SUPREME COURT NO. 1040644
COURT OF APPEALS NO. 84214-5-I

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

In re the Detention of

SHAWN SKELTON,

Petitioner.

STATE'S ANSWER TO PETITION FOR REVIEW

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

Table of Cases

Other Jurisdictions:

Constitutional Provisions

Federal:

Washington State:

Rules and Regulations

Washington State:

Other Authorities

A. INTRODUCTION

A unanimous jury found Shawn Skelton to be a sexually violent predator (SVP) in 2022. In an unpublished opinion affirming the civil commitment, the Court of Appeals rejected Skelton's argument urging it to adopt California rules of evidence with respect to expert testimony and to ignore the binding precedent of this Court. *In re the Det. of Shawn Skelton*, Unpublished, No. 84214-5-I (February 18, 2025). The Court of Appeals also rejected the claim that the trial court had "automatically" permitted the State's expert to reference two rape allegations made by B.K. (Skelton's ex-girlfriend) as one of the "25-27 datapoints" underpinning his opinion.

This Court should deny review. The reasoning and authority set out in the Court of Appeals' opinion and the Brief of Respondent below amply demonstrate that the criteria for review are not met in this case. First, the Court of Appeals correctly adhered to this Court's binding precedent and ER 703 and 705. Skelton has also failed to address the calculus

required for this Court to abandon precedent or adopt new rules. Second, the Court of Appeals correctly determined that the trial court did, in fact, properly exercise its discretion in allowing the State's expert to reference certain information for the limited purpose of explaining the basis of his opinion.

Skelton also seeks review of a claim raised for the first time in a motion for reconsideration after the Court of Appeals issued its opinion. He asserts that the court's use of an alleged rape victim's initials in its unpublished opinion violates the open courts doctrine. This argument has been rejected by previous courts and is not properly raised now. Division One's use of initials complies with its recently adopted General Order In Re: Use of Initials to Identify Victims and Child Witnesses (May 16, 2025).[1] In short, this issue does not merit review.

[1] https://www.courts.wa.gov/appellate_trial_courts/?fa=atc.genorders_orddisp&ordnumber=I-029&div=I.

B. STANDARD FOR ACCEPTANCE OF REVIEW

"A petition for review will be accepted by the Supreme Court only: (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) If the decision of the Court of Appeals is in conflict with another decision of the Court of Appeals; or (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court." RAP 13.4(b). Skelton's claims do not meet these criteria, nor does he address them beyond bare reference.

C. STATEMENT OF THE CASE

The relevant procedural and substantive facts, many of which Skelton omits in his petition, are set out in full in the Court of Appeals' opinion and in section B.1-.2 of the Brief of Respondent below, which the State incorporates herein. *See*

Resp. Brief at 3-41. A brief summary is provided here for the Court's convenience.

During pretrial motions for Skelton's 2022 SVP commitment trial, the parties extensively briefed and argued the issue of whether the trial court should prohibit Dr. Craig Teofilo, Psy.D., the State's forensic expert, from making reference to two allegations of rape made in a protection order by Skelton's ex-girlfriend B.K.[2] as part of the data upon which Dr. Teofilo relied in forming his opinion regarding Skelton's SVP status. CP 163-67, 232-36, 425-26, 443-48, 466, 501-02; RP 110-18.

Skelton argued that the court should prohibit Dr. Teofilo from testifying as to substantively inadmissible evidence underlying his opinion, which he termed "case-specific hearsay." *Id.* Skelton acknowledged that his request was contrary to controlling Washington caselaw and the plain language of ER 703 and ER 705 and that he was asking the trial court to depart

[2] B.K. did not testify at the civil commitment trial.

from precedent, based solely on his disagreement with that precedent:

> THE COURT: Right. But Mr. Mooney, just to be clear -- and you use the word "pizazz." So, you know, perhaps you believe that this Court has the pizazz to do what the California Supreme Court did. But just to be clear, *the court rules, as well as the case law, well-established case law in the state of Washington allows exactly what you are asking me to disallow; correct?*
>
> MR. MOONEY, JR: *Yes.*

RP 113 (emphasis added).

