SUPREME COURT NO. _____

NO. 57802-6-II

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

RYAN DICKERSON,

Petitioner.

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR CLARK COUNTY
The Honorable Susan Clark, Judge

PETITION FOR REVIEW

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RULES, STATUTES AND OTHER AUTHORITIES

A. IDENTITY OF PETITIONER/DECISION BELOW

Ryan Dickerson, appellant below, asks this Court to grant review, pursuant to RAP 13.4, of the Court of Appeals' unpublished decision in State v. Dickerson, no. 57802-6-II, filed on October 29, 2024. A copy of the opinion is attached as an appendix.

B. ISSUE PRESENTED FOR REVIEW

The Sixth Amendment guarantees the right to counsel at all critical stages of the proceedings. Must Dickerson's convictions be reversed when, at the hearing to determine his competency to stand trial, he was unable to privately consult with counsel due to the remote video conferencing system used for the hearing?

C. STATEMENT OF THE CASE

The Clark County prosecutor charged Ryan Dickerson with two counts of residential burglary and four counts of violating a court order. CP 5-7. All the counts were alleged to be

domestic violence, committed against a family or household member or intimate partner. Id.

At the suggestion of defense counsel, Dickerson was evaluated to determine whether he was competent to stand trial. CP 218-24. He was diagnosed with severe adjustment disorder accompanied by paranoid delusions. CP 21. He was subsequently sent to Western State Hospital for treatment to restore his competency. CP 21. After approximately a month, a new evaluation deemed him competent. CP 53.

On September 8, 2022, the court held a competency review hearing. CP 225. Defense counsel, the prosecutor, and Dickerson all appeared via the Zoom internet-based video conferencing system. Id. They were not physically present in court or in the same place. Id. At the hearing, defense counsel noted that there would need to be an order determining competency in light of the new evaluation. RP 9. The court agreed. RP 9. The parties then discussed scheduling. RP 9-11. At the conclusion of the hearing, Dickerson asked for the opportunity to speak to his attorney. RP

11. The court indicated that could occur "off the docket, separately." RP 12.

At trial, Dickerson's former partner and her roommates testified he was present at her home on three dates in October and November of 2021 and April of 2022. RP 211-12, 272, 296-300. Admitted exhibits showed various orders prohibited him from coming within 1,000 feet of her home during these periods. RP 182-86, 191-93; Exs. 1-4.

At the conclusion of trial, the jury was unable to reach a verdict on one count of residential burglary and one count of violating a court order but found Dickerson guilty of the remaining charges. CP 102-06. By special verdict, the jury found the charges were committed against an intimate partner. CP 107. After the trial, the state amended the information to dismiss the outstanding residential burglary charge, and Dickerson pled guilty to the outstanding court order violation. CP 147-55.

The court denied Dickerson's request for a mental health sentencing alternative or a first-time offender waiver. CP 108; RP

449-50. The court imposed a sentence at the low end of the standard range on the felony charge and concurrent 364-day sentences (suspended for 24 months) on the misdemeanors. CP 166-67, 179.

On appeal, Dickerson argued his convictions must be reversed because he was denied the ability to meaningfully and privately consult with his attorney during the competency hearing. The Court of Appeals declined to address the issue, holding that Dickerson had not shown the manifest constitutional error necessary to raise this issue for the first time on appeal. Dickerson now seeks this Court's discretionary review.

D. REASONS WHY REVIEW SHOULD BE ACCEPTED AND ARGUMENT

The violation of Dickerson's Sixth Amendment right to confer with counsel is manifest constitutional error.

The competency hearing was held with Dickerson, his attorney, and the prosecutor all appearing by video conferencing system. CP 225. There was no indication that Dickerson was able to privately consult with his attorney during this hearing. On the

contrary, at the conclusion of the hearing, he specifically requested an opportunity to speak to counsel, indicating he had not been able to do so during the hearing. RP 11-12.

