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NO. 103826-7

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

TIANA WOOD-SIMS,

Petitioner.

**STATE'S ANSWER TO AMICUS CURIAE CENTER
FOR CIVIL RIGHTS AND CRITICAL JUSTICE IN
SUPPORT OF PETITION FOR REVIEW**

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A. INTRODUCTION

Tiana Wood-Sims pleaded guilty to second-degree felony murder, predicated upon first-degree theft, after helping her cousin and two other men rob Latasha Walker, a young woman who thought Wood-Sims was her friend. Wood-Sims was no mere accomplice to this robbery: Wood-Sims planned the crime with her cousin and set up Walker to be robbed. During the robbery, the men went into Walker's bedroom and beat her to death while Wood-Sims sat on a couch in the living room, ignoring Walker's cries for help. Wood-Sims then pretended to be another victim of the home-invasion robbery instead of the person who had planned the crime and set up the victim to be robbed and killed.

The Court of Appeals correctly rejected Wood-Sims' claims on appeal that the felony-murder statute is

unconstitutional under *State v. Blake*,¹ and that her standard-range sentence is unconstitutionally disproportionate under *State v. Bassett*.² The Court of Appeals also correctly rejected a claim, raised for the first time at oral argument on appeal, that felony murder is applied in a racially disproportionate manner under *State v. Gregory*.³

This recently raised claim of racial disproportionality is now the primary focus of Wood-Sims' petition for review, and the only focus of the amicus curiae brief from the Center for Civil Rights and Critical Justice (CCRCJ). Specifically, CCRCJ cites to articles, studies, and data—none from Washington State—in an effort to demonstrate racially biased and disproportionate sentencing for

¹ 197 Wn.2d 170, 481 P.3d 521 (2021).

² 192 Wn.2d 67, 428 P.3d 343 (2018).

³ 192 Wn.2d 1, 427 P.3d 621 (2018).

accomplices to felony murder, and racial animus in the application of the felony-murder rule in general.

Despite Wood-Sims' and CCRCJ's last-minute efforts, this case is simply not an appropriate vehicle with which to reach this claim. This Court should not accept review of such complex and important issues in a case where they were not raised until oral argument on appeal, where an inadequate record exists, and where the defendant pleaded guilty to a reduced charge while facing a greater crime for which there was ample evidence.

This Court should deny review.

B. ISSUES RAISED BY AMICUS CURIAE

1. Should this Court deny review of a claim of racial disproportionality that was raised for the first time at oral argument in the Court of Appeals and briefed for the first time in the petition for review?

2. Should this Court deny review of a claim of racial disproportionality because Wood-Sims' conviction and sentence for a reduced charge are the result of a knowing, intelligent, and voluntary guilty plea?

C. ARGUMENT

1. THIS COURT SHOULD NOT REVIEW CLAIMS BRIEFED FOR THE FIRST TIME IN A PETITION FOR REVIEW; AN AMICUS BRIEF SHOULD NOT CHANGE THAT.

It is well settled that constitutional issues raised for the first time on appeal will be reviewed only in limited circumstances, *i.e.*, when the error is both manifest and truly of constitutional dimension. *State v. O'Hara*, 167 Wn.2d 91, 98, 217 P.3d 756 (2009); RAP 2.5(a). Issues raised for the first time in a reply brief will not be reviewed at all. *In re Pers. Restraint of Rhem*, 188 Wn.2d 321, 327, 394 P.3d 367 (2017); RAP 10.3(c). Nor will this Court consider issues raised for the first time in a

supplemental brief. *Douglas v. Freeman*, 117 Wn.2d 242, 258, 814 P.2d 1160 (1991). For the same reasons, “[a]bsent a change in applicable law, we will not consider an issue raised for the first time during oral argument.” *State v. Kirwin*, 137 Wn. App. 387, 394, 153 P.3d 883 (2007) (citing *State v. Olson*, 126 Wn.2d 315, 319-20, 893 P.2d 629 (1995)). “It is particularly unfair to consider an argument when opposing counsel has had no opportunity to prepare a response.” *Kirwin*, 137 Wn. App. at 394 (citing *State v. Johnson*, 119 Wn.2d 167, 170-71, 829 P.2d 1082 (1992)).