Skelton framed this departure from controlling precedent as a matter of the trial court's "discretion," despite citing only a non-binding California Supreme Court decision, *People v. Sanchez*, 63 Cal. 4th 665, 374 P.3d 320 (2016), as legal support for his position. RP 113. He made no request for an ER 403 analysis weighing the probative value of B.K.'s allegations against its possible prejudice.

The State responded that controlling Washington Supreme Court precedent and the plain language of ER 703 and ER 705

expressly permitted an expert to discuss the underlying data upon which that expert relied in reaching an opinion, for the limited purpose of allowing a factfinder to evaluate an expert's credibility, so long as such information was customarily relied upon by experts in the field. CP 232-36, 443-45.

The trial court denied Skelton's motion. CP 545; RP 114. The court did, however, grant Skelton's motion to exclude the fact that B.K.'s protection order had been granted, citing concern that it would be seen as "some other court . . . vouching for the veracity of [B.K.]." RP 172-73. It allowed Dr. Teofilo to testify that B.K.'s petition was made under oath.

At trial, the jury heard a wide range of substantive evidence supporting Dr. Teofilo's opinion, which is detailed extensively in Section B.2 of the Brief of Respondent below. *See* Resp. Brief at 14-26. This substantive evidence included prior convictions and numerous admissions by Skelton: his collection of "hundreds, thousands" of pornographic images up until his arrest for conspiracy to commit murder in 2009, his viewing of

child pornography, his molestation of his 4-year-old sister, his arousal when putting his penis into the mouths of two different sleeping girlfriends, and his sexually violent journal entries regarding B.K.

The jury also heard ample details regarding Skelton's most egregious episode of sexual violence: the events leading to his 2009 King County charge of Conspiracy to Commit Murder in the Second Degree with Sexual Motivation, which occurred while he was out on bail for a separate felony indecent exposure case. CP 309; RP 773. The court admitted the sexually aggressive content of the 41 Craigslist ads posted by Skelton in the weeks prior to his murder conspiracy arrest, culminating in Skelton's ad on April 22, 2009, entitled "A strange desire":

> I have a very strange thing that I want to do. I would like to meet a woman to fuck...but here's the catch; just as I'm about to fill her pussy with cum...I want to kill her. Serious iquiries [sic] only please.

Ex. 6; Ex. 52 at 21-24, 32-33, 68. Skelton acknowledged that his intention "was to meet up with a woman who was willing to let you kill her right as you were about to orgasm." Ex. 52 at 68-69.

During the course of a five-day email exchange with an undercover detective posing as a pimp,[3] Skelton acknowledged that he believed he would be meeting "an unwilling girl" and then killing this unwitting sex worker for money after engaging in "crazy abuse fetish stuff, like tying up and punching, throat fucking and dry rough anal." RP 617-18, 628; Ex. 5 at 3; Ex. 52 at 70-81; Ex. 6 at 14. He arrived at the predetermined motel room carrying a knife with a 3 – 3 ½ inch blade, a length of chain and some extra shoelaces to tie the victim's hands. RP 660; Ex. 52 at 80-83; Ex. 4. He was arrested.

Andrei Dandescu, a sexual deviancy evaluator who had interviewed Skelton, testified at the SVP trial that Skelton had admitted being primarily interested in "rough oral sex" that

[3] The detective testified at the SVP trial.

involved force, viewing sadistic pornography, searching for snuff films,[4] and fantasizing about sexual homicide prior to his arrest. RP 892, 894, 897, 919, 1543-44; Ex. 52 at 85.

The jury also reviewed Skelton's signed statement of defendant on plea of guilty in the 2009 conspiracy case, in which he admitted to the following[5]:

> On April 27, 2009, I had the intent to commit the crime of Assault in the Second Degree by assaulting another person during the commission of the felony crime of rape and I took a substantial step towards doing so. One of the purposes for which I attempted to commit this crime was for my own sexual gratification. I planned to force a woman who I thought would be there into having sex with me by using I [sic] brought to scare or hurt her.

Ex. 1 at 12.