His convictions should be reversed because this violation of his constitutional right to confer with counsel was manifest constitutional error under State v. Anderson, 19 Wn. App. 2d 556, 561-62, 497 P.3d 880 (2021), rev. denied 199 Wn.2d 1004 (2022) and State v. Bragg, 28 Wn. App. 2d 497, 504, 536 P.3d 1176 (2023). The Court of Appeals in Dickerson's case, however, followed Division Two's decision in State v. Dimas, 30 Wn. App. 2d 213, 544 P.3d 597 (2024) to hold that the error could not be raised for the first time on appeal because Dickerson could not show that the outcome of the hearing would have been different had he been able to consult with counsel. App. at 5-8. This Court should grant review under RAP 13.4(b)(2) because this case illustrates the conflict between the Court of Appeals decisions in Bragg and Anderson on the one hand and Dimas and this case on the other. See also State v. Schlenker, ____ Wn. App. 2d ____,

553 P.3d 712, 723-25 (2024) (pointing out conflict between Bragg and Dimas).

Dickerson was entitled, under both the Sixth Amendment and article I, section 22 of the Washington Constitution, to the assistance of counsel at all critical stages of the criminal proceedings against him. Bragg, 28 Wn. App. 2d at 503. A competency determination is a critical stage. State v. Heddrick, 166 Wn.2d 898, 910-11, 215 P.3d 201 (2009). The constitutional right to the assistance of counsel includes the "opportunity for private and continual discussions between the defendant and his attorney during trial." Bragg, 28 Wn. App. 2d at 504. The ability to confer with counsel need not be seamless, but it must be meaningful. Anderson, 19 Wn. App. 2d at 562.

Thus far, the divisions of the Court of Appeals appear to agree. Bragg, 28 Wn. App. 2d at 504; Dimas, 30 Wn. App. 2d at 219. They part ways, however, on how to treat such errors when raised for the first time on appeal.

In Anderson, the court explained that the right to counsel, unlike the right to confront witnesses, "cannot be lost without a specific waiver." Anderson, 19 Wn. App. at 562 (citing State v. Rupe, 108 Wn.2d 734, 741, 743 P.2d 210 (1987); City of Bellevue v. Acrey, 103 Wn.2d 203, 208-12, 691 P.2d 957 (1984)). The right to counsel "is a fundamental constitutional claim that can be raised for the first time on appeal, so long as the claim is manifest, as required by RAP 2.5(a)(3)." Anderson, 19 Wn. App. at 562.

Anderson appeared for the hearing via videoconference system from jail, while his attorney appeared by phone from a different location. Id. at 563. The court never set any ground rules for how Anderson could communicate with his attorney during the hearing, and nonverbal communication was impossible as the attorney was appearing by phone from a different location. Id. The court noted it was unrealistic to expect Anderson to assume he had permission to interrupt the proceedings if he wanted to speak with his counsel. Id. The court explained that "it is not

apparent how private attorney-client communication could have taken place during the remote hearing." Id. The court concluded Anderson had "met his burden of showing the existence of a constitutional error that is manifest, or obvious from the record." Id. "Thus," the court continued, "the lack of error preservation is not a hurdle to relief under RAP 2.5(a)(3)." Id. at 563-64. In the remainder of the opinion, the court considered whether the state had met its burden to rebut the presumption of prejudice and prove the constitutional error was harmless beyond a reasonable doubt. Id. at 564.

Similarly, in Bragg, the state agreed that eight of the hearings at issue were critical stages for purposes of the Sixth Amendment. 28 Wn. App. 2d at 503. Citing Anderson's discussion of manifest error, the Bragg court concluded the deprivation of the right to confer with counsel "may be a manifest constitutional error, reviewable for the first time on appeal." Bragg, 28 Wn.2d at 504 (citing Anderson, 19 Wn. App. 2d at 561-62). The court held it was error for the court not to set any

ground rules for how Bragg could communicate with counsel during the remote hearings, and it was unreasonable to put the burden on Bragg to interrupt the proceedings to do so. Bragg, 28 Wn. App. 2d at 509-11. The court then turned to the question of whether the state could rebut the presumption of prejudice arising from this violation of his Sixth Amendment rights. Id. at 511-12.

Bragg and Anderson both stand for the proposition that the right to confer with counsel may be raised for the first time on appeal so long as the violation is manifest, i.e. obvious or apparent from the record.

In Dimas, however, the Court of Appeals departed from this course. The opinion in Dimas initially cites Anderson for the proposition that deprivation of the right to counsel "can be raised for the first time on appeal only if the claim is manifest, as required by RAP 2.5(a)(3)." Dimas, 30 Wn. App. 2d at 220 (citing Anderson, 19 Wn. App. 2d at 562).