Despite these axiomatic principles, CCRCJ attempts to bolster arguments and augment a record that has not previously existed by providing articles, studies, internet sources, “data from other jurisdictions,”⁴ and other materials to buttress a claim that application of the

⁴ Amicus brief at 6. CCRCJ acknowledges that none of its data is from Washington. *Id.*

felony-murder rule results in “extreme”⁵ and disproportionate sentencing for BIPOC defendants generally, and for accomplices in particular.

For example, CCRCJ cites a law-review article that cites a study that utilized “an Accomplice Liability Implicit Association Test (IAT) to test entitativity in the felony murder context” to conclude that Black and Latinx defendants are more likely to be perceived as part of a group than white defendants, and hence, “crimes like felony murder . . . may worsen racial inequalities in the criminal legal system.”⁶ But this study and the other materials cited by CCRCJ do not inform an analysis of felony murder and sentencing in Washington, let alone in this particular case.⁷ Moreover, even assuming the study

⁵ Amicus brief at 7.

⁶ Amicus brief at 8-9.

⁷ CCRCJ even cites various sources in an attempt to compare general application of the felony-murder rule to the politically charged federal prosecutions following the attack on the United States Capitol on January 6, 2021.

and its methodology are sound—something the State cannot weigh in on without having litigated the issue—there is an insufficient record upon which to consider such arguments. And there is certainly an insufficient opportunity for the State to respond in any meaningful way to complex issues that have not been raised until now.⁸

Amicus brief at 2-3. The underlying premise argued by CCRCJ—*i.e.*, that January 6th rioters could have been charged with felony murder but were not—is unsupportable under Washington felony-murder law as defined by RCW 9A.32.030(c) and RCW 9A.32.050(b). See Amicus brief at 2 n.3 (citing New York Times article reporting that of seven people who died on or soon after January 6th, two rioters and one police officer died of natural causes, one rioter died of an overdose, two police officers committed suicide, and two rioters died because of their own participation in the attack, including one who was trampled and one who was shot by a police officer). In any event, such unsupported hyperbole does not provide helpful analysis here.

⁸ By contrast, in *Gregory*, the defendant commissioned a study specific to Washington, the State hired its own expert to challenge that study, and further factfinding was conducted by the Commissioner to fully inform this Court's decision as to whether Washington's death

This Court does not consider “issues raised first and only by amicus.” *Mains Farm Homeowner’s Ass’n v. Worthington*, 121 Wn.2d 810, 827, 854 P.2d 1072 (1993). Moreover, although constitutional issues may be raised for the first time on appeal in limited circumstances under RAP 2.5(a), such issues may be reviewed only “when an adequate record exists” and when the error is truly “manifest.” *State v. Contreras*, 92 Wn. App. 307, 313, 966 P.2d 915 (1998) (citing *State v. McFarland*, 127 Wn.2d 322, 333, 899 P.2d 1251 (1995)). An error is “manifest” only if the defendant demonstrates that it prejudicially affected her constitutional rights in the case before the court. *State v. Kirkman*, 159 Wn.2d 918, 926-27, 155 P.3d 125 (2007). Not only is the record inadequate here, but any alleged error is not “manifest.”

penalty was applied in a racially disproportionate manner. *Gregory*, 192 Wn.2d at 13-14.

As will be discussed further below, Wood-Sims pleaded guilty to a reduced charge and received a mid-range standard-range sentence because of a carefully negotiated plea agreement. The trial court accepted her plea as having been made knowingly, intelligently, and voluntarily upon the advice of counsel after two thorough colloquies. RP (8/20/15). Furthermore, although Wood-Sims and CCRCJ are laser-focused on felony murder as applied to accomplices, Wood-Sims' involvement in this robbery was more than a mere accomplice, as the factual support for her guilty plea and sentence demonstrates. See CP 17, 22-25 (factual statement and certification for determination of probable cause, attached as *Appendix*).⁹ CCRCJ does not explain how Wood-Sims' mid-range

⁹ Wood-Sims also read aloud the factual statement in open court during her guilty plea colloquy. RP (8/20/15) 17-19. In addition to the factual statement, Wood-Sims agreed that the trial court could consider the certification for determination of probable cause as "real facts" for purposes of sentencing. CP 18.

standard-range sentence is in any way extreme or disproportionate given her plea to a reduced charge and her level of involvement in the fatal robbery. Review should be denied.

