told Wheeler to stay on the phone and mute herself so Legrone would not hear her.

When Rankin got in her car, Legrone got in on the passenger side. Rankin told Legrone to get out, but he refused, began cussing at her, and told her to drop him off in Des Moines. When Rankin said no, Legrone "balled up his fists and started strangling" her with both hands around her neck. At the same time, a security patrol car pulled up behind Rankin's car. She was going to scream for help, but Legrone told her that if she did, he "was going to kill" her.

Rankin then bit Legrone in the chest. After he let go "for a few seconds," he punched her in the head and started strangling her again. Rankin tried to take her key out of the ignition, but Legrone stopped her and told her to drive away because the security guard was still behind them. Rankin "drove off recklessly," hoping that she "would catch someone's attention." But Legrone made her stop

[1] We refer to Dorin Rankin Cerbillo as Rankin because that is how she identified herself at trial.

at a stop sign, hit her in the head, and told her to switch seats with him, which she did. Legrone told Rankin that if she left the car, he would kill her.

Once Legrone was in the driver's seat, he sped off toward Tukwila, hitting Rankin in the head and "calling [her] the b-word." Legrone eventually left the highway and drove down a back road in SeaTac. He was "ranting" about why Rankin "couldn't love him the way [she] loved [her] family" or her "past partners." He punched Rankin in the mouth and "busted" her lip, then "poked" her in the eye.

Legrone drove to a back road in Des Moines by a Safeway and Bartell Drugs. He parked on the side of the road, backhanded Rankin in the face, and started strangling her again. Legrone again brought up Rankin's past relationships. He then grabbed a knife out of his pocket and told her to get out of the car and go into the bushes, where they would "stab each other," and "only one of us was going to make it out alive." After a struggle, Rankin jumped out of her car, ran barefoot across the street, and asked some people if she could use their phone. They offered to call the police, but she refused because Legrone had told her that if she did so, he would hurt Rankin, Wheeler, and Wheeler's children. They did not let her use their phone.

Rankin testified that she then hid for a few minutes before walking to a bus stop, where she paid someone $20 to use their phone to call Wheeler because "that's the only number [she] had memorized." Rankin asked Wheeler to call Rankin's mother, who later picked up Rankin from the nearby Safeway.

For most of the incident, Rankin's phone was in the car and still connected with Wheeler. Wheeler testified that she could hear Legrone threatening to kill Rankin and hitting her, stating, "I'm hearing thumps, and her reaction to them, . . . like, stop hitting me." Wheeler could also hear Legrone choking Rankin, testifying that she "could hear . . . the struggle when someone chokes. . . . [L]ike, that they are gasping for air and that they can't breathe. And after he let go, you could tell her voice was faint, like, stop choking me. I can't breathe. Like, stop." Wheeler said that she could see the location of Rankin's phone using the Life360 app, and when she saw Rankin's car "on the move," she used another phone to call 911 so she could focus on Rankin's location and help the police "find her." The trial court admitted a recording of Wheeler's 911 call and played it for the jury.

Legrone's defense theory was that Rankin was jealous of his relationships with other women and falsified her accusations against him. Before trial, Legrone moved in limine to admit evidence of a March 2021 incident involving Rankin and Legrone. According to a Federal Way police report, officers responded to a domestic dispute on March 20 between Legrone and Rankin. Officer Colleen Borders spoke with Rankin and reported:

> Rankin stated her and Le[g]rone have been dating on and off again throughout the years. Rankin stated Le[g]rone wanted to get back with Rankin, and he arrived at her house in Auburn. Rankin stated she got into his vehicle and Le[g]rone took off towards Federal Way.
>
> Rankin stated she was kidnapped by Le[g]rone and they ended up at the Commons Mall parking lot in Federal Way. I asked Rankin if she left the vehicle once stopped at the Commons Mall, she stated "no." Rankin made the comment she punched Le[g]rone in the face

> multiple times but she claimed "Self-defense," because she was being kidnapped. I asked again if Rankin attempted to try and flee the vehicle and she stated no. I asked if Rankin was held against her will and she refused to comment and kept saying "it was self[-]defense."
>
> Rankin stated Le[g]rone also punched her in her face around her mouth area. I could not see any physical injuries on Rankin. She stated she was not in pain and did not need aid.
>
> I saw fresh blood outside the driver's door. I asked Rankin if she was bleeding and she stated no. When asked whose blood was that she stated she did not know.