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[4] Skelton described "snuff" as a kind of pornography in which a person was killed "in a sexual context," a concept he said he found "intriguing." Ex. 52 at 69.

[5] Skelton ultimately pleaded guilty to amended charges of attempted robbery in the first degree (count I), attempted assault in the second degree – sexual motivation (count II), and felony indecent exposure – sexual motivation (count III).

After considering the aforementioned evidence and well over 4,000 pages of records, Dr. Teofilo testified at the civil commitment trial that Skelton met criteria as an SVP. Ex. 2; RP 1275-78, 1286, 1381-91, 1487. A licensed clinical psychologist who has treated hundreds of sex offenders and conducted over 500 SVP evaluations over the course of his career, Dr. Teofilo testified that in SVP evaluations, it is customary and considered "best practices that [an evaluator] would look at all information that's available," including police/probation reports, court documents, DOC records, and treatment notes, in order to reach an opinion: "[I]t's incumbent on each evaluator to assess the general credibility and the amount of weight that they are going to lend to that information in formulating their overall opinion." RP 1267-70, 1276-77, 1360-61.

Dr. Fabien Saleh, M.D., who testified for the defense, confirmed this customary practice, noting that his own forensic examinations of alleged SVPs were "based on thousands of

pages of records, interviews . . . [to] see if I can actually answer a forensic question." RP 969.

Dr. Teofilo consistently referred to the information upon which he relied as "datapoints." RP 1326-1487. He repeatedly cautioned that it was not "just one or two of those [datapoints] in isolation" that led him to his conclusions, but a totality, describing B.K.'s allegations of rape as "one of, like I said, maybe 25 or 27 different datapoints that I offered. Just one." RP 1327-49, 1494, 1525, 1559, 1580.

When asked if he "kn[e]w for certain that [B.K.]'s account did in fact occur," Dr. Teofilo's one-word answer was: "No." RP 1355. During cross-examination, Dr. Teofilo continually tried to correct defense counsel's assertions that he believed B.K.'s allegations to be true:

> Q. In your estimation, you assumed he raped [B.K.] on two occasions.
> A. I said I found her report to be credible.
> Q. Okay. And finding that report credible, necessarily, assumes Mr. Skelton in fact raped [B.K.] on two occasions; does it not?
> A. I found the report credible.

> Q. And that necessarily assumes he raped her on two occasions; correct?
> A. Somebody asked me -- I don't know if it was you or if it was Mr. Mohandeson that says do you know with certainty that it occurred, and my response was I can't know with certainty whether it occurred but I believed that her report is credible. And I think I went and listed four, five, six, seven reasons why I found it credible.
> Q. But in assessing his sexual deviant -- sexual deviant lifestyle and giving him a [score of] 3, you assumed he did in fact engage in this behavior?
> A. I think it is likely that that occurred based on the way that I analyzed and assessed the piece of data.

RP 1689.

The court gave limiting instructions before each expert took the stand, informing the jurors that any testimony by either Dr. Saleh and Dr. Teofilo describing information from records upon which they relied to form their opinion could not be used as evidence that the information was actually true or that the events described actually occurred, only as a method by which to judge the credibility and weight of their opinions. RP 938-39, 1274-75. The court repeated this limiting instruction prior to closing statements:

> When Dr. Teofilo and Dr. Saleh testified, I informed you that some information was admitted as part of the basis for their opinions, but may not be considered for other purposes. You must not consider this testimony as proof that the information relied upon by the witness is true. You may use this testimony only for the purpose of deciding what credibility or weight to give to the witness's opinion.

CP 666.

D. ARGUMENT

1. THE COURT OF APPEALS PROPERLY DECLINED SKELTON'S INVITATION TO DISREGARD CONTROLLING SUPREME COURT PRECEDENT AND ADOPT CONTRARY CALIFORNIA CASELAW.

The Court of Appeals properly rejected Skelton's fundamentally flawed premise below – that the Court of Appeals can and must depart from well-settled, controlling Supreme Court precedent regarding the operation of ER 703 and ER 705, ignore the plain language of those rules, and unilaterally adopt another state's evidentiary policies. The principles of stare decisis say otherwise.

