

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
7/7/2025 8:00 AM  
BY SARAH R. PENDLETON  
CLERK

NO. 1042591  
(King County Superior Court Cause No. 24-2-18748-1 SEA)

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**SUPREME COURT OF  
THE STATE OF WASHINGTON**

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YI ZOU,

Respondent,

v.

GABRIELLE NGUYEN,

Petitioner.

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**ANSWER TO PETITION FOR REVIEW OF ORDER DISMISSING APPEAL**

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HARPER LAW OFFICES, Inc. P.S.

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## I. IDENTITY OF RESPONDENTS

Respondent, Yi Zou, is the named Plaintiff in the original unlawful detainer matter before the King County Superior Court and was the landlord and property owner in said action.

Appellant, Gabrielle Nguyen, is the named Defendant in the original unlawful detainer matter before the King County Superior Court and was a tenant.

## II. DECISION BELOW

Appellant seeks to have the decision of the Court of Appeals denying her motion to modify the April 18, 2025 order terminating review of her petition reviewed by this Court.

## III. ISSUE PRESENTED FOR REVIEW

1. Whether the Court of Appeals erred in dismissing Appellant's petition for review?

## IV. STATEMENT OF THE CASE

This action was for unlawful detainer based upon the nonpayment of rent. Respondent rented property at 7817 SE 75<sup>th</sup> Pl, Mercer Island, WA. 98040 at a monthly rent of \$4,300.00 per month. Appellant had defaulted and failed to pay rent for part of May 2024 and June 2024. A 30-day notice to pay rent or vacate was then served upon Appellant pursuant to RCW 59.12.040 on June 25<sup>th</sup>, 2024. After expiration of the required time, Appellant failed to pay or vacate.

Following expiration of the notice, Appellant was served with a summons and complaint for unlawful detainer on July 29<sup>th</sup>, 2024. Her deadline to respond to the complaint was August 8<sup>th</sup>, 2024. Appellant submitted her pro se notice of appearance by the required deadline and a hearing to show cause why a writ of restitution should not issue was scheduled. Notice of hearing was provided to appellant.

At the initial show cause hearing, Counsel was appointed pursuant to RCW 59.18.640 and the hearing was continued. At the continued hearing set before the Honorable Judge

Marshall Ferguson, Appellant admitted to owing the rent and being liable for unlawful detainer. Judgment and an Order for a Writ of Restitution was entered on December 6<sup>th</sup>, 2024. Appellant then requested reasonable accommodation to delay enforcement of the writ of restitution until February 7, 2025, to which Respondent objected. Judge Ferguson requested additional briefing on the issue, stayed the writ of restitution, and scheduled a hearing that was held on January 9<sup>th</sup>, 2025.

Judge Ferguson denied the accommodation request concluding that there was insufficient evidence submitted to show why Appellant needed an accommodation, nor why she would need one delaying enforcement of the writ of restitution until February 7<sup>th</sup>, 2025. The stay on the writ was lifted, and the Appellant was later evicted.

During this time, Appellant sought to terminate her appointed counsel and to seek new counsel. Appellant also filed a motion for reconsideration to vacate the judgment. The motion, however, was never noted for hearing and therefore never properly brought before the Trial Court. Judge Ferguson's January 2025 order lifting the stay also pointed out that Appellant's motion for reconsideration was not being considered. Appellant then filed a petition for review with the Court of Appeals.

## V. RESPONSE TO ARGUMENT

The Court of Appeals did not Err in Terminating Review. As Respondent presented to the Court of Appeals, Appellant has not complied with this Court's orders, nor has she complied with the requirements of RAP 9.6. Specifically, Petitioner filed a designation of clerk's papers but she failed to provide the minimum contents as required under RAP 9.6(c), including providing for subnumbers as used in King County Superior Court, and specifying the full title of the pleading, instead simply stating "all declarations and exhibits," any hearing transcripts, any

video, etc.” This is not what RAP 9.6 requires, nor does such assist the clerk’s office with sufficient direction on what to transmit to the Court of Appeals.

“The party seeking review of a lower court's ruling is responsible for designating the necessary clerk's papers and exhibits.” *State v. Firven*, 22 Wn. App. 703, 704-05, 591 P.2d 869, 870-71 (1979). The law is clear that Petitioner, even as a Pro se litigant, is held to the same standards as an attorney and must comply with all procedural rules on appeal. “[T]he law does not distinguish between one who elects to conduct his or her own legal affairs and one who seeks assistance of counsel -- both are subject to the same procedural and substantive laws.” *In re Marriage of Olson*, 69 Wn. App. 621, 626, 850 P.2d 527, 530 (1993). Petitioner has not complied with RAP 9.6 as required, and the Court of Appeals properly dismissed her petition as abandoned for failing to comply with the rules by the required deadlines.

Additionally, Respondent also pointed out that it was unclear what Appellant was appealing. Appellant’s Notice of Appeal suggested that she was appealing the trial court’s inaction on her filed motion for reconsideration. The problem with this position is that Appellant never had such a motion set before the Court for consideration. King County Local Rule 7 governs motion practice before the Superior Court. King County Local Rule 7(b)(5) requires that a Notice of Court Date be filed with a motion. Petitioner never filed her Notice of Hearing, thus her motion was never before the Court. Petitioner’s Notice of Appeal seeks to appeal “the inaction of This Court [the Trial Court] on Motion for Reconsideration and Motion to Vacate Judgment Order...” This is contrary to RAP 2.2.

A party cannot appeal what has never been decided upon or argued. There is no record to review. Further, Petitioner cannot seek discretionary review under RAP 2.3 because the Superior Court has not committed error, departed from the accepted and usual course of judicial

proceedings, or certified any order. The error lies entirely with Appellant who failed to follow the Court Rules and properly note her motion before the Court in the first place.

#### VI. CONCLUSION

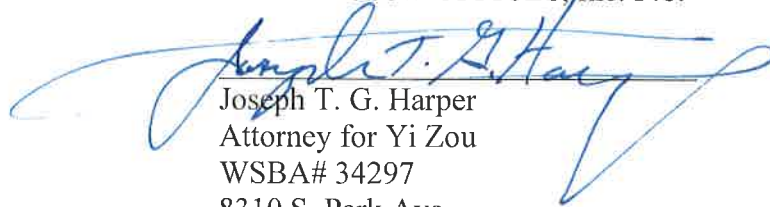
It was for the foregoing reasons that Respondent urged the Court of Appeals to deny Appellant's motion to modify the April 18<sup>th</sup>, 2025 ruling terminating review and dismissing her Appeal. These same reasons are why Respondent respectfully requests that this Court deny discretionary review and affirm the Court of Appeals' Order terminating review and dismissal.

#### VII. CERTIFICATION

I certify that this Answer to Petition for Review of Order Dismissing Appeal contains 1060 words in compliance with RAP 18.17(c)(1).

RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of July, 2025.

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**HARPER LAW OFFICES INC PS**

**July 03, 2025 - 8:04 PM**

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**Appellate Court Case Title:** Yi Zou v. Gabrielle Nguyen

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