Officer Borders also asked Legrone "what had happened." According to Officer Borders' report, Legrone

> stated he helped Rankin purchase a phone from another female. . . . As Le[g]rone spoke to me I could see blood pooling inside his mouth. I asked why he was bleeding, he stated, Rankin struck him in the face multiple times and caused his tooth to crack. I had Le[g]rone open his mouth on the left side I could see a tooth that was halfway missing and Le[g]rone's gums actively bleeding. . . . Le[g]rone stated Rankin went "crazy" because of a cellphone and struck him, unknown the amount of times.
>
> Le[g]rone stated he pushed Rankin off of him while he was being struck. He stated that was the only time he put hands on Rankin. Le[g]rone refused any medical attention on scene.

Because of Legrone's "visible injuries" and Rankin's admission "that she struck [him] multiple times," Officer Borders placed Rankin in custody for DV fourth degree assault. But when Legrone saw Officer Borders arresting Rankin, he "recanted his whole story" and stated he would not cooperate with police, give any statements, or consent to being photographed.

Legrone argued that evidence of the March 20, 2021 incident was "central to the defense theory" because Rankin "lied to the police" and told them that he kidnapped her, "the same allegation as in this case." He argued the fact that

Rankin assaulted Legrone and falsely accused him of kidnapping "is admissible as motive and similar plan or conduct" under ER 404(b), and because Rankin claimed she bit Legrone in the chest in self-defense in the July 2021 incident, her "false claim of self-defense in March of 2021 is admissible to show a similar plan." Legrone also argued that under ER 608(b), evidence of the March 2021 incident was admissible "to impeach [Rankin] with specific instances of misconduct, including falsely accusing Mr. Legrone of assaulting and kidnapping her in March 2021."

The trial court excluded evidence of the March 2021 incident, explaining:

> The Court finds that while the fact the incident occurred has been shown by a preponderance of the evidence, there is nothing to show that Ms. Rankin actually lied to the police. This is particularly true given the dynamics surrounding [DV] relationships. Notably the officers could not testify as to what happened, rather they could only testify as to injuries observed and hearsay statements made to them, so it would result in a trial within a trial on a collateral matter. Furthermore, the Court finds that the probative value is not very high. The Court finds that this incident does not meet the threshold for modus operandi under the evidentiary rules and its tie to a theory that Ms. Rankin lied because she was jealous is tenuous. In contrast, the prejudicial effect is quite high given that Ms. Rankin was arrested in the earlier incident for assault because she did not have visible injuries and Mr. Legrone did. In the end, the Court finds the incident merely amounts to impermissible propensity evidence, the prejudice of which far outweighs any probative value.[2]

The jury ultimately hung on the charge of theft of a motor vehicle, which the trial court later dismissed. The jury found Legrone guilty of first degree kidnapping and second degree assault, and it also found that Legrone and

[2] The court indicated that it would allow defense counsel "to raise the incident in a sanitized manner" to impeach Rankin if she testified, consistent with a defense interview, that she had not seen Legrone since November 2020. That part of the court's ruling is not at issue.

Rankin were "intimate partners prior to or at the time the crime[s] were committed."

At sentencing, the trial court found that Legrone was a persistent offender under the POAA, also known as the "three strikes" law, and imposed LWOP on both convictions. In doing so, the court declined Legrone's invitation to "hold the three strikes law is unconstitutional as administered for all defendants and as to Mr. Legrone."

Legrone appeals.

