NO. 1043724

SUPREME COURT OF THE STATE OF WASHINGTON

ALBERT WHITNEY COBURN, a father,

Plaintiff-Petitioner,

vs.

THE STATE OF WASHINGTON DEPARTMENT OF SOCIAL AND HEALTH SERVICES, CHILD PROTECTIVE SERVICES, a state government and its division and agency,

Defendant-Respondent.

STATE RESPONDENT'S ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

Petitioner Albert Coburn claims that Department of Social and Health Services (now the Department of Children, Youth and Families) allegedly failed to investigate and clear him of a charge of abuse raised in 2017 by his then-wife during a contentious divorce and custody battle, which he claims divested him of custodial rights to his daughter. Among the many legal deficiencies of his claim, Coburn waited until 2023 to file suit—long after expiration of the three-year statute of limitations governing his claims. Both the trial court and Court of Appeals properly concluded that Coburn's claims against DCYF were time-barred as a matter of law.

Coburn does not present any valid basis for review here. The Court of Appeals' decision does not conflict with any precedent, present a significant question of constitutional law, or raise any issue of significant public interest. This Court should deny discretionary review of the Court of Appeal's

straightforward application of well-settled law to the undisputed facts of this case.

II. COUNTERSTATEMENT OF THE ISSUES

Whether the Court of Appeals properly concluded that the three-year statute of limitations found in RCW 4.16.080 barred Coburn's claims of negligence concerning DCYF's conduct during 2016 and 2017?

III. COUNTERSTATEMENT OF THE CASE

In 2016, Coburn and his wife Lara Seefeldt were engaged in a contentious divorce proceeding in King County Superior Court.[1] Coburn and Seefeldt disagreed about parental rights over their daughter, who has autism and rudimentary language skills for her age. CP 5.

The superior court referred the parties to King County Family Court Services for an evaluation to be considered in

[1] Coburn has been involved in other actions based on the same allegations pled here. *See Seefeldt v. Coburn*, 25 Wn. App. 2d 1071, 2023 WL 2570716 (Mar. 20, 2023) (unpublished); CP 384 (copy of opinion).

formulating the court-ordered parenting plan. CP 8. Soon after, a therapist noticed some bruising on Coburn and Seefeldt's daughter and made a referral to DCYF.[2] CP 303. This resulted in two concurrent assessments of Coburn's family – the Family Court Services evaluation and the DCYF referral.

In late June 2017, DCYF created an intake report based on the therapist's referral. CP 278. Within a few days, both parents signed an agreement to participate in DCYF's family assessment response (FAR). CP 287-88. FAR is an alternative to a traditional investigation authorization by statute in RCW 26.44.030(12) and (14). The FAR agreement stated in relevant part, "I understand that there has been a report about my child's safety that requires a Child Protective Services (CPS) response." CP 287. The superior court was aware of DCYF's involvement with the parents. CP 347.

[2] On July 1, 2018, the powers, duties, and functions of the Children's Administration within the Department of Social and Health Services were transferred to the Department of Children, Youth, and Families (DCYF).

The following month, DCYF received a second, third-party referral that was forwarded to the Seattle Police Department (SPD). CP 311-13. SPD declined to investigate due to the lack of evidence or sufficient information supporting the referral. CP 312.

The assigned DCYF social worker interviewed both Coburn and Seefeldt, their family members, and their daughter's service provider, while visiting with the family over 10 times. *See* CP 299-301. DCYF closed the FAR in October 2017, concluding there was no danger to Coburn and Seefeldt's daughter, and allegations of abuse were unfounded. CP 290.

In January 2018, the social worker provided a report to King County Superior Court, referencing emails from Coburn to DCYF that contained various grievances. CP 350-57. The report made no finding of abuse or neglect, but it identified that the court could impose discretionary restrictions against Coburn for an "abusive use of conflict." CP 354.

Coburn and Seefeldt ultimately reached an agreed parenting plan through mediation. CP 9. This mediation occurred after both the involvement of Family Court Services and the families' participation in FAR. On March 13, 2018, the court issued a final parenting plan order that provided primary custody to Seefeldt. CP 359-73.

Over five years later, in December 2023, Coburn filed suit against DCYF, alleging various claims arising from DCYF's investigation and complaints about the agreed-upon parenting plan. CP 1. The trial court granted summary judgment to DCYF on all causes of action in Coburn's complaint. CP 504-05. The Court of Appeals affirmed the summary judgment order, holding that the statute of limitations barred all of Coburns' claims based on undisputed facts. *Coburn v. State*, No. 86808-0-I, 2025 WL 1158553, at *2 (Wash. Ct. App. Apr. 21, 2025) (unpublished).[3]

[3] Pursuant to GR 14.1, this decision has no precedential value, is not binding on any court, and is cited only for such persuasive value as the Court deems appropriate.

IV. ARGUMENT WHY REVIEW SHOULD BE DENIED

A. This Court Should Decline to Accept Review Because the Court of Appeals Properly Affirmed Summary Judgment Under Well-Settled Law

1. Coburn filed suit after the three-year statute of limitations expired

Contrary to Coburn's argument, the Court of Appeals correctly applied the statute of limitations for negligence claims in affirming the trial court's summary judgment order.

Under Washington law, personal injury claims must be brought within three years. *See* RCW 4.16.080(2). A failure to comply with the statute of limitations bars a "legal entitlement" to damages. *Safeco Ins. Co. v. Barcom*, 112 Wn.2d 575, 580, 773 P.2d 56 (1989).

