

FILED
SUPREME COURT
STATE OF WASHINGTON
7/7/2025 2:30 PM
BY SARAH R. PENDLETON
CLERK

NO. 1041519

IN THE SUPREME COURT OF THE STATE OF WASHINGTON


STATE OF WASHINGTON,
Respondent,
v.
JODI SUE LINDQUIST,
Petitioner.

APPEAL FROM THE SUPERIOR COURT OF THE STATE
OF WASHINGTON FOR GRAYS HARBOR COUNTY

THE HONORABLE KATHERINE L. SVOBODA, JUDGE

RESPONSE TO MOTION FOR DISCRETIONARY REVIEW
(Treated as an Answer to Petition for Review)

NORMA J. TILLOTSON
Prosecuting Attorney
for Grays Harbor County

BY: 
WILLIAM A. LERAAS
Deputy Prosecuting Attorney
WSBA # 15489

OFFICE AND POST OFFICE ADDRESS
Grays Harbor County Prosecuting Attorney
102 West Broadway Room 102
Montesano, WA 98563
(360) 249-3951

T A B L E S

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	ii
COUNTERSTATEMENT OF THE CASE	1
ACCEPTANCE OF REVIEW.....	2
ARGUMENT	2
This Court should deny the petition for review as the Petitioner was competent to stand trial, the April 6, 2023 order notwithstanding. The April 6, 2023 order was simply an order authorizing funds for the defense to hire its own expert; it was not occasioned by new information raising doubts about the Petitioner’s competency.....	2
CONCLUSION.....	12

TABLE OF AUTHORITIES

Cases

<i>Drope v. Missouri</i> , 420 U.S. 162, 95 S. Ct. 896, 43 L. Ed. 2d 103 (1975).....	2-3
<i>Godinez v. Moran</i> , 509 U.S. 389, 113 S. Ct. 2680, 125 L. Ed. 2d 321 (1993).....	11
<i>Morin v. Burris</i> , 160 Wn.2d 745, 161 P.3d 956 (2007).....	9
<i>State v. Hedrick</i> , 166 Wn.2d 898, 43 L. Ed. 2d 103 (2009)..	3, 11
<i>State v. McDonald</i> , 138 Wn.2d 680, 981 P.2d 443 (1999)	11
<i>State v. Ortiz-Abrego</i> , 187 Wn.2d 394, 387 P.3d 638.....	11

Statutes

RCW 10.77	1, 8, 12
-----------------	----------

Rules

RAP 13.4	2
----------------	---

COUNTERSTATEMENT OF THE CASE

For the most part Petitioner has substantially and accurately set forth the factual and procedural history of this case. However, the State disagrees with Petitioner's characterization of the April 6, 2025 order (copy attached) (the order was not part of the record before the Court of Appeals; Petitioner moved this Court to supplement the record with the order and the State did not object). As the State will demonstrate herein, although the order referenced RCW 10.77 it was simply an order authorizing the expenditure of funds for the defense to hire its own expert to examine the Petitioner. It was drafted by the defense, not signed off on by the State, was entered ex parte and did not stay the proceedings.

ACCEPTANCE OF REVIEW

A petition for review will be accepted by the Supreme Court only if the decision of the Court of Appeals is in conflict with a decision of the Supreme Court, is in conflict with a published decision of the Court of Appeals, involves a significant question of law under the state or federal or constitution, or if an issue of substantial public interest that should be decided by the Supreme Court is involved. RAP 13.4 (b)(1), (2), (3) & (4).

ARGUMENT

- 1. This Court should deny the petition for review as the Petitioner was competent to stand trial, the April 6, 2023 order notwithstanding. The April 6, 2023 order was simply an order authorizing funds for the defense to hire its own expert; it was not occasioned by new information raising doubts about the Petitioner's competency.**

Whether a defendant is competent to stand trial certainly implicates constitutional rights under both the state and federal constitutions. *Drope v. Missouri*, 420 U.S. 162, 171-172, 95 S.

Ct. 896, 43 L. Ed. 2d 103 (1975); *State v. Hedrick*, 166 Wn.2d 898, 896, 43 L. Ed. 2d 103 (2009).

Because of Petitioner's behavior, both the trial court and defense counsel ensured that she received comprehensive psychological evaluations. Three evaluations found her competent to stand trial, and by implication, competent to make her own decisions.

The first evaluation, dated October 27, 2022, found her capable of understanding the consequences of her actions.

Ms. Lindquist doesn't meet the diagnostic criteria for a psychiatric illness. She has a good understanding of criminal court proceedings and has successfully participated in them, including taking two cases to trial. She knew the charge against her and had a somewhat general understanding of the allegations against her (she hasn't read the police reports). She spoke with me in a logical and organized manner for 90 minutes and it's reasonable to assume she could also speak with her attorney in a similar manner for the purpose of assisting in her defense. In my opinion, *Ms. Lindquist has the capacity to understand the nature of the proceedings against her and to assist in her defense.*

First Forensic Evaluation at 4-5; CP 53-54 (emphasis in the original).