ANALYSIS

Legrone argues the trial court violated his constitutional right to present a defense by excluding evidence of the March 20, 2021 incident and erred by imposing an LWOP sentence under the POAA. He also asks us to remand to the trial court to strike the $500 VPA from his judgment and sentence due to his indigency. Finally, Legrone raises several arguments in three SAGs. We address each of his arguments in turn.

Right to Present a Defense

Legrone argues that the trial court erred under ER 404(b) and 608(b) and violated his right to present a defense by excluding evidence of the March 20, 2021 Federal Way incident. We disagree.

" 'A criminal defendant's right to present a defense is guaranteed by both the federal and state constitutions.' " *State v. Butler*, 200 Wn.2d 695, 713, 521 P.3d 931 (2022) (quoting *State v. Jennings*, 199 Wn.2d 53, 63, 502 P.3d 1255 (2022)). We apply a two-part analysis to determine whether the exclusion of

evidence violates that right. *State v. Arndt*, 194 Wn.2d 784, 797-98, 453 P.3d 696 (2019). First, we review the evidentiary ruling for abuse of discretion. *Id.* at 797. Then, we consider de novo whether the ruling deprived the defendant of his constitutional right to present a defense. *Id.* at 797-98.

Legrone sought to admit evidence of the March 2021 incident under ER 404(b). That rule provides that "[e]vidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith," but it "may . . . be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." ER 404(b). To admit evidence of other acts under ER 404(b), the trial court must (1) identify the purpose for which the evidence is sought to be introduced, (2) determine whether the evidence is relevant to prove an element of the charged crime, (3) weigh the probative value of the evidence against its prejudicial effect, and (4) find by a preponderance of the evidence that the act actually occurred. *State v. Lough*, 125 Wn.2d 847, 853, 889 P.2d 487 (1995).

Here, the trial court did not abuse its discretion by concluding that evidence of the March 2021 incident was inadmissible under ER 404(b). As much as Legrone offered the evidence to show that because Rankin lied about that incident, she must be lying now, that is exactly the kind of propensity evidence the rule prohibits. Furthermore, the evidence was, as offered by Legrone, relevant only to the extent it showed that Rankin lied to officers during the incident. But as the trial court observed, the responding officers could not

testify as to what happened between Legrone and Rankin—only what they observed at the scene. So, as much as Legrone sought to admit the evidence to show something other than propensity, the trial court did not abuse its discretion by determining that Legrone failed to show by a preponderance that Rankin lied about what happened before the officers arrived on March 20.

Legrone also sought to admit evidence of the March 2021 incident under ER 608(b) to impeach Rankin. As relevant here, that rule provides that specific instances of a witness' conduct may, "in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into *on cross examination* of the witness . . . concerning the witness' character for truthfulness or untruthfulness." ER 608(b).[3]

Again, the trial court did not abuse its discretion under ER 608(b). When asked what testimony Legrone planned to present to show that Rankin lied in March 2021, Legrone responded that he planned to present the officers' testimony and, "potentially," his own. But testimony about the incident from the officers and Legrone was not admissible under ER 608(b), which clearly states that except for convictions of certain crimes, instances of conduct "may not be proved by extrinsic evidence." So, if Rankin denied on cross-examination that she lied to officers during the March 2021 incident, the inquiry would be at an end. *See State v. Barnes*, 54 Wn. App. 536, 540, 774 P.2d 547 (1989) (in an attempt to impeach a witness, cross-examiner must take the answer of the

[3] Emphasis added.

witness and may not call a second witness to contradict the first witness). The trial court did not err by excluding evidence of the March 20, 2021 incident.

Finally, the trial court's evidentiary rulings did not deprive Legrone of his constitutional right to present a defense. Legrone himself says he had witnesses "waiting in the wings" to testify that Rankin was jealous of his relationships with other women. Yet he did not call any of those witnesses. And he does not articulate how the trial court's ruling about the March 2021 incident prevented him from calling them.