2. THE DEFENDANT BENEFITED SUBSTANTIALLY FROM A CAREFULLY CRAFTED PLEA AGREEMENT AND A REDUCED CHARGE; THE AMICUS BRIEF DOES NOT ADDRESS THAT.

Nowhere in Wood-Sims' petition for review has she acknowledged that she was originally charged with first-degree felony murder based on robbery, which is a violent felony that Wood-Sims orchestrated and in which she admittedly participated. Instead, Wood-Sims portrays her role as "an accomplice to a non-violent predicate crime" as the basis for her claims. *See, e.g.*, Petition at 1 ("Issue Presented for Review"). CCRCJ compounds this mischaracterization by presenting articles, studies, and other materials in support of its arguments about racial

animus without acknowledging Wood-Sims' plea agreement or her true, admitted level of culpability. Rather, CCRCJ reiterates the general assertion that BIPOC accomplices to felony murder receive disproportionate sentences on account of racial bias, and couches the issue in terms of "an accomplice who did not intend for violence to occur, and who did not participate in the homicide" Amicus brief at 4.

Wood-Sims was an "accomplice" only in the sense that she did not directly beat Latasha Walker to death. But her level of involvement and culpability for the robbery that *resulted in* Walker's death belie the "accomplice" label. As the trial court found, this murder would not have happened, and Walker would still be alive if Wood-Sims had not planned and instigated the robbery. RP (3/25/16) 37; *see also Appendix*.¹⁰ And the sole reason Wood-

¹⁰ In fact, one of Wood-Sims' co-defendants told police that he did not want to go through with the robbery when

Sims was convicted of second-degree felony murder based on first-degree theft—the non-violent felony that underlies her conviction, which she claims is fundamentally unfair—is because of her knowing, intelligent, and voluntary guilty plea to that charge in order to receive substantial benefits, including a substantially reduced sentence.

In short, both Wood-Sims' petition and CCRCJ's amicus brief suffer from the same fundamental infirmity: the facts comprising the appellate record fully support both Wood-Sims' guilty plea and her sentence. This case remains an inappropriate vehicle for reviewing the issues raised in the petition, and CCRCJ's brief does nothing to change that. Review should be denied.

he learned that the victim was a woman, but Wood-Sims “yelled at him to get in there and do what he was told.” *Appendix* (CP 25). Wood-Sims admitted she heard Walker calling for help from the bedroom and did nothing to help her. *Appendix* (CP 17).

D. CONCLUSION

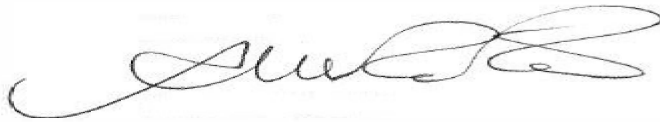
For the foregoing reasons, and for the reasons stated in the State's answer to the petition, this Court should deny the petition for review.

I certify in accordance with the Rules of Appellate Procedure that this document contains 1,845 words.

DATED this 16th day of April, 2025.

Respectfully submitted,

LEESA MANION (she/her)
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By: _____
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APPENDIX:

1. Factual statement in support of guilty plea (CP 17)
2. Certification for Determination of Probable Cause, considered as “real facts” for sentencing purposes (CP 22-25)

1. Factual statement in support of guilty plea. (CP 17)

On June 3, 2013, together with my codefendants, I participated in arranging for Corey Mann, Gary Sanders, and Michael Galloway to commit a theft in the first degree from my friend Latasha Walker at her home which was located at 25216 110th Avenue SW Apartment Z-102 Kent WA. I told Corey Mann where Latasha's home was, and I told him he could find money in the amount of \$7,000 and pills inside her dresser drawers in her bedroom. I was in communication with Corey Mann throughout this day, all the while I was driving around Kent and Renton, WA, and near the Southcenter mall area with Latasha.