Both here and below, Skelton utterly fails to address the well-established standard required when asking this Court to overrule its own precedent – a clear showing that its prior caselaw is harmful and incorrect. Nor does Skelton address the proper procedure for this Court's adoption of new court rules: through the rulemaking process, *not* via judicial opinion directing parties to simply "follow California's lead" and its evidence rules. Pet. 21. Skelton's request would wholly rewrite ER 703 and ER 705. This Court should decline this invitation.

a. This Court Should Decline to Overturn Its Own Precedent and "Adopt" California Evidence Rules.

The admissibility of expert testimony is governed by ER 703 and ER 705, which read as follows:

ER 703
BASES OF OPINION TESTIMONY BY EXPERTS

> The *facts or data* in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming

> opinions or inferences upon the subject, *the facts or data need not be admissible in evidence*.
>
> **ER 705**
> **DISCLOSURE OF FACTS OR DATA**
> **UNDERLYING EXPERT OPINION**
>
> The expert may testify in terms of opinion or inference and give reasons therefor without prior disclosure of the *underlying facts or data*, unless the judge requires otherwise. The expert may in any event be required to *disclose the underlying facts or data* on cross examination.

(emphasis added). The plain language of ER 705 grants a court discretion to permit experts to disclose the facts on which their opinion is based, or render them subject to cross-examination.

It is well-settled by this Court that under this plain language, an expert witness may testify about facts or data supporting their opinion that would otherwise be inadmissible, provided that the facts or data comprise the type of information reasonably relied upon by experts in the relevant field. *State v. Russell*, 125 Wn.2d 24, 73-74, 882 P.2d 747 (1994).

The Court of Appeals correctly invoked this Court's binding authority on the matter in two prior SVP cases. *See In*

re Det. of Marshall v. State, 156 Wn.2d 1150, 163, 125 P.3d 111 (2005) (holding that ER 705 "grants the court discretion to allow the expert to relate hearsay or otherwise inadmissible evidence to the trier of fact to explain the reasons for his or her expert opinion, subject to appropriate limiting instructions); *In re Det. of Coe*, 175 Wn.2d 482, 512-13, 286 P.3d 29 (2012) (holding that "an expert can rely on inadmissible hearsay" and "relate the inadmissible hearsay to the jury so long as she [is] merely explaining the underlying basis for her expert opinion").

The Court of Appeals also correctly recognized that Skelton's reliance on *Smith v. Arizona*, 62 U.S. 779, 144 S. Ct. 1785, 219 L. Ed. 2d 420 (2024), like his reliance on other Confrontation Clause cases, is unavailing because SVP cases are not criminal. SVP proceedings are "resolutely civil in nature." *In re Det. of Reyes*, 184 Wn.2d 340, 347, 358 P.3d 394 (2015). Thus, the Sixth Amendment does not apply here. *In re Det. of Stout*, 159 Wn.2d 357, 369, 150 P.3d 86 (2007). Moreover, as noted at oral argument, *Smith* arises from a line of cases that

involve one lab analyst essentially substituting in for another in a criminal case.[6] This is a far cry from the circumstances here, where a forensic expert relied on "25-27 datapoints" from thousands of pages to form his own psychological opinion.

Stare decisis precluded Skelton from requesting that the Court of Appeals upend precedent on ER 705. *State v. Gore*, 101 Wn.2d 481, 487, 681 P.2d 227, 231 (1984); *State v. Putman*, 21 Wn. App. 2d 36, 43, 504 P.3d 868 (2022) (an appellant's disagreement with Supreme Court precedent does not permit Court of Appeals to depart from it). Yet, just as Skelton asked the Court of Appeals to adopt a "revised standard" and "follow California's lead," without reference to the principles of stare decisis or binding precedent, so does he now ask this Court to upend its own precedent without engaging in the required analysis. App. Br. 22, 28, 30; Pet. 18.

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[6] Wash. Ct. of Appeals oral argument, In re the Detention of Shawn Skelton, No. 82414-5-I (November 8, 2024) at 17 min., 4 sec. through 17 min., 24 sec., video recording by TVW, Washington State's Public Affairs Network.