In any event, Legrone effectively impeached Rankin's credibility. For example, he elicited inconsistencies between Rankin's testimony and her interview with detectives, her testimony and her interview with defense counsel, her testimony and Wheeler's testimony, and her description of being strangled and a nurse's testimony about physical signs of strangulation. He also elicited testimony from Rankin that she claimed not to remember the name of her boyfriend at the time of the incident, yet she also testified that she set up her phone so that any missed calls would go to him. And as defense counsel pointed out in closing, Wheeler could be heard in the 911 call identifying the male voice in the background as "Nathan" or "Michael Johnson." In short, the trial court's exclusion of evidence about the March 2021 incident did not prevent Legrone from presenting his defense theory that Rankin falsified her accusation.

Legrone disagrees, relying mainly on *State v. Young*, 48 Wn. App. 406, 739 P.2d 1170 (1987). In that case, defendant Young, charged with vehicular homicide, claimed that Vince Setzer, one of the victim passengers, caused the

accident by reaching over and grabbing the steering wheel. *Id.* at 408. Young offered proof that three witnesses would testify that within the last year and a half, Setzer had grabbed the steering wheel away from a driver on four different occasions. *Id.* The trial court excluded the evidence under ER 403 as unduly prejudicial. *Id.* at 409. Division Three reversed, explaining that "ER 403 does not extend to the exclusion of crucial evidence relevant to the central contention of a valid defense." *Id.* at 413. The court observed that "evidence of Mr. Setzer's conduct on the night of the accident was highly probative and crucial" to Young's theory that it was not him, but Setzer, who caused the accident. *Id.*

Here, as discussed, Legrone could offer no testimony to prove that Rankin committed the relevant act on March 20, 2021—a false kidnapping and assault accusation. So, the evidence was neither highly probative nor crucial to his defense theory. *Young* does not require reversal.

LWOP Sentence

Legrone next argues that the trial court erred by sentencing him to LWOP under the POAA, which he asserts is unconstitutional. We review constitutional challenges de novo. *State v. Ross*, 28 Wn App. 2d 644, 646, 537 P.3d 1114 (2023), *review denied*, 2 Wn.3d 1026, 544 P.3d 30 (2024).

Relying on *State v. Gregory*, 192 Wn.2d 1, 427 P.3d 621 (2018), Legrone asserts that we "should hold the three strikes law is unconstitutional as administered for all defendants and as to [him]" because of the substantial racial disparity in three strikes defendants, and because only 10 other states impose such sentences. In *Gregory*, our Supreme Court held that Washington courts

imposed the death penalty in an arbitrary and racially biased manner, violating the state constitutional prohibition on cruel punishment.[4] 192 Wn.2d at 35; WASH. CONST. art. I, § 14 ("Excessive bail shall not be required, excessive fines imposed, nor cruel punishment inflicted."). In so holding, the court converted all death sentences to life imprisonment. *Gregory*, 192 Wn.2d at 35-36.

Legrone correctly points out that the *Gregory* court "decline[d] to require indisputably true social science to prove that [Washington's] death penalty is impermissibly imposed based on race." 192 Wn.2d at 21. Still, the court "afford[ed] great weight" to a statistical analysis that went through a "rigorous review process," including factfinding by a commissioner. *Id.* at 19, 20 n.7. And the analysis showed that the "*process* by which the death penalty [was] *imposed*" was administered in an arbitrary and racially biased manner. *Id.* at 14, 18-19.[5] For example, the analysis showed that "[a]t the very most, there is an 11 percent chance that the observed association between race and the death penalty . . . is attributed to random chance rather than true association." *Id.* at 20. And the commissioner found that

> "special sentencing proceedings in Washington State involving Black defendants were between 3.5 and 4.6 times as likely to result in a death sentence as proceedings involving non-Black defendants

[4] Legrone also argued below that the POAA violates equal protection. But he does not engage in an equal protection analysis in his briefing before this court. Accordingly, to the extent he renews his equal protection argument, we decline to consider it because it is inadequately briefed. *See Norcon Builders, LLC v. GMP Homes VG, LLC*, 161 Wn. App. 474, 486, 254 P.3d 835 (2011) ("We will not consider an inadequately briefed argument.").

