

IN THE SUPREME COURT FOR THE STATE OF
WASHINGTON

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| STATE OF WASHINGTON, |) | No. 104155-1 |
| Respondent |) | |
| |) | STATEMENT OF |
| v. |) | ADDITIONAL |
| |) | AUTHORITIES |
| JEREMY IAN FRIEDAY, |) | |
| PETITIONER. |) | |

A. ARGUMENT

Mr. Frieday's petition for review involves the recent United States Supreme Court case of *Erlinger v. United States*, 602 U.S. 821, 144 S. Ct. 1840, 219 L. Ed.2d 451 (2024) and its effect on our courts' approach to the factual comparability analysis for out-of-state convictions. The Court of Appeals decision declined to engage in this question because it believed *Erlinger* applied only to the Armed Career Criminal Act's

occasions inquiry. *State v. Friday*, 33 Wn. App. 2d 719, 747, 565 P.3d 139 (2025).

Below are a list of cases from other jurisdictions recognizing that *Erlinger*'s Fifth and Sixth Amendment proclamations are not cabined to just ACCA;

People v. Wiley, 570 P.3d 436, 439 (Cal. 2025) (holding *Erlinger* required it to overturn prior decisions that adopted something other than the narrow interpretation of the prior conviction exception)

State v. Carlton, 328 A.3d 944, 953 (N.J. Super. Ct. App. Div. 2024) (holding *Erlinger* abrogates New Jersey precedent allow the court, and not a jury, find the “dates of convictions and a defendant's age when the offenses were committed.”)

Commonwealth v. Shifflett, 335 A.3d 1158, 1175 (Pa. 2025) (concluding the defendant’s acceptance of a pretrial diversion agreement does not fall within the prior conviction exception” and “must be submitted to a jury and proven beyond a reasonable doubt.”)

Jackson v. State, 410 So. 3d 4, 10–11 (Fla. Dist. Ct. App. 2025) (holding “habitual felony offender” determinations must be made by a jury and found beyond a reasonable doubt post-*Erlinger*).

People v. Barber, No. 22CA0502, 2024 WL 4233825, at *14 (Colo. App. Sept. 19, 2024) (unpublished) (holding that after *Erlinger*, a sentencing court may find a prior conviction and its elements, but any “further finding” of a non-elemental fact must be made by jury beyond a reasonable doubt)

B. CONCLUSION

Based on the above and his petition for review, Mr. Friday requests this Court grant review of the Court of Appeals’ decision in his case.

Pursuant to RAP 18.17(b), I certify this filing is 324 words.

DATED this 28th day of August, 2025.

/s/ Colin Patrick
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WASHINGTON APPELLATE PROJECT

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