When Latasha and I arrived back at her apartment, Corey Mann, Gary Sanders, and Michael Galloway came to Latasha's apartment door. I pretended that I did not know why they were there, and I asked Latasha if it was OK to let them in. She was fooled and said OK, and I let them inside. Latasha was in her bedroom. All three men eventually went into Latasha's bedroom and I stayed in the living room. I knew they were looking for her money and pills to steal from her in her bedroom. I heard noises like things being knocked around in the room, and I heard Latasha call for me to help her. I did not help her. I did not go in the bedroom. While in the bedroom the men stole hats, a computer, some DVDs, a cell phone, and jewelry from Latasha's person. Corey Mann or one of the others took my cell phone too, to make it look like I was a victim of the crime.

When the men left the apartment I went into Latasha's room and found her on the floor. She was not communicating with me. I threw a cup of water on her thinking she was just knocked out unconscious and that would revive her. When she did not wake up, I ran outside and called to a neighbor for help.

When the police came I pretended to be a victim of the crime. Over the next several months, I told police many lies to cover up my involvement in this crime. Eventually, in November 2013, ^{TWS} then more fully in February 2014, I admitted that I had been involved in the crime. Then on September 10, 2014, I gave a complete account of what happened on June 3, 2013.

I helped arrange and I assisted Corey Mann, Gary Sanders, and Michael Galloway so that they could carry out a theft in the first degree of Latasha Walker. I was to receive a portion of the proceeds from the theft. During the theft, while the men were in the bedroom, at least one of the men assaulted Latasha. Latasha died as a result of the injuries she received during this theft which I helped accomplish.

J. Wood
TWS

2. Certification for Determination of Probable Cause, considered as "real facts" for sentencing purposes. (CP 22-25)

App. B

CAUSE NO.

CERTIFICATION FOR DETERMINATION OF PROBABLE CAUSE

That Brendan Wales is a Detective with the Kent Police Department and has reviewed the investigation conducted in Kent Police Department case number #13-7383:

There is probable cause to believe that Corey A.L. Mann (dob 10/13/1987), Gary B Sanders (dob 11/28/1983), Michael V Galloway (dob 03/02/1993) and Tiana R Wood Sims (dob 06/27/1989) committed the crime(s) of, RCW 9A.32.030 Murder in the 1st Degree,

This belief is predicated on the following facts and circumstances:

On June 3, 2013, at approximately 2016 hours, Kent Police dispatched to the report of an unconscious, not-breathing female at 25216 110th Avenue SE, Apt. Z-102, Kent WA. Police arrived and found Latasha Walker lying on her bedroom floor.

Also present in the apartment was Tiana Wood Sims, who told police she was Latasha Walker's friend. She told police that she and Latasha had been the victims of a home invasion robbery by unknown individuals who had restrained her on the couch while they assaulted and robbed Latasha. She said that after the men released her and stole her cell phone, she found Latasha on the floor with a belt around her neck. She said she tried to wake her and when she could not she ran for help. She found some neighbors to come inside and try to help her.

Aid took Walker to Valley Medical Center where she was pronounced dead. The autopsy revealed that Walker died as a result of blunt force injury to her abdomen.

Police spent considerable time with Ms. Wood Sims attempting to identify the assailants. She maintained for months that she had no idea who they were. Police later learned that Wood Sims is Corey Mann's cousin.

Police located a fingerprint in Ms. Walker's room belonging to Michael Galloway. Police interviewed Galloway in October 2013. He said that his friend Corey Mann had met him in Seattle/ Burien on June 3, 2013, in the afternoon with another man called "New York." Mann was in a White Malibu. Mann asked Galloway to participate in a robbery. Mann told Galloway that his cousin had set up a robbery of a girl whose boyfriend was in jail and she was holding his money, which was about \$15,000. Mann told Galloway that Mann's cousin was at the apartment, that Mann and New York would hold the girl while Galloway grabbed the stuff. Galloway agreed.