[5] Emphasis added.

> after the impact of the other variables included in the model has been taken into account."

Id. at 19.

Legrone points out that Black men like himself are overrepresented among defendants sentenced to LWOP under the POAA. But, unlike *Gregory*, he provides no analysis showing that this is because courts *administer* the POAA in an arbitrary and racially biased manner. As Division Two recently observed in *State v. Nelson*, ___ Wn. App. 2d ___, 550 P.3d 529, 535 (2024), "imposition of a[n] LWOP sentence under the POAA involves a different procedure than the imposition of the death penalty addressed in *Gregory*." It pointed out that "the POAA is not administered on a case by case basis as the death sentence was administered in *Gregory*"; instead, it "is administered the same way no matter who the defendant; *all* offenders who commit three [strike] offenses will be sentenced to LWOP."[6] *Id.* So, it declined to invalidate the POAA under *Gregory*'s framework. *Id.*

Furthermore, our Supreme Court has held that LWOP sentences do not constitute cruel punishment. *See State v. Moretti*, 193 Wn.2d 809, 820, 446 P.3d 609 (2019) ("We have continually upheld sentences imposed under the POAA as constitutional and not cruel under article I, section 14."); *cf. Gregory*, 192 Wn.2d at 14 (" 'The death penalty differs qualitatively from all other punishments, and

[6] We recognize that racial disproportionality may occur before an offender appears before the court facing an LWOP sentence. For example, police may disproportionally arrest Black offenders for offenses that result in an LWOP sentence and/or prosecutors may disproportionally charge Black offenders with crimes that result in an LWOP sentence. But those issues occur outside the court's administration of POAA sentences.

therefore requires a correspondingly high level of reliability.' ") (quoting *State v. Pirtle*, 127 Wn.2d 628, 663, 904 P.2d 245 (1995)).

In short, while we share *Nelson*'s "serious concerns about the racially disproportionate impact of the POAA," Legrone does not show that this impact results from racially biased administration of the POAA. 550 P.3d at 535. The trial court did not err by sentencing Legrone to LWOP as mandated by the POAA.

VPA

Legrone next asserts we should remand to the trial court to strike the $500 VPA from his judgment and sentence based on his indigency. We agree.

Effective July 1, 2023, the legislature prohibited courts from imposing the VPA on indigent defendants. *See* LAWS OF 2023, ch. 449, § 1 (amending RCW 7.68.035). The trial court sentenced Legrone on March 17, 2023, before the amendments took effect. But the amendments to RCW 7.68.035 apply to cases on direct appeal. *State v. Ellis, 27 Wn*. App. 2d 1, 16, 530 P.3d 1048 (2023).

The State does not dispute that Legrone is indigent and concedes that remand is appropriate. We accept the State's concession and remand to strike the VPA.

SAGs

Legrone makes several arguments in three SAGs. As discussed below, none require reversal.

First, Legrone argues that the trial court erred by allowing certain testimony and that the prosecutor erred by eliciting the testimony. We disagree.

At trial, Rankin testified on direct that after she and Legrone ended their relationship, she would see him "here and there." Legrone points out that when the prosecutor asked Rankin, "[W]hat were those situations usually like," Rankin responded, "Um, usually physical altercations." Later, Rankin testified that when Legrone asked her during the incident why she could not love him the way she loved her family, she told him that she "couldn't love him because he tried to keep [her] away from [her] family."

Legrone contends that the trial court erred under ER 404(b) by admitting the testimony, and that by eliciting it, the prosecutor either committed misconduct or opened the door to evidence of the March 2021 incident. But the trial court sustained defense counsel's objection and instructed the jury to disregard Rankin's "physical altercations" testimony. And Legrone does not show that the jury ignored this instruction. *See State v. Martinez*, 2 Wn. App. 2d 55, 77, 408 P.3d 721 (2018) (we presume jurors follow the court's instructions). Further, to be entitled to relief, Legrone must establish that the "physical altercations" testimony prejudiced him. *See State v. Agee*, 89 Wn.2d 416, 419, 573 P.2d 355 (1977) ("[E]rror without prejudice is not ground for reversal."). But he shows no prejudice.