The second competency evaluation dated January 18, 2023 – a month after the mistrial – confirmed her ability to understand the consequences of her actions. The evaluator asked her why she would not pursue an approach that would gain her release from custody. “She indicated that being found guilty was offensive to her and would feel like ‘being stabbed in the heart’ because she saw it as an unjust outcome.” Second Forensic Evaluation at 5-6; CP 300-301.

In March 2023 Petitioner’s new defense counsel received court approval to hire an expert, Dr. Muscatel, to examine Ms. Lindquist. 03/20/23 RP 147; 04/10/23 RP 158. On April 21, 2023, Dr. Muscatel reported that she understood the charges against her and the consequences of her actions.

Ms. Lindquist understands the charges and her legal peril sufficiently to meet the bar on competent [sic]. She found her former attorney to be actively hostile to her case but tentatively

expressed an intent to work with her current attorney, Mr. Feste. She wants and will likely instruct him to put on the defense that she was the one who was attacked, that she is the only victim, and that the alleged victim and the other witnesses are all liars.

Dr. Muscatel Evaluation at 25; CP 332 (emphasis added).

Given her outbursts, however, Dr. Muscatel found that her behavior “may interfere” with her ability to “rationally assist in her own defense.” Dr. Muscatel Evaluation at 25; CP 332.

[W]hile I have very significant concerns about her current competence, the only test will be to see how she copes with the demands and stresses of her trial. If she can manage her behavior and consult effectively with her attorney, *even if she displays what others would presume to be poor judgment and poor decision-making about her defense, that would not be sufficient to conclude that she cannot rationally participate in her own defense.*

Dr. Muscatel Evaluation at 26; CP 333 (emphasis added).

Petitioner’s retrial took place on July 18, 2023, without a jury. Jury waiver CP 101. The bench trial before Judge

Svoboda occurred without incident and with the Petitioner testifying. 07/18/23 RP 22. In her oral ruling Judge Svoboda found her guilty of intentional assault, recognizing that the Petitioner had a different view of events: “when I say that I don’t find Ms. Lindquist credible, I don’t necessarily believe that she is being untruthful.” 07/18/23 RP 139-140.

Petitioner’s behavior improved significantly once released from custody. As Dr Muscatel had anticipated, her ability to assist in her defense depended on controlling her impulses, which she was able to do.

It is immaterial that the Court of Appeals believed there was not a third 10.77 order based on the record before it; *Dr. Muscatel found the Petitioner competent to stand trial*. As the Court of Appeals correctly pointed out, “ ‘[o]nce the trial court makes a determination that a defendant is competent, it need not revisit competency unless ‘new information’ exists that shows the defendant’s mental condition has changed since

being found competent to stand trial.’ *State v. Fedoruk*, 5 Wn. App. 2d 317, 335-36, 426 P.3d 757 (2018) (quoting *State v. Ortiz*, 119 Wn.2d 294, 301, 831 P.2d 1060 (1992)), *review denied*, 192 Wn.2d 1012 (2019).” *State v. Lindquist*, No. 58475-1-II, slip op. at 14. And Judge Svoboda rejected the notion that there was new information that would cause Ms. Lindquist’s competency to be questioned, requiring a third Western State Hospital evaluation:

I’m not going to grant this [motion for a third WSH competency evaluation]. There is no new information. Ms. Lindquist has been evaluated twice by State evaluators and she has no history that would lead me to believe she is not competent. Her behavior was such that the evaluations, I believe, were merited. She has maintained the entire time that she is competent. What the evaluators have stated that she has, I don’t mean offense by this, is a personality disorder. She has a very strong personality and very fixed ideas; that does can [sic] not make her not competent. *And so if the Office of Public Defense wants to hire an evaluator, you are free to do that.*

03/20/23 RP 147 (emphasis added).

The order authorizing the defense to have Petitioner examined by an expert was signed by Judge Mistachkin and filed with the clerk on April 6, 2023. The order was drafted by defense counsel and not signed off on by a deputy prosecutor. There was no court hearing held in the Petitioner's case on April 6, 2023; the order appears to have been presented ex parte. The record is unclear as to whether Judge Mistachkin was aware of Judge Svoboda's ruling denying a third WSH evaluation; it does not appear so. The order is certainly inconsistent with Judge Svoboda's oral ruling denying the defense motion for a third RCW10.77 evaluation. The order did not stay the proceedings (as would have been the case had the court had reason to question Ms. Lindquist's competency). And although the order references RCW 10.77 (once again, it was drafted by defense counsel and not signed off on by the State), it was not an order for a competency evaluation in the traditional or sense as contemplated by the statute because there

was no reason to doubt Ms. Lindquist's competency; she had already been found competent (twice). Rather, the order should be seen as nothing more than an authorization to expend funds for the defense to hire its own expert as suggested by Judge Svoboda. 03/20/23 RP 147. To hold otherwise would put form over substance. This Court does not exalt form over substance. *Morin v. Burris*, 160 Wn.2d 745, 759, 161 P.3d 956 (2007).

