No. 1044631

SUPREME COURT
OF THE STATE OF WASHINGTON

CRAIG BRAZELL, an individual; CCB HOLDINGS, LLC, a Washington Limited Liability Company.

Respondents-Plaintiffs,

v.

JAMES SNODGRASS, an individual; NEXUS ONE, LLC, a Washington Limited Liability Company,

Petitioners-Defendants.

ANSWER TO PETITION FOR REVIEW

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I. IDENTITY OF RESPONDENT

The Respondents, Craig Brazell and CCB Holdings, LLC (hereinafter collectively "Brazell") hereby submit this Answer to Petition for Review filed by the Appellants, James Snodgrass and Nexus One, LLC (hereinafter collectively "Snodgrass").

II. INTRODUCTION

At issue in this appeal is the Order Confirming Arbitration Award and judgment entered against Snodgrass by the Benton County Superior Court on April 28, 2023. Shortly after the entry of the Order, Snodgrass attempted to move the court for reconsideration and clarification. While Snodgrass served opposing counsel and the Court notice of the motion, Snodgrass failed to timely file the motion, pursuant to CR 59(b).

Despite the fact that the motion was not properly filed, on June 5, 2023, a judge of the Superior Court issued a written letter denying Snodgrass's Motion for Reconsideration. On June 22, 2023, more than two weeks after the Court denied the Motion for Reconsideration, Snodgrass filed the reconsideration motion with

the Court as well as a "Notice for Appeal" and "Notice for Discretionary Review" in which he sought appellate review of the denial of the Motion for Reconsideration of Plaintiff's Motion to Confirm Arbitration Award.

On July 15, 2025, Division III of the Court of Appeals of the State of Washington filed an opinion in which it dismissed the appeal as untimely. The Court reasoned that Snodgrass had failed to file the Notice of Appeal within the applicable thirty-days of the order being appealed. It is important to note that prior to the dismissal, the Court of Appeals provided the parties with the opportunity to provide substantive briefing as well as briefing regarding the procedural deficiencies of the appeal. Prior to Division III final opinion, this matter was set for dismissal on the commissioner's docket upon the court's motion.

On August 15, 2025, thirty-one days after the Appellate Court rendered its opinion, Snodgrass filed the subject Petition for Review with this Court seeking reversal of the Court of Appeals dismissal and requesting that the matter proceed on its merits. For

the foregoing reasons, Brazell requests that this Court deny Snodgrass's Petition for Review and uphold the dismissal rendered by the Court of Appeals.

III. COUNTER STATEMENT OF ISSUES PRESENTED

The Court of Appeals correctly dismissed Snodgrass's appeal as untimely. The issues presented to this Court for consideration are as follows:

1. Whether this Court should consider this Petition for Review when it was filed thirty-one days after the subject Court of Appeals' decision.

2. Whether the Court of Appeals properly dismissed Snodgrass's appeal as untimely when the Notice of Appeal was filed more than thirty days after the subject Order was entered.

3. Whether the Court of Appeals violated RAP 18.5 and the principles of due process by dismissing the appeal as untimely after providing the parties with the opportunity to brief the court on this matter.

IV. STATEMENT OF THE CASE

Snodgrass and Brazell were, at one point, jointly engaged in business under a Washington State marijuana production license through Nexus One, LLC. CP 1. Thereafter, a number of disputes arose, and on June 23, 2020, Brazell brough the underlying action seeking declaratory judgment, dissociation, breach of fiduciary duty, judicial dissolution, and injunction against Snodgrass. *Id.* Within a few months thereafter, the parties were able to reach a settlement of their disputes which was memorialized in a CR 2A Agreement. CP 23.

Thereafter, Brazell took the position that Snodgrass failed to perform under the CR 2A Agreement and Brazell moved to compel arbitration pursuant to the Agreement. CP 24. Arbitration was held thereafter. *Id.* On September 8, 2021, an Arbitration Award and Opinion was issued. CP 37. Therein the arbitrator found that Snodgrass breached the CR 2A agreement, thus relieving Brazell from performing under it. CP 28-30.

Snodgrass asserts that he then moved the court for an order vacating the arbitration award and setting aside the settlement agreement. Such motion was not made part of the record by Snodgrass, but is referenced in other documents. *See* CP 100, ¶ 2.

On April 14, 2023, Brazell filed a Motion for Confirming Arbitration Award. CP 92. An Order Granting the Motion to Confirm Arbitration Award was entered on April 28, 2023, as well as a judgment. CP 94-98.