It is well-settled that this Court will abandon its own precedent only upon a clear showing that its prior decision is both incorrect and harmful. *See State v. Barber*, 170 Wn.2d 854, 863, 248 P.3d 494 (2011). Skelton has never addressed this formidable standard, which accords with the judicial philosophy that "we do not lightly set aside precedent." *State v. Crossguns*, 199 Wn.2d 282, 290, 505 P.3d 529 (2022).

Moreover, as noted in the State's Statement of Additional Authorities to the Court of Appeals, this Court does not "revise" or replace evidence rules (or any court rules) by judicial opinion. To the contrary, this Court recently reiterated that "the proper path to change [a court rule] is through the normal rule making process, not through overruling precedent to accommodate the change. 'Foisting the rule upon courts and parties by judicial fiat could lead to unforeseen consequences." *In re Det. of McHatton*, 197 Wn.2d 565, 572, 485 P.3d 322 (2021) (internal citation omitted).

This makes sense, as the reach of ER 703 and 705 far exceed the scope of an SVP case. As this Court said in *Washburn v. City of Federal Way*, 178 Wn.2d 732, 751-52, 310 P.3d 1275 (2013), while judicial opinions "focus on the case, facts, and parties at hand . . . the rule making process allows all concerned stakeholders to provide input on any proposed change to a rule or its interpretation." The party requesting a rule change "bears the burden of overcoming our reluctance to reform rules practice through judicial interpretation rather than rule making." *Id.* at 750. Skelton does not acknowledge, much less meet, this burden.

Finally, Skelton's rationale for this proposed rule change – that juries cannot follow instructions – is simply untenable. It has long been axiomatic that juries are presumed to have followed a trial court's instructions, absent evidence proving the contrary. *State v. Kirkman*, 159 Wn.2d 918, 928, 155 P.3d 125 (2007).

This is true even in instances of serious trial irregularity such as a prosecutor's "grievous" and "remarkable

misstatement" of a "bedrock principle of the presumption of innocence" during closing argument. *State v. Warren*, 165 Wn.2d 17, 27-28, 195 P.3d 940 (2008) (misstatement was nonetheless cured by the court's curative instruction).

As this Court stated aptly in *Kirkman*: "Only with the greatest reluctance and with clearest cause should judges—particularly those on appellate courts—consider second-guessing jury determinations or jury competence . . . 'Juries are not leaves swayed by every breath.'" 159 Wn.2d 918 at 938 (internal citations omitted).

In *Coe*, this Court affirmed a trial court ruling allowing the State to convey to the jury the details of 20 unadjudicated violent rapes pursuant to ER 705 in an SVP case: "The trial court need only give an appropriate limiting instruction explaining that the jury is not to consider this revealed information as substantive evidence." 175 Wn.2d at 513-14. Like Skelton, Coe had "challenge[d] the idea that a limiting instruction could ever prevent a jury from considering the disclosed facts as evidence,"

arguing that "given the sheer amount of evidence" of Coe's inadmissible rapes, "the likelihood that the jury would maintain this distinction and disregard the underlying information for its truth seems remote." 175 Wn.2d at 514. Reiterating "the people's ultimate control . . . in the judiciary" *Coe* definitively rejected this contention: "The jury is presumed to follow the court's instructions." 175 Wn.2d at 514.

Agreeing to simply "join other supreme courts" in changing ER 703 and ER 705 and declaring that a jury's ability to follow instructions is merely "a legal fiction" would have far-reaching consequences. Pet. 1. It would most certainly erode the continued viability of the ER 404(b) doctrine (which also requires a limiting instruction to curb the prejudice of substantively admitted prior bad acts). This Court should deny review.

b. The Court of Appeals Correctly Found That the Trial Court Did Not "Automatically" Permit Dr. Teofilo to Reference Case-Specific Hearsay.

