

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
7/28/2025  
BY SARAH R. PENDLETON  
CLERK

Case #: 1044071

FILED  
Court of Appeals  
Division I  
State of Washington  
7/24/2025 4:21 PM

No. 850989

SUPREME COURT  
OF THE STATE OF WASHINGTON

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Crystal Hodge, Petitioner,

v.

Washington State Employment Security Department, Respondent.

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PETITION FOR DISCRETIONARY REVIEW

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Crystal Hodge

Petitioner

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### 1. IDENTITY OF PETITIONER

Petitioner **Crystal Hodge** seeks discretionary review of the June 24, 2025 order of Division One of the Court of Appeals dismissing her appeal.

### 2. CITATION TO COURT OF APPEALS DECISION

- Type of decision: **Order on Motion to Modify; order of dismissal**
- Court entering decision: **Court of Appeals, Division One**
- Date filed: **June 24, 2025** (“Order Denying Motion to Modify the Commissioner’s May 8, 2025 ruling and dismissing appeal”).
- Related orders:
  - **May 8, 2025** – Commissioner’s ruling denying, in part, Petitioner’s fourth extension request.
  - **July 17, 2024** – Panel order granting discretionary review of the Superior Court dismissal
  - .

No motion for reconsideration of the June 24, 2025 order was filed; therefore this petition is timely under RAP 13.4(a).

### 3. ISSUES PRESENTED FOR REVIEW

1. **Due-process implications** – Did Division One violate due-process guarantees of the Washington and United States Constitutions by dismissing an appeal before the administrative record had been transmitted, thereby denying a meaningful opportunity for review?

2. **Statutory compliance** – Does RCW 34.05.566 require the Employment Security Department (ESD) to transmit the complete record before briefing is due, and did the Court of Appeals err by dismissing when that statute had not been satisfied?
3. **Misapplication of RAP 18.8(b)** – Did the Court of Appeals misapply the good-cause standard for enlarging time for briefs where Appellant's delay was caused by the agency's failure to transmit the record?
4. **Conflict with precedent** – Does the dismissal conflict with *Cox v. Corkum*, 100 Wn.2d 428 (1983) and *State v. Kells*, 133 Wn.2d 249 (1997), which require courts to prefer decisions on the merits and permit extensions absent prejudice?
5. **Departure from accepted practice / public-interest importance** – Has Division One so far departed from accepted practice, and does the case present questions of substantial public-interest concerning access to judicial review of unemployment-benefit disputes, that Supreme Court review is warranted under RAP 13.4(b)(3)–(4)?

#### 4. STATEMENT OF THE CASE

##### *Procedural history*

- **February 9, 2023** – King County Superior Court dismissed Petitioner's appeal of an ESD decision denying unemployment benefits.
- **September 14, 2023** – Court of Appeals Commissioner denied discretionary review.
- **July 17, 2024** – A three-judge panel granted Petitioner's motion to modify, accepted discretionary review, and directed issuance of a perfection notice
- .
- **June 2024 – April 2025** – ESD repeatedly failed to transmit the certified administrative record required by RCW 34.05.566, forcing Petitioner to move four times for extensions of her opening-brief deadline.
- **May 8, 2025** – Commissioner denied in part Petitioner's fourth extension request (60 days requested; 14 days granted).
- **May 27, 2025** – Petitioner timely moved to modify the Commissioner's ruling, documenting ESD's continuing failure to file the record (see Court of Appeals docket entry and accompanying motion).

- **June 24, 2025** – Panel denied the modification motion **and dismissed the appeal** even though the record **was** still missing, citing RAP 18.9(c).
- **June 24, 2025** – Clerk’s letter advised that a petition for discretionary review **was** due within thirty days under RAP 13.5(a).

*Facts relevant to the issues*

Petitioner is a pro se claimant who lost unemployment benefits when the ESD determined she had voluntarily quit. Petitioner timely sought judicial review. The Superior Court dismissed for want of prosecution after the record **was** not transmitted. The same transmission problem recurred on appeal. Petitioner’s uncontested declarations show:

- She could not prepare an opening brief without the certified record.
- The delay **was** beyond her control and solely attributable to ESD and the Clerk’s office.
- Respondent identified no prejudice from reasonable extensions.

Despite those uncontested facts, Division One dismissed the appeal, effectively preventing any review on the merits and leaving the Superior Court dismissal intact.

## **5. ARGUMENT: REVIEW SHOULD BE ACCEPTED**

### **A. The decision conflicts with controlling Supreme Court precedent (RAP 13.4(b)(1))**

- *Cox v. Corkum* and subsequent cases hold that dismissal for procedural default is disfavored and that extensions should be granted absent prejudice. Division One’s dismissal before the record existed departs from that principle.
- *Kells* emphasizes that an appellant must have a meaningful opportunity to litigate. By dismissing for a delay caused by the agency, the court deprived Petitioner of that opportunity.