The statute of limitations period begins to run when a plaintiff knew or should have known all essential elements of the claim. *Green v. A.P.C.*, 136 Wn.2d 87, 95, 960 P.2d 912 (1998); *see also Reichelt v. Johns–Manville Corp.,* 107 Wn.2d 761, 772, 733 P.2d 530 (1987) ("A party must exercise reasonable

diligence in pursuing a legal claim. If such diligence is not exercised in a timely manner, the cause of action will be barred by the statute of limitations."). Coburn does not show that there is any conflict among Courts of Appeals regarding the application of this standard.

In this case, undisputed facts demonstrate that Coburn knew or should have known his claims accrued more than three years before December 6, 2023, the date he filed suit. Specifically, Coburn pled that he: "was accused by Lara [Seefeldt] . . . of 'shoving' or 'throwing [their four-year-old daughter] to the floor'" in December 2016. CP 5. Further, Coburn alleged that DCYF's failure to investigate this incident harmed him and affected his parental rights. CP 29 ("If [DCYF] had conducted an investigation, [Seefeldt] wouldn't have been able to use false allegations of child abuse to gain an advantage[.]").

This incident, and other related disputes between Coburn and Seefeldt, led King County Superior Court to require their

participation in a parenting plan evaluation with Family Court Services in June 2017. CP 350-57. Around the same time, Coburn entered into the FAR agreement with DCYF. CP 287-88. By July 2017, Coburn was emailing DCYF with grievances about the agency's involvement and handling of the FAR. CP 340-41. DCYF closed its intake of the family in October 2017. CP 290. Soon after, Family Court Services completed its evaluation, referencing DCYF's involvement and Coburn's emails. CP 290. Coburn received the evaluation of Family Court Services no later than December 11, 2017. CP 350.

In early 2018, Coburn and Seefeldt settled on the final parenting plan's details through mediation. CP 9-10. On March 13, 2018, King County Superior Court issued the final parenting plan. CP 359-73. Thus, by this date, Coburn had already expressed grievances to DCYF during the FAR, and he was aware of the final parenting plan's terms. Coburn does not dispute any of these facts. *See*, *e.g.*, Pet. for Review at 12. Consequently, when Coburn pled negligence claims against

DCYF in 2023, his suit was filed *at least* two years too late based on the applicable three-year statute of limitations.

2. Coburn cannot rely on equitable tolling to save his claims

Coburn contends that the Court of Appeals erred because either the statute of limitations should have been tolled or otherwise did not apply to issues concerning his daughter. Pet. for Review at 10.

Equitable tolling is a judicial doctrine that allows a court to toll the statute of limitations when there has been bad faith, false assurances, or deception by the defendant *and* due diligence in pursuing the claim by the plaintiff. *Fowler v. Guerin*, 200 Wn.2d 110, 120, 515 P.3d 502 (2022); *cf. Campeau v. Yakima HMA, LLC*, 3 Wn.3d 339, 348, 551 P.3d 1037 (2024) (equitable tolling was appropriate to preserve claims of associational members to recover stolen wages). Again, Coburn does not and cannot demonstrate any conflict among Courts of Appeals in applying this standard.

Here, Coburn cannot satisfy the requirements necessary to establish equitable tolling.[4] There is no evidence of DCYF acting in bad faith, making false assurances, or engaging in deception. Additionally, Coburn failed to exercise diligence in a timely fashion. Coburn notably waited until August 2023 to even seek information from the Office of the Family and Children's Ombuds about DCYF's alleged acts or omissions in or around 2017. *See* CP 412.

Critically, Coburn failed to file suit within three years of either his grievances to DCYF or when the King County Superior Court issued its final parenting plan, which Coburn asserts was the harmful result of DCYF's actions and/or omissions. *See* Pet. for Review at 11-12; *see also* CP 287-88; CP 352-53. As such, by no later than March 2018, Coburn believed that DCYF was a cause of his claimed injuries. But Coburn did not exercise diligence, instead waiting to file suit in December 2023. Thus,

[4] Nor was Coburn's daughter a plaintiff who could invoke the doctrine. *See Coburn*, 2025 WL 1158553 at *4, n.2.

equitable tolling is not available to Coburn to defeat the three-year limitation found in RCW 4.16.080(2).

In sum, the Court of Appeals did not err in holding that Coburn's claims were all time-barred. *Coburn*, 2025 WL 1158553, at *2. This straightforward application of well-settled law to the undisputed facts in this case is not contrary to any precedent, and does not present either a question of constitutional law or issue of significant public interest warranting further appellate review. *See* RAP 13.4(b)(1)-(4).

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V. CONCLUSION

The Court of Appeals correctly applied the statute of limitations as required by RCW 4.16.080(2) to the undisputed facts in the record. Because Coburn does not present a valid basis for review under RAP 13.4(b), this Court should deny his petition.

This document contains 1741 words, excluding the parts of the document exempted from the word count by RAP 18.17.

RESPECTFULLY SUBMITTED this 3rd day of September 2025.

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CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed State Respondent's Answer to Petition for Review with the Clerk of the Court using the electronic filing system which caused it to be served on the following electronic filing system participant:

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I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED this 3rd day of September 2025 at Seattle, Washington.

s/ R. Samuel Willette
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Assistant Attorney General

AGO TORTS SEATTLE

September 03, 2025 - 8:26 AM

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