Skelton argued that the trial court committed error by not conducting an ER 403 analysis of B.K.'s allegations of rape, despite the fact that he made no request for one. While the Court of Appeals did not reach the decision of whether he waived this claim,[7] it correctly held that the record supported a finding that the trial court did, in fact, weight the probative value of B.K.'s allegations against its potential prejudice. Skelton claims that this decision conflicts with other decisions in this Court and/or other divisions, yet cites to no such Washington cases, only to

[7] The State does not believe that review is warranted. However, if review is granted, the State maintains that: (1) Skelton waived any ER 403 claim, and (2) Skelton never raised an argument at trial that Washington should adopt New York's interpretation of the expert hearsay rule and cannot do so for the first time on appeal. *Kirkman*, 159 Wn.2d at 926 (appellate courts generally will not consider an issue that is raised for the first time on appeal).

foreign jurisdictions such as New York. Review is thus unwarranted.

Skelton inaccurately presents the lower courts and the State as advocating that ER 705 should "automatically allow experts to testify to the inadmissible hearsay evidence informing their opinions." Pet. 28. Urging this Court to grant review, he claims that "courts treat *Marshall* and *Coe* as *mandating* the admission of hearsay to explain an expert's opinion, without considering reliability or prejudice." *Id.*

Skelton's far-reaching claim is squarely rebutted by the written and oral record. At oral argument, the Court of Appeals flatly rejected his characterization of a pro forma trial court, noting, "There was no compulsion of 'automatic wholesale admission' of [ER 705] evidence. [B.K.'s protection order] was discussed by the trial court, the trial court evaluated it, looked at the Washington caselaw, and did what the Supreme Court has

clearly said he should do."[8] The State also agreed that it was "certainly not" the case that *Marshall* and *Coe* stood for the proposition that "the trial court judge can just kind of take the afternoon off and just let it all in."[9]

Skelton points to no authority mandating that the court conduct an express ER 403 balancing test for hearsay underlying an expert's testimony, independent of any party's request to do so. *Compare State v. Arredondo*, 188 Wn.2d 244, 257, 394 P.3d 348, 355 (2017) (ER 404(b) analysis must be conducted on the record). To the extent this Court finds such a requirement, the Court of Appeals correctly held that by permitting Dr. Teofilo to reference B.K.'s allegations and relay that they were made under oath, yet prohibiting him from testifying that the order had been

[8] Wash. Ct. of Appeals oral argument, *In re the Detention of Shawn Skelton*, No. 82414-5-I (November 8, 2024) at 3 min., 52 sec. through 4 min., 5 sec., video recording by TVW, Washington State's Public Affairs Network.

[9] *Id.* at 9 min., 14 sec. through 9 min., 56 sec.

granted, the record reflected the court's exercise of that discretion.[10]

c. Skelton Fails to Establish That Admission of Case-Specific Hearsay Under ER 703 and 705 Creates a Constitutional Issue.

Skelton asserts that the rules of evidence and Washington's greater due process protections "must be interpreted" to follow recent California State Supreme Court cases that categorically prohibit all experts from referencing "case-specific hearsay." Pet. 11. This claim fails.

As the Court of Appeals correctly stated several times in its opinion, the cases cited by Skelton are limited to their facts and do not broadly support a claim to a constitutional right to limit expert testimony in SVP civil cases. Slip op. 9-12. *See*, *e.g.*, *Manson v. Brathwaite*, 432 U.S. 98, 114, 97 S. Ct. 2243 L.

[10] A trial court's failure to articulate its balancing process in an ER 404(b) analysis is harmless where "the record as a whole is sufficient to allow effective appellate review of the trial court's decision." *Doe v. Corp. of President of Church of Jesus Christ of Latter-Day Saints*, 141 Wn. App. 407, 436-37, 167 P.3d 1193 (2007).

Ed. 240 (1977) (holding that "reliability is the linchpin" when analyzing suggestive lineup evidence as *substantive evidence of guilt* in a criminal case); *State v. Bartholomew*, 101 Wn.2d 631, 638-39, 683 P.2d 1079 (1984) (invalidating former statute allowing evidence of unadjudicated conduct as *substantive evidence* to be considered at death penalty phase, "regardless of its admissibility under the rules of evidence."). None of these cases pronounce a generalized "reliability" test that applies to the hearsay underpinning an expert's testimony in an SVP trial. This claim therefore does not merit review.