Rather than following the analysis of Bragg or Anderson, however, the Dimas court relied on State v. J.W.M., 1 Wn.3d 58,

90, 524 P.3d 596 (2023), noting that manifest constitutional error under RAP 2.5(a)(3) generally requires "a plausible showing that the claimed error had practical and identifiable consequences at trial." Dimas, 30 Wn. App. 2d at 221 (citing J.W.M., 1 Wn.3d at 90). The court then concluded that Dimas had failed to show manifest constitutional error because he could not show that "an ability to confer with defense counsel would have made any difference." Dimas, 30 Wn. App. 2d at 221 (emphasis). The court reasoned that, because Dimas had been able to confer with his counsel prior to the motion hearing, he could not show that the result of the hearing "would have been different" if he had been able to speak with counsel during the hearing. Dimas, 30 Wn. App. 2d at 222. Regarding the sentencing hearing, the court again noted Dimas had been able to confer prior to the sentencing. Id. at 223. Therefore, the court declined to consider the constitutional error, reasoning that "The record does not indicate that the trial court would have made a different decision" if Dimas had been able to speak privately with counsel. Id.

The Dimas court imposed too high a burden on appellants. This Court's precedent requires a showing of "actual prejudice," defined as a "plausible showing . . . that the asserted error had practical and identifiable consequences" in the case. J.W.M., 1 Wn.3d at 90-91.

The Dimas opinion is at odds with this Court's jurisprudence because the opinion conflates the threshold analysis of manifest constitutional error with the ultimate prejudice/harmless error standard on the merits. In State v. O'Hara, 167 Wn.2d 91, 99, 217 P.3d 756 (2009), this Court warned that manifest constitutional error and prejudice are separate questions with different analyses. This Court reasoned that "In order to ensure the actual prejudice and harmless error analyses are separate, the focus of actual prejudice must be on whether the error is so obvious on the record that the error warrants appellate review." Id. at 99-100. To determine whether an error is practical and identifiable, the appellate court should "place itself in the shoes of the trial court to determine whether,

given what the trial court knew at that time, the court could have corrected the error." Id. at 100.

This Court should grant review and reverse because Dimas' holding, requiring a showing that the outcome of the trial would have been different as part of the manifest constitutional error analysis, conflicts with both the Court of Appeals decisions in Bragg and Anderson and this Court's decision in O'Hara. RAP 13.4(b)(1), (2).

The error in this case is manifest because it had practical and identifiable consequences that should have been evident to the trial court at the time. Dickerson was unable to confer privately and meaningfully with his attorney at the competency hearing, as was his right.

The record in this case is devoid of any guidance from the court on how Dickerson could consult with his attorney during the competency hearing. RP 9-12. Dickerson's polite request at the end of the hearing shows he felt he had to wait until the proceedings had finished before asking to speak to his counsel.

RP 11-12. As in Bragg, it was unrealistic to expect Dickerson to interrupt the proceedings to confer with his counsel. 28 Wn. App. 2d at 509-11. He was not physically present and therefore lacked the ability to engage in non-verbal or written communication. CP 225. Dickerson had no reasonable ability to consult with counsel during this critical stage of the proceedings, and it is plausible that this affected the outcome.

The violation of Dickerson's constitutional right to privately confer with counsel at the competency hearing is presumed prejudicial. Bragg, 28 Wn. App. 2d at 512. Reversal is required unless the state can prove beyond a reasonable doubt that the error would not have changed the outcome of the proceedings. Id. The state cannot do so here.

It is well-established that significant consequences are at stake in a competency hearing. Heddrick, 166 Wn.2d at 911. Competency to stand trial cannot be waived. Id. at 907. A person who is incompetent may not be tried. In re Pers. Restraint of Fleming, 142 Wn.2d 853, 861, 16 P.3d 610 (2001).

Defense counsel's observations form a critical part of the process triggering the need for a competency evaluation. See, e.g., State v. Woods, 143 Wn.2d 561, 605, 23 P.3d 1046 (2001) (courts must give "'considerable weight'" to defense counsel's opinion regarding client's competency) (quoting State v. Lord, 117 Wn.2d 829, 903, 822 P.2d 177 (1991)). Defense counsel's lack of access to Dickerson during this hearing thus deprived the court of one of the primary sources of information regarding Dickerson's ability (or lack thereof) to understand the proceedings and assist in his defense.