On May 7, 2023, Snodgrass served (but did not file until June 22) a Motion for Reconsideration. CP 144. Despite not yet filing the Motion for Reconsideration, on June 5, 2023, the Court entered a written letter denying the Motion. CP 99. That letter was later converted to a formal order on December 6, 2023. CP 196. In the meantime, on June 22, 2023, Snodgrass served and filed a "Notice for Appeal" to the Third Division of the Washington State Court of Appeals. CP 120. Snodgrass's "Notice for Appeal" indicates he sought review of the "Superior Court's denial of

Defendants' Motion for Reconsideration of Plaintiff's Motion to Confirm Arbitration Award entered June 5, 2023." *Id.*

On October 12, 2023, Division III sua sponte set this matter for a dismissal hearing due to the fact that the notice of appeal was filed more than thirty days after the order that was subject to the appeal. After receiving briefing from the parties, a commissioner denied the motion for dismissal.

On October 4, 2024, Snodgrass filed his Appellant's Brief. On December 2, 2024, Brazell filed a Respondent's Brief. On April 16, 2025, Division III provided a letter to the parties explaining that this case will be decided by a panel of the court without oral argument. It advised the parties that it would entertain a motion requesting oral argument and provided a ten-day deadline for such motion. No party filed a motion requesting oral argument.

On July 15, 2025, Division III filed an opinion in which it dismissed the appeal as untimely. The Court found that the commencement date to initiate an appeal was April 28, 2023, and

that Snodgrass did not file his appeal until June 22, 2023. Thus, finding that the appeal was untimely.

On August 15, 2025, thirty-one days after Division III filed its opinion, Snodgrass brought a Petition for Review requesting that this Court reverse the dismissal of the appeal and remand the case for review on the merits. For the foregoing reasons, Brazell respectfully requests that this Court deny Snodgrass's Petition for Review.

V. APPLICABLE STANDARD

The Rules of Appellate Procedure provide that a petition for review will only be granted by this Court if one of the following four conditions are met: "(1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) If the petition involves an issue of

substantial public interest that should be determined by the Supreme Court. RAP 13.4(b).

Here, this Court should not accept this Petition for Review as Snodgrass has failed to raise an issue that falls within the categories of RAP 13.4(b). Snodgrass attempts to rely on the holding of a 1983 case to establish a conflict of controlling precedent. However, Snodgrass misrepresents the holding of the case. The holding of the cited case is "when parties petition jointly for relief, neither party is entitled to notice before a decree of dissolution is granted pursuant to an ex parte hearing." *In re Marriage of Wherley*, 34 Wn. App. 344, 345–46, 661 P.2d 155 (1983). *Wherley* does not "hold that the time for appeal begins upon service of the decision" as stated in Snodgrass's Petition for Review.

Next, Snodgrass attempts to allege that this case contains significant constitutional questions and questions of law of substantial public interest. With respect to the constitutional question, Snodgrass claims that due process was violated since the

Court of Appeals dismissed the appeal for untimeliness without providing notice or an opportunity to respond. This is incorrect. The Court of Appeals provided the parties with the opportunity to brief their arguments and an opportunity to present oral argument. After reviewing the records, the Court of Appeals correctly ruled that the appeal was filed untimely thus properly dismissing the action.

Lastly, there are no significant questions of law that concern public interest. At issue are the rules governing the deadlines for the appeals process. The rules provide clear guidelines and instructions for how parties can properly place an appeal before the appropriate court. In this case, Snodgrass failed to timely appeal a superior court order (and was not timely again with this court). Courts have ruled that pro se litigants are held to the same standards as attorneys. *Winter v. Dept. of Soc. and Health Servs.*, 12 Wn. App.2d 815, 844, 460 P.3d 667 (2020). As a pro se litigant, Snodgrass is held to the same standard as an attorney and is required to comply with procedural rules related to appeals.

Snodgrass has failed to do so. Snodgrass claims that this issue "directly impact litigants' access to appellate review statewide." This statement is false. All litigants are afforded appellate review. In order to access it, the litigant must comply with the clear procedural guidelines. Snodgrass failed to do so, and the Court of Appeals correctly recognized this, thus dismissing the appeal as untimely.

VI. ARGUMENT

A. The Subject Petition for Review Should Be Denied Due to Being Untimely.

As a preliminary matter, Brazell objects to the timeliness of Snodgrass's Petition for Review. RAP 13.4(a) provides that "[i]f no motion to publish or motion to reconsider all or part of the Court of Appeals decision is timely made, a petition for review must be filed within 30 days after the decision is filed." Pursuant to this Court's rules, documents received by 5:00 p.m. will be considered that day. However, documents filed after 5:00 p.m. will be considered filed on the next judicial day. RAP 18.8(b) states that

an appellate court will extend the time to file a Petition for Review only in extraordinary circumstances and to prevent a gross miscarriage of justice. RAP 18.8(b).

Here, the decision rendered by Division III was filed on July 15, 2025. Snodgrass had thirty days or until August 14, 2025, at 5:00 p.m. to file a Petition for Review. Snodgrass failed to timely file a Petition for Review as the petition was received after 5:00 p.m. on August 14, 2025, and thus the Petition for Review was considered filed on August 15, 2025, which is thirty-one days after the Court of Appeals filed its decision. Therefore, the Petition for Review was untimely, and this Court should not grant the request as it is untimely.