As the Court of Appeals found, "Lindquist has not demonstrated that the trial court relied on the independent evaluation in any way. The only thing that happened after defense counsel received the evaluation, *was that counsel suggested that he believed Lindquist was competent* and he was prepared for trial. When the *entire context* is considered, Lindquist has not demonstrated that the trial court made a decision (or failed to make a decision) that was manifestly unreasonable or based on untenable grounds." Slip op. at 16 (emphasis added). In footnote three on the same page the court

noted that “Dr. Muscatel’s evaluation, while perhaps less than clear, did not wholly contradict WSH’s earlier evaluations – in that Dr. Muscatel did not clearly opine that Lindquist was incompetent.” In fact, as noted previously, Dr. Muscatel found her to be competent: “Ms. Lindquist understands the charges and her legal peril sufficiently to meet the bar on competent [sic].” Dr. Muscatel Evaluation at 25; CP 332.

And the following colloquy occurred at the pretrial hearing:

COURT: Do you – do either of you anticipate that there’s going to be expert testimony regarding mental health issues?

PROSECUTOR: No.

DEFENSE: No, Your Honor. That is something that has been carefully analyzed, both by – there’s been a private participant in regard to that matter and there’s no issue.

06/26/23 RP 17.

A trial court's ruling on whether to order a competency examination is reviewed for an abuse of discretion. *Hedrick*, 166 Wn.2d at 903. A trial court abuses its discretion when its decision is arbitrary or is based on untenable grounds or made for untenable reasons. *State v. McDonald*, 138 Wn.2d 680, 696, 981 P.2d 443 (1999). And, as Petitioner correctly points out (Petition for Review, p. 28), a trial court has “wide discretion to consider the evidence that best illuminates whether the defendant has the mental capacity to make the ‘sum total of decisions that a defendant may be called upon to make during the course of a trial.’” *State v. Ortiz-Abrego*, 187 Wn.2d 394, 410, 387 P.3d 638 (quoting *Godinez v. Moran*, 509 U.S. 389, 398, 113 S. Ct. 2680, 125 L. Ed. 2d 321 (1993)). Given the record before Judge Svoboda, it cannot be said that she abused that discretion.

CONCLUSION

The April 6, 2023 order was not an RCW 10.77 order for a competency evaluation because there was no reason to doubt Petitioner's competency to stand trial; the trial court had already rejected entering such an order as there was no new information. Ms. Lindquist had already been found competent twice; accordingly, the trial court was not required to, and refused to, revisit the issue of competency. It is more properly viewed as an order authorizing funds for a defense expert to examine Ms. Lindquist.

Ms. Lindquist was competent to stand trial as shown in the record. This petition should be denied or, in the alternative, remanded to the Court of Appeals for further briefing as suggested by Petitioner. Petition for Review, p. 31.

This document contains 1935 words, excluding the parts
of the document exempted from the word count by RAP 18.17.

DATED this 7th day of July, 2025.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "William A. Leraas". The signature is fluid and cursive, with the first name "William" and last name "Leraas" clearly distinguishable.

WILLIAM A. LERAAS
Deputy Prosecuting Attorney
WSBA # 15489

WAL /

GRAYS HARBOR COUNTY PROSECUTING ATTORNEY'S OFFICE

July 07, 2025 - 2:30 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 104,151-9
Appellate Court Case Title: State of Washington v. Jodi Sue Lindquist
Superior Court Case Number: 22-1-00273-8

The following documents have been uploaded:

- 1041519_Other_20250707142903SC296973_1824.pdf
This File Contains:
Other - Response to Motion for Discretionary Review
The Original File Name was RESPONSE TO MOTION FOR DISCRETIONARY REVIEW Wednesday Jul 02 2025 at 103245_4747884 AM.pdf

A copy of the uploaded files will be sent to:

- Sloanej@nwattorney.net
- appeals@graysharbor.us
- ntillotson@graysharbor.us
- philip@burifunston.com
- swiftm@nwattorney.net

Comments:

Sender Name: Laura Harwick - Email: lharwick@co.grays-harbor.wa.us

Filing on Behalf of: William Anton Leraas - Email: wleraas@graysharbor.us (Alternate Email:)

Address:

102 West Broadway #102

Montesano, WA, 98563

Phone: (360) 249-3951 EXT 1619

Note: The Filing Id is 20250707142903SC296973