Dickerson's mental state played a significant role in the trial, with two witnesses describing his bizarre behavior. RP 241, 258. His mental state also played a significant role at sentencing, with the court considering, but denying, a mental health sentencing alternative. CP 108; RP 449-50. In light of these facts, the state cannot show harmlessness beyond a reasonable doubt because it is plausible that consultation with counsel would have revealed competency issues that should have been addressed

before trial or potentially precluded trial altogether. This Court should grant review and reverse.

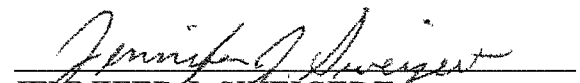
E. CONCLUSION

For the foregoing reasons, Dickerson asks this Court to accept review and reverse.

DATED this 19th day of November, 2024.

I certify that this document was prepared using word processing software in 14-point font and contains 2,452 words excluding the parts exempted by RAP 18.17.

Respectfully submitted,
NIELSEN KOCH & GRANNIS, PLLC



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APPENDIX

Filed
Washington State
Court of Appeals
Division Two

October 29, 2024

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. RYAN SAMUAL DICKERSON, Appellant.	No. 57802-6-II UNPUBLISHED OPINION

PRICE, J. — Ryan S. Dickerson was charged with several criminal counts related to domestic violence allegations. In the course of pretrial proceedings, several hearings were conducted remotely through Zoom. Ultimately, Dickerson was convicted.

Dickerson appeals, arguing that a specific pretrial competency hearing conducted by Zoom violated his constitutional right to privately confer with counsel at a critical stage of the proceedings. Dickerson also argues that the superior court erred by imposing the crime victim penalty assessment (VPA), the DNA collection fee, and community custody supervision fees.

We affirm Dickerson's convictions, but remand for the superior court to strike from his judgment and sentence the VPA, the DNA collection fee, and community custody supervision fees (and a $250 jury demand fee).

FACTS

Following an investigation into domestic violence allegations with an ex-girlfriend, the State charged Dickerson with two counts of residential burglary and four counts of violation of a court order.

Shortly after Dickerson was charged, the superior court ordered him to undergo an evaluation to determine whether he was competent to stand trial. The resulting report concluded that Dickerson was not competent because he lacked the capacity to rationally understand the proceedings against him and to assist in his own defense. The superior court ordered Dickerson to receive restoration treatment, and Dickerson was sent to Western State Hospital (WSH).

Eventually, Dickerson received an updated evaluation that concluded that he was competent to stand trial. According to the report, there was "no evidence of lingering mental illness symptoms that would expectedly interfere with [Dickerson's] competency-related capacities." Clerk's Papers at 62.

The superior court held a competency review hearing. Dickerson, defense counsel, and the prosecutor all appeared remotely via Zoom. Based on the updated evaluation and with the agreement of the parties, the superior court found that Dickerson was competent to stand trial. The parties then briefly discussed rescheduling the trial, and an agreed trial date was entered.

The brief hearing was about to conclude when Dickerson asked the superior court if he could speak with his defense counsel. The following exchange took place:

> [Dickerson]: Thank you. Could I have a—a word with [defense counsel], at all?
>
> THE COURT: [Defense counsel] will touch [base] with you off the docket, separately. Okay.

Verbatim Rep. of Proc. (VRP) at 11-12. Dickerson did not object, and the hearing concluded. At no point did Dickerson or his counsel object to conducting the hearing remotely by Zoom. Nor did Dickerson make any other request to confer with his counsel during this hearing.

The case proceeded to trial, and the jury found Dickerson guilty of most of the charged counts. The superior court imposed a low-end sentence. The superior court also found Dickerson indigent and stated that it intended to waive all non-mandatory fees, fines, and costs. Nevertheless, Dickerson's judgment and sentence included community custody supervision fees, the DNA collection fee, the VPA, and a $250 jury demand fee.

Dickerson appeals.

ANALYSIS

I. RIGHT TO CONFER WITH COUNSEL

Dickerson argues that his constitutional right to confer with counsel was violated during his competency review hearing that was conducted remotely via Zoom. We disagree.