2. NO COURT CLOSURE OCCURRED.

In his motion to reconsider below, Skelton characterized the Court of Appeals' use of B.K.'s initials in its unpublished opinion as a "redaction" of the record and an "unjustified sealing" implicating GR 15 and his right to open courts under article I, section 10. Pet. 29-32. This argument has already been plainly rejected by the courts. *See State v. Mansour*, 14 Wn. App. 2d 323, 333, 470 P.3d 543 (2020), *rev. denied*, 196

Wn.2d 1040 (2021); *State v. Delgado*, 29 Wn. App. 2d 583, *rev. denied*, 2 Wn.3d 1032 (2024).[11]

Mansour flatly disagreed that a trial court's "use of [victims'] initials, instead of [a] full name" in jury instructions or other court documents "amounted to a court closure in violation of Mansour's right to a public trial." 14 Wn. App. 2d at 328. Citing this Court's recognition of two types of courtroom closure – a courtroom "completely and purposefully closed to spectators" or "a portion of a trial . . . held someplace 'inaccessible' to spectators" – *Mansour* noted that Mansour's victim had been "consistently referred to by her full name

[11] This Court and all divisions of the Court of Appeals generally use initials when referring to adult victims of sex crimes.[11] *E.g.*, *State v. Johnson*, 180 Wn.2d 295, 299 n.2, 325 P.3d 135, 136 (2014) (using adult victim's initials "to protect her privacy"). In addition, Division One recently adopted a general order *requiring* the use of initials for all victims of sexual misconduct in both pleadings and opinions. General Order In Re: Use of Initials to Identify Victims and Child Witnesses (May 16, 2025). Divisions Two and Three have similar general orders requiring the use of initials or pseudonyms for child sex offense victims.

throughout the proceedings." *Id.* at 333 (quoting *State v. Love*, 183 Wn.2d 598, 606, 354 P.3d 841 (2015). Her full name was thus "fully accessible to spectators and open to any member of the public who appeared in court or read a transcript of the court proceedings." *Mansour*, 13 Wn. App. 2d at 333.

Under such circumstances, "no closure occurred, and thus, no *Ishikawa* analysis was required." *Id.* *Mansour* further distinguished these circumstances from those present in the cases now cited by Skelton, which involve attempts to "alter an *existing* court record by *replacing* [people's] full names with their initials" and a statute that prevented victims' names from being "disclosed to the public or press *during the course of judicial proceedings or in any court records*." *Id.* (emphases in original) (citing *John Doe G. v. Dep't of Corr.*, 190 Wn.2d 185, 202, 410 P.3d 1156 (2018); *Allied Daily Newpapers of Washington v. Eikenberry*, 121 Wn.2d 205, 209, 848 P.2d 1258 (1993)).

In the present case, there was no attempt to alter the existing trial court record by using B.K's initials or to obscure her full name during the trial proceedings. Nor was any redaction or pseudonym applied to B.K.'s full name during the trial proceedings in violation of GR 15, as occurred in *John Does 1, 2, 4, and 5 v. Seattle Police Dep't*, __ Wn.3d __, 563 P.3d 1037, 1054 (2025).

As Skelton acknowledges in his petition, B.K.'s full name was used "throughout every phase of every proceeding in the trial court and on appeal." Pet. 30. Thus, like the victim in *Mansour*, B.K.'s full name remains "fully accessible to spectators and open to any member of the public who appeared in court or read a transcript of the court proceedings." 13 Wn. App. 2d at 333. No court closure occurred, and no *Ishikawa* analysis applies. Skelton fails to meet criteria for review.

E. CONCLUSION

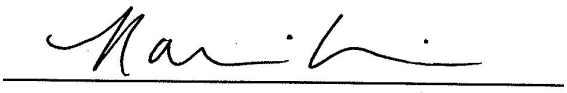
For the foregoing reasons, this Court should deny review.

This document contains 5,000 words, excluding the parts of the document exempted from the word count by RAP 18.17.

DATED this 22nd day of May, 2025.

Respectfully submitted,

LEESA MANION (she/her)
King County Prosecuting Attorney

By: 
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