Galloway said they drove to Kent. Mann was on the phone talking and texting. Mann said that his cousin was at the bank with the girl earlier in the day and that's how the cousin knew there would be money there. Galloway saw a text on Mann's phone that said, "the door is unlocked." Mann told him that his cousin texted him "it's ready." When they got to the apartment complex, they waited in the car. Mann got a call on his phone. Mann said, "we're coming," to the person on the phone. Then he said to Galloway and New York, "Let's go."

The three men went to the apartment. Mann told Galloway to knock on the door. After Galloway knocked, Mann told him to enter the unlocked apartment. There was a woman in the living room. Mann said, "that's my cousin, don't touch her." The cousin waived the men toward the bedroom. The men ran into the bedroom. Ms. Walker was there. Mann told Galloway the money would be in the socks in the drawers and to look there. While Galloway looked for the money, Mann and New York tackled Ms. Walker on the bed where they beat her and strangled her with a belt. Galloway remembers New York beating Walker and Mann strangling her.

Galloway said he could not locate the money. The three men then grabbed what they could: a laptop, X-box Games, and cell phones, and left. As they passed the cousin in the living room, Mann said to her "you know what to do." The three men went to Everett where they surveyed the spoils. Galloway was given a small amount of marijuana for his participation in this venture. When he complained, he saw that Mann had a gun and Mann warned him that he'd better not say anything to anyone about the robbery.

Galloway was charged with Murder in the First Degree in October 2013.

Shortly after interviewing Galloway, police interviewed Corey Mann. He said that he had not been to Kent, Washington, in the past year except once to go to court. He said that Galloway was his enemy and they had not hung out together in the last two years. He denied any involvement in a robbery in Kent.

Police obtained cell records of Mann and Tiana Wood Sims. When these records are reconciled, they show that Mann and Wood Sims communicated 62 times on June 3, 2013. The communication ceased at the time of the robbery and murder of Latasha Walker. After the murder, Ms. Wood Sims mother's phone called Mann's phone a couple times. Mann's cell phone records show the phone was using cell towers near Latasha Walker's apartment near the time of the robbery and murder of Walker.

Police again interviewed Tiana Wood Sims on November 2, 2013. At this time she eventually admitted that Corey Mann was her cousin. She admitted that she had introduced Mann and Latasha a couple weeks before the robbery and murder. Wood Sims admitted she arranged for Mann to burglarize Latasha's apartment for money and pills. She said that she had to do this to pay back a debt her boyfriend owed Mann. She said that she and Latasha were not supposed to be home during the burglary and that she was surprised by the three men entering the apartment. She said she had been restrained, but that Mann was one of the men. She said she had called Mann later and confronted him about killing her friend. He replied, "are you recording this?" and hung up.

On February 20, 2014, police again interviewed Tiana Wood Sims. She admitted that Mann had asked her to arrange for him to steal money and pills from Latasha Walker. She also told him there would be \$5,000-7,000 cash and pills in Latasha's apartment. She did not expect that Mann himself would participate in the robbery but rather have someone else do it. She admitted that she was to receive a portion of the pills in exchange for setting it up. She admitted that she

had been in text and phone communication with Mann throughout the day on June 3, 2013, while she and Latasha were away from Latasha's apartment. She told Mann where the apartment was located and what car would be parked out front. Wood Sims said that she communicated to Mann when she and Latasha returned to Latasha's apartment. Shortly thereafter, there was a knock at the door.

She said that she opened the door for the men and one did push her onto the couch. Mann told him to ease up on Wood Sims. Mann told Wood Sims to be quiet. The plan was that they would come in and grab the pills and money, but Latasha would not tell them where it was. Wood Sims said she heard the men in the room say, "bitch where is it at!" and heard Latasha said, "Hold on!" When police asked Wood Sims why she didn't arrange for Mann to break in while no one was home, Wood Sims said she never told him to do it while they were there, but that is the way Mann wanted to do it.