A. LEGAL PRINCIPLES

Under the Sixth Amendment to the United States Constitution and article I, section 22 of the Washington Constitution, a criminal defendant has the right to counsel at critical stages in the litigation. *State v. Heddrick*, 166 Wn.2d 898, 909-910, 215 P.3d 201 (2009). This right to counsel includes the ability for a defendant to confer meaningfully and privately with their attorney at all critical stages of the proceedings. *State v. Dimas*, 30 Wn. App. 2d 213, 219, 544 P.3d 597 (2024). The trial court is responsible for ensuring that attorneys and clients have the opportunity to engage in private consultation. *Id.* In determining whether the right to confer has been violated, "reviewing courts should consider the totality of the circumstances, including whether the trial

court explicitly established a process for such communications, given the variety of different circumstances that may occur." *State v. Bragg*, 28 Wn. App. 2d 497, 507, 536 P.3d 1176 (2023) (emphasis omitted).

Although deprivation of this right to confer with counsel is a constitutional claim, it may be raised for the first time on appeal only if the error is manifest. *Dimas*, 30 Wn. App. 2d at 220; RAP 2.5(a)(3). An error is manifest under RAP 2.5(a)(3) if the defendant can show actual prejudice, demonstrated by a " 'plausible showing by the [appellant] that the asserted error had practical and identifiable consequences in the trial of the case.' " *State v. J.W.M.*, 1 Wn.3d 58, 91, 524 P.3d 596 (2023) (alteration in original) (internal quotation marks omitted) (quoting *State v. O'Hara*, 167 Wn.2d 91, 99, 217 P.3d 756 (2009)).

In determining whether the defendant has established actual prejudice, the error must be "so obvious . . . that the error warrants appellate review." *O'Hara*, 167 Wn.2d at 100. An error is not manifest if the facts necessary to evaluate the claimed error are not in the record on appeal. *J.W.M.*, 1 Wn.3d at 91. The defendant has the burden of demonstrating manifest constitutional error. *State v. Schlenker*, ___ Wn. App. 2d ___, 553 P.3d 712, 725 (2024) ("The demands of manifest constitutional error shift the burden of showing prejudice to the accused.").

RAP 2.5(a) was adopted to encourage " 'the efficient use of judicial resources. ' " *State v. Robinson*, 171 Wn.2d 292, 304, 253 P.3d 84 (2011) (quoting *State v. Scott*, 110 Wn.2d 682, 685, 757 P.2d 492 (1988)). The rule ensures that the trial court has the opportunity to correct any errors, "thereby avoiding unnecessary appeals." *Id.* at 304-05.

B. DICKERSON CANNOT DEMONSTRATE MANIFEST ERROR

Pointing to one specific competency hearing, Dickerson argues that conducting the hearing by Zoom violated his constitutional right to privately confer with counsel. He asserts that there was no indication from the record that he was able to privately consult with his attorney during the hearing. He further contends that "it is possible that consultation would have revealed issues of competency that should have been addressed before trial." Br. of Appellant at 11-12. However, because Dickerson failed to object at the time of the hearing, he can only raise the issue for the first time on appeal if he can establish the error was manifest under RAP 2.5(a)(3). *Dimas*, 30 Wn. App. 2d at 220.

Showing a manifest error under these circumstances requires more than merely alleging a right to confer was compromised—it requires the defendant show the results of the proceedings would have been different. *See id.* at 221-23. In *Dimas*, the defendant appeared at several video hearings remotely from a jail booth while his counsel was located somewhere else. *Id.* at 215, 218. Although the defendant did not object to this arrangement before the trial court, he argued on appeal that being located in the jail booth and separated from his counsel violated his right to privately confer with counsel. *Id.* at 218. The *Dimas* court explained that the defendant could not show the error was manifest unless the defendant could establish that an ability to confer with his defense counsel would have changed the outcome of any of the proceedings (something the defendant was unable to show). *Id.* at 221-23. In reaching this conclusion, the *Dimas* court distinguished a decision from Division Three that appeared to take a more lenient approach.

Id. at 221. In *State v. Anderson*[1], under similar circumstances involving the right to confer during a remote hearing, Division Three readily found a manifest constitutional error. But the *Dimas* court pointed out that *Anderson* merely declared, with minimal explanation, that the claimed error was manifest. 30 Wn. App. 2d at 221.