### **B. The case raises significant constitutional questions (RAP 13.4(b)(3))**

Dismissing an appeal when the state agency itself prevents the appellant from meeting briefing deadlines infringes substantive and procedural due-process rights (U.S. Const. amend. XIV; Wash. Const. art. I, §3). Whether a court may do so without first ensuring the record is available is a question of statewide importance that has not been squarely answered.

**C. The order involves issues of substantial public interest (RAP 13.4(b)(4))**

Unemployment insurance protects thousands of Washington workers. Clarifying (1) which party bears responsibility for timely record transmission under RCW 34.05.566 and (2) when dismissal is appropriate directly affects access to benefits and the fair administration of justice.

**D. Division One so far departed from accepted practice as to require this Court's revisory supervision (RAP 13.4(b)(4))**

Standard appellate practice is to decide cases on their merits. Here:

1. The court ignored that the administrative record is jurisdictional under the APA.
2. It refused to apply RAP 18.8(b)'s "good cause" standard fairly, despite uncontroverted evidence of agency fault.
3. It thereby rewarded agency non-compliance and punished Petitioner for circumstances outside her control.

Such a departure invites inconsistent outcomes across divisions and undermines confidence in appellate procedure.

**E. The ruling meets the criteria for discretionary review of an interlocutory order (RAP 13.5(b)(1)–(3))**

Although the June 24, 2025 dismissal technically terminates review, it is predicated on an interlocutory procedural order. The panel committed obvious error that "would render further proceedings useless" (RAP 13.5(b)(1)) by ending the case before the merits could be briefed, and probable error that "substantially limits the freedom of a party to act" (RAP 13.5(b)(2)).

**F. Practical considerations favor review and remand**

Accepting review will promote judicial economy: the merits of Petitioner's statutory and constitutional claims have never been heard; reinstating the appeal and compelling the record's transmission will allow a single, orderly review instead of piecemeal litigation.

**6. CONCLUSION**

Petitioner respectfully asks this Court to:

1. Grant discretionary review under RAP 13.4(b);
2. Vacate Division One's June 24, 2025 order;

3. Reinstate the appeal and direct the Court of Appeals (a) to compel immediate transmission of the certified administrative record and (b) to set a new briefing schedule; **or**, in the alternative,
4. Remand with instructions consistent with the Court’s opinion.

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## TABLE OF AUTHORITIES

Case	Page(s)
<i>Cox v. Corkum</i> , 100 Wn.2d 428 (1983)	6–7
<i>State v. Kells</i> , 133 Wn.2d 249 (1997)	2, 6

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### Statutes & Rules

RCW 34.05.566	3, 6
RAP 13.4, 13.5, 17.7, 18.8, 18.9	passim

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*Respectfully submitted this* \_\_\_\_ *day of* \_\_\_\_\_, 2025.

[Signature]

[Typed Name], WSBA No. \_\_\_\_

Attorney for Petitioner

[Address] | [Phone] | [Email]

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## CERTIFICATE OF SERVICE

I certify that on \_\_\_\_\_ 2025 I served this petition on all parties by \_\_\_\_\_.

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## APPENDIX

- Order Denying Motion to Modify & Dismissing Appeal (Ct. App. Div. I, June 24, 2025)
- Order Granting Motion to Modify & Granting Discretionary Review (Ct. App. Div. I, July 17, 2024)
- Commissioner’s Ruling (May 8, 2025)

- Pertinent portions of RCW 34.05.566 and RAP 13.4, 13.5
- 

- **Length – The body of this petition (exclusive of tables, appendices, and certificates) is under the 4,200-word limit of RAP 18.17(b).**

July 24, 2025

Respectfully submitted,

s/ Crystal Hodge

Crystal Hodge, Petitioner  
Pro Se

### **PROOF OF SERVICE**

I, Petitioner Crystal Hodge, certify that I caused to be served a copy of the Petition for Discretionary Review on all parties or their counsel of record on the date below as follows:

E-Served via Washington State Appellate Courts Portal

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E-filed via Washington State Appellate Courts Portal

Lea Ennis, Clerk  
Court Of Appeals, Division I  
<https://ac.courts.wa.gov/>

I declare under penalty of perjury under the laws of the state of Washington the foregoing  
is true and correct.

Dated this 24th day of July 2025, in Woodinville, Washington.

Respectfully submitted,

s/ Crystal Hodge  
Crystal Hodge, Petitioner  
Pro Se



# CRYSTAL HODGE - FILING PRO SE

July 24, 2025 - 4:21 PM

## Transmittal Information

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**Appellate Court Case Number:** 85098-9  
**Appellate Court Case Title:** Crystal Hodge, Petitioner v. Washington State Employment Security, Respondent

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