

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	No. 104249-3
)	
Respondent.)	RESPONDENT'S
)	ANSWER TO
v.)	PETITIONER'S
)	MOTION TO EXTEND
ZACHARY BUTORAC,)	TIME TO FILE
)	PETITION FOR
Appellant.)	REVIEW

A. IDENTITY OF MOVING PARTY

Respondent, State of Washington, by and through
Jennifer P. Joseph, Appellate Deputy Prosecutor for Whatcom
County, moves this Court for the relief designated below.

B. STATEMENT OF RELIEF SOUGHT

Pursuant to RAP 18.8(c), 1.2(c), and 13.4(a), the State asks
this Court to deny the Petitioner's Motion to Extend Time to File
Petition for Review.

C. GROUND FOR RELIEF AND ARGUMENT

1. Zachary Butorac was found guilty by bench trial on June 26, 2023 of one count of child molestation in the first degree, one count of child molestation in the second degree, and two counts of incest in the second degree. The Judgment and Sentence was entered on September 15, 2023.
2. The Court of Appeals affirmed Mr. Butorac's convictions in an Unpublished Opinion filed under 85893-9-I, on April 28, 2025.
3. Under RAP 13.4(a), "a petition for review must be filed within 30 days after the decision is filed." Consequently, the Appellant's petition for review was due by May 28, 2025.
4. Under RAP 18.8(c), this Court will only extend the time to file a petition for review "in extraordinary circumstances and to prevent a gross miscarriage of justice." This rule will not be waived. RAP 1.2(c).
5. The Petitioner filed its petition for review in the Court of Appeals on June 2, 2025. This Court invited the State to respond

to the Petitioner's motion to extend time to file the Petition for Review.

6. The Petitioner's motion does not claim that extraordinary circumstances occurred and there will be a gross miscarriage of justice absent an extension of time, as required by the court rule. It does not address the heightened threshold and mandatory criteria of RAP 18.8(c). Instead, Petitioner simply argues he inadvertently missed the deadline for filing the petition in this case.

7. Extraordinary circumstances under RAP 18.8(c), formerly RAP 18.8(b), requires the party demonstrate they acted with reasonable diligence but the filing was delayed due to circumstances beyond the party's control. State v. Fox, 192 Wn. App. 512, 525, 371 P.3d 537 (2016). "Negligence, or lack of reasonable diligence, does not amount to extraordinary circumstances." Id. No extraordinary circumstances are present here. Counsel merely explains that he inadvertently failed to timely file its petition for review. Without more, counsel does not demonstrate extraordinary circumstances beyond the party's

control prevented counsel from timely filing this petition. Mere negligence in reviewing the pleading and confirming the pleading is timely does not meet this burden. Consequently, the petition for review was untimely filed in this case.

8. The State respectfully submits that the Motion to Extend Time to File does not meet the criteria for an extension under controlling court rules and should be denied.

D. CONCLUSION

The State respectfully requests this Court deny the Petitioner's motion to extend time to file and further requests that should this Court accept review of the untimely filed petition and require a response from the State, it provides the State thirty days to respond following the order granting the petitioner's motion.

This document contains 503 words, excluding parts of the document exempted from the word count by RAP 18.17.

DATED this 9th day of June, 2025

Respectfully submitted,



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WHATCOM COUNTY PROSECUTOR'S OFFICE APPELLATE DIVISION

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Transmittal Information

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