We agree that *Dimas* sets forth the proper question for whether Dickerson can establish a manifest error—he must show that if he had been given the opportunity to confer with his defense counsel at the hearing, the outcome of the hearing would have been different. *Id.* at 221-23.

Dickerson cannot make this showing. The hearing in question (his competency review hearing) only addressed issues that were agreed to by the parties. The parties stipulated to Dickerson's competency based on his most recent competency evaluation and agreed to a new trial date. Even if Dickerson had consulted privately with his counsel during the hearing, he has not shown how that consultation would have changed anything about the outcome of the hearing. He speculates that it is *possible* that consulting with his counsel during the hearing could have revealed further competency issues. But in the face of an updated competency evaluation that concluded the opposite, he fails to show that this *possibility* rises to the level required to be a practical and

[1] 19 Wn. App. 2d 556, 563, 497 P.3d 880 (2021), *review denied*, 199 Wn.2d 1004 (2022).

identifiable consequence that would have changed the outcome of the hearing.[2] Accordingly, Dickerson cannot demonstrate that the claimed error was manifest.

Dickerson suggests that the level necessary to show a manifest error is not so high; he appears to assert that any denial of the right to confer with counsel, by itself without more, constitutes manifest constitutional error. Dickerson provides no in-depth explanation for this proposition; he merely cites, in one sentence, Division Three's decision in *Anderson*. As noted above, although it is true that *Anderson* found a manifest constitutional error under circumstances similar to this case, the opinion does not include an explanation of its rationale.[3] 19 Wn. App. 2d at 563. As suggested by *Dimas*, *Anderson* is of limited value on this question of manifest constitutional error because of its cursory discussion. 30 Wn. App. 2d at 221. Indeed, there is no indication in *Anderson* that the defendant made any showing of any practical and identifiable

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[2] Prior to the competency review hearing in question, there was an earlier hearing held by Zoom while Dickerson was still receiving services at WSH. As the hearing was concluding, Dickerson asked the superior court, "Can I have a breakout with my attorney?" VRP at 7. The superior court accommodated Dickerson's request for a breakout room with his counsel.

Notably, at this earlier hearing, Dickerson demonstrated both the ability to request a private conference with his counsel and the knowledge that the Zoom platform called such a conference a "breakout." VRP at 7. Dickerson's knowledge about "breakouts" and his previous willingness to ask for them further support the conclusion that a consultation with his attorney would not have changed anything about the outcome of the hearing.

[3] We note that Court of Appeals' panels are often limited by the arguments presented by the parties. *Dalton M, LLC v. N. Cascade Tr. Servs., Inc.*, 2 Wn.3d 36, 50, 534 P.3d 339 (2023) (explaining that Washington courts generally follow the rule of party presentation).

consequences to the proceedings from the asserted error. 19 Wn. App. 2d at 563. Thus, we reject Dickerson's reliance on *Anderson*.[4]

Because Dickerson did not object to his Zoom hearing below and he cannot demonstrate that the claimed error was manifest, we decline to consider his unpreserved claim that his right to confer with counsel was violated.

II. IMPOSITION OF LEGAL FINANCIAL OBLIGATIONS

Dickerson argues that because the superior court found him indigent, we should remand for the superior court to strike the VPA, the DNA collection fee, and community custody supervision fees. The State concedes that the VPA, the DNA collection fee, and supervision fees should be stricken; the State also concedes that the $250 jury demand fee should be stricken as well.

We accept the State's concessions and remand to the superior court to strike the VPA, the DNA collection fee, community custody supervision fees, and the $250 jury demand fee.

CONCLUSION

We affirm Dickerson's convictions, but remand for the superior court to strike the VPA, the DNA collection fee, community custody supervision fees, and the jury demand fee from his judgment and sentence.

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[4] Although Dickerson also relies on Division One's recent case, *Bragg v. State*, 28 Wn. App. 2d 497, 502-11, 536 P.3d 1176 (2023) for the proposition that the trial court was required to provide guidance on how he was to privately confer with counsel in the course of the video hearings, he does not appear to cite the case for the threshold issue of manifest error. Thus, we do not further discuss *Bragg*.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

PRICE, J.

We concur:

MAXA, P.J.

GLASGOW, J.

NIELSEN KOCH & GRANNIS P.L.L.C.

November 19, 2024 - 3:45 PM

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