As for Rankin's testimony about why she told Legrone she could not love him, the trial court overruled Legrone's ER 404(b) objection to that testimony. The court reasoned that the State did not offer it to show conformity with a prior act, but to explain Legrone's motive. We are unpersuaded that this was an abuse of discretion. And even if it was, Legrone does not show that he was

prejudiced by the admission of Rankin's vague testimony in this regard. He also does not establish that this indefinite testimony opened the door to questioning about the March 2021 incident. *See State v. Broussard*, 25 Wn. App. 2d 781, 791, 525 P.3d 615 (2023) (" 'A party may open the door to otherwise inadmissible evidence by introducing evidence *that must be rebutted* in order to preserve fairness and determine the truth.' ")[7] (quoting *State v. Wafford*, 199 Wn. App. 32, 36-37, 397 P.3d 926 (2017)).

Next, Legrone contends that the trial court erred by admitting certain testimony of Rankin and Wheeler to the extent that Rankin and Wheeler contradicted one another or contradicted a police officer's testimony. He points out that the conflicts called both Rankin's and Wheeler's credibility into question. But this is not a basis for relief because determining the credibility of witnesses and resolving conflicting evidence is the exclusive province of the jury, not the court. *See State v. Allen*, 116 Wn. App. 454, 466, 66 P.3d 653 (2003).

Finally, in a "Motion to Allow [Amended] Sta[t]ement of [A]dditional Grounds" attached to his May 9, 2024 SAG, Legrone claims "ineffective assistan[ce] of counsel," "properly addressing a hostile [witness] by impeaching her and implementing ER 607," and "violation of confrontation clause rights" under the Sixth Amendment to the United States Constitution.[8] But he does not articulate the basis for these claims, so we do not consider them. *See* RAP 10.10(c) ("Reference to the record and citations to authorities are not necessary

[7] Emphasis added.

[8] As much as we have addressed the claims here, we grant the motion.

or required [in a SAG], but the appellate court will not consider a defendant's [SAG] if it does not inform the court of the nature and occurrence of alleged errors.").

We remand to the trial court to strike the $500 VPA from Legrone's judgment and sentence. Otherwise, we affirm his convictions and sentence.

WE CONCUR:

DECLARATION OF FILING AND MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original document **Petition for Review to the Supreme Court** to which this declaration is affixed/attached, was filed in the **Court of Appeals** under **Case No. 85116-1-I**, 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:

☒ respondent Ian Ith, DPA
[ian.ith@kingcounty.gov]
[PAOAppellateUnitMail@kingcounty.gov]
King County Prosecutor's Office-Appellate Unit

☐ petitioner

☐ Attorney for other party

MARIA ANA ARRANZA RILEY, Paralegal
Washington Appellate Project

Date: October 23, 2024

WASHINGTON APPELLATE PROJECT

October 23, 2024 - 4:32 PM

Transmittal Information

Filed with Court:	Court of Appeals Division I
Appellate Court Case Number:	85116-1
Appellate Court Case Title:	State of Washington, Respondent v. Donald Legrone, Appellant

The following documents have been uploaded:

- 851161_Petition_for_Review_20241023163139D1106052_1485.pdf
  This File Contains:
  Petition for Review
  The Original File Name was washapp.102324-08.pdf

A copy of the uploaded files will be sent to:

- ian.ith@kingcounty.gov
- paoappellateunitmail@kingcounty.gov

Comments:

Sender Name: MARIA RILEY - Email: maria@washapp.org
Filing on Behalf of: Oliver Ross Davis - Email: oliver@washapp.org (Alternate Email: wapofficemail@washapp.org)

Address:
1511 3RD AVE STE 610
SEATTLE, WA, 98101
Phone: (206) 587-2711

Note: The Filing Id is 20241023163139D1106052