On February 25, 2014, police located and interviewed Breanna Ingalls. She is the current girlfriend of Michael Galloway. She was Galloway's girlfriend in June 2013. She then had a relationship with Mann in July 2013. She told police that in early June, Galloway called her and asked her to hold his marijuana. She agreed. He arrived in a white Malibu with Corey Mann and Gary Sanders. Sanders is married to Mann's sister Ceilia Mann. Breanna knows all three men by sight. Mann said they were going to Kent.

A few hours later, Galloway returned alone in the Malibu. She saw inside there was a laptop and a bunch of flat caps. Galloway accidentally locked the keys to the Malibu in the trunk. They called Mann and he and Sanders showed up in a cab. Mann broke into the trunk and got the keys out. They then took Breanna home. The next day, Mann and Galloway picked Breanna up and they tried to sell the laptop.

In July 2013, while Breanna was dating Mann, she heard Mann say that Michael killed the girl they had robbed.

Police had previously interviewed Sanders in fall of 2013. At that time, Sanders said that he was home the night of the robbery when Mann showed up with two men and wanted to come inside their house in Everett. Sanders said he told them to leave.

On March 6, 2014, police confronted Sanders about Breanna's statement. Sanders eventually confessed to agreeing to help Mann and Galloway with a robbery in exchange for \$1,000. Sanders said that he was walking near his home after fighting with his wife (and Mann's sister) Ceilia. Mann stopped and offered him a ride and suggested bringing money home to Ceilia would make her happy. Sanders agreed and they went to Kent. On the way, Mann was talking with someone on his cell phone.

Sanders said that they arrived at the apartment complex and parked. Mann was pumping him up to do the robbery. Mann told Sanders to look for pills and money in the socks in the drawers. He said that they knocked on the door and a woman opened the door. They entered the apartment.

and the woman who opened the door remained in the living room. Galloway and Mann entered the bedroom. Sanders said when he realized their target was women, he did not want to do it. Sanders said he initially remained in the living room but the woman yelled at him to get in there and do what he was told. The woman was complaining about Sanders and saying to Mann, "why did you guys bring him!"

Sanders went into the bedroom. He saw Mann strangling Ms. Walker and heard her gurgling and gasping. Sanders said Galloway had a gun and told Sanders, "you look in that dresser." Sanders said he never saw Galloway put hands on Ms. Walker. When they left the bedroom, Ms. Walker had a belt around her neck and was face down on her side on the floor. Sanders said he tried to loosen the belt from her neck. He said as they all three left the apartment, Mann told the woman in the living room that he had to slap her. She agreed but asked him not to slap her very hard. Mann slapped her and they left.

Sanders said he did not take anything, but when he got to the car he saw that Galloway had a laptop at the car and was trying to turn it on. They drove away. They first went to Michael's house, then they met up with Breanna. Sanders said something was wrong with the car and so Sanders intentionally locked the keys in the trunk and pretended it was an accident. He did this so he could get a cab home. He got Mann to pay the cab to take him home.

On March 11th, 2014 Detectives located Simha Banks. During the month of June of 2013, Mann used Simha's White Chevy Malibu for approximately a week and a half. Simha had met Mann, whom she only knew by the name "Sir", through an online dating site. Simha showed detectives photos of "Sir" she obtained during the summer of 2013. Detectives confirmed the individual whom she knew as "Sir" was Corey Mann.

When Simha took possession of her car back from Mann, he had left it in Everett at his sister's residence. Simha noted the trunk lock was damaged. The damage occurred during the time Mann was in possession of her car.

This incident occurred within the City of Kent, County of King and the state of Washington.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 11th day of MARCH, 2014, at the City of Kent, King County, Washington.


Detective Brendan Wales

Certification for Determination
Of Probable Cause

Daniel T. Satterberg
Prosecuting Attorney
W. 554 King County Court
Seattle, Washington.

KING COUNTY PROSECUTING ATTORNEYS OFFICE, CRIMINAL/APPELLATE UNIT

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