Further, RAP 18.8(b) does not appear to provide Snodgrass with the leeway he requested. The rule states that an appellate court will extend the time to file a Petition for Review only in extraordinary circumstances and to prevent a gross miscarriage of justice. Here, Snodgrass claims that he was forced to change his password, rendering the filing late, which means that Snodgrass

waited until (or past) the last second to try and file this Petition for Review, knowing that any number of issues could have rendered the filing to be late, which is exactly what occurred. In short, the outcome was reasonably foreseeable and does not constitute extraordinary circumstances, nor does it prevent a "gross" miscarriage of justice. There is nothing to indicate why Mr. Snodgrass could not have logged in or filed sooner and there is a pattern of this in the record. Because of that, the Petition for Review should be dismissed as untimely.

B. The Court of Appeals Properly Dismissed the Appeal.

The Rules of Appellate Procedure clearly provide that parties must file a notice of appeal within thirty days after the entry of the decision that the appellant desires to have reviewed, or within thirty days after an entry of an order deciding a timely motion for reconsideration of the decision the appellants desires to have reviewed. RAP 5.2(a), (e). Pursuant to CR 59(b), "[a] motion

for a new trial or for reconsideration shall be filed not later than 10 days after the entry of the judgment, order, or other decision."

Division III correctly determined that the proper remedy for the untimely appeal was the dismissal of the appeal. *In re Marriage of Orate*, 11 Wn. App.2d 807, 814, 455 P.3d 1158 (2020). A person who does not timely appeal a trial court ruling cannot extend the period to appeal by arguing an untimely reconsideration. *In re Marriage of Orate*, 11 Wn. App.2d 807, 814, 455 P.3d 1158 (2020) (*citing Schaefco, Inc. v. Columbia River Gorge Comm'n*, 121 Wn.2d 366, 367–68, 849 P.2d 1225 (1993)).

In *Schaefco*, this Court was presented with a similar fact pattern. *Schaefco*, 121 Wn.2d 366, 849 P.2d 1225 (1993). There, a superior court entered a final order on July 2, 1991. *Id.* at 367. A party moved for reconsideration by filing the reconsideration notice, on July 12, 1991, within ten days after the entry of the order; however, the party did not provide notice of the reconsideration motion to the other party, until July 16, 1991. *Id.* at 367. Despite the fact that the motion was not properly served

upon all parties, on August 16, 1991, the superior court denied the motion for reconsideration. *Id.*

On September 9, 1991, the aggrieved party filed a notice of appeal. *Id.* On appeal, a dispute arose regarding whether the thirty-day period to appeal began to run at the date of the order denying the reconsideration motion or the final order. *Id.* After a commissioner for the Court of Appeals dismissed the action, the Court of Appeals presented a certified question to this Court. *Id.*

This Court reasoned that since the motion for reconsideration was not timely, it did not extend the thirty-day period for filing the notice of appeal. *Id.* at 368. Thus, the notice of appeal needed to be filed within thirty days of the final order, and the appellate court correctly dismissed the appeal as untimely. *Id.* The court reached that decision despite the fact that the party was raising important constitutional claims. *Id.*

Here, the present facts are similar. On April 28, 2023, the Benton County Superior Court entered an Order Confirming Arbitration Award and issued a judgment against Snodgrass. On

May 7, 2023, Snodgrass emailed a Motion for Reconsideration to the Court and Brazell but did not file the motion until June 22, 2023, which is well outside the ten-day period to do so.

On June 5, 2023, the Superior Court denied the motion for reconsideration despite the fact that it was not filed. Snodgrass then filed a Notice of Appeal on June 22, 2023. Since the Snodgrass's Motion for Reconsideration was untimely, the controlling date for a Notice of Appeal was the date the final order was entered. The Notice of Appeal was filed well past thirty days from April 28, 2023. Therefore, consistent with the ruling in *Schaefco*, Division III did not error in dismissing the appeal.

C. The Court of Appeals Did Not Violate Due Process.

Lastly, Snodgrass claims that his due process rights were somehow violated by the actions of Division III. More specifically, he claims that he did not have notice or an opportunity to be heard regarding the timeliness issue which he claims violates RAP 18.5 and due process principles established in case law.

RAP 18.5 provides guidance on the service and filing of papers in appellate courts. This rule establishes the procedural requirements for ensuring that all documents are properly served whether electronically or nonelectronically, and provides the manner in which documents must be filed. Here, it is unclear how Snodgrass believes that RAP 18.5 has been violated. Snodgrass received proper notice of all documents filed in the appeal and the documents were properly filed. Therefore, the Court of Appeals dismissal of the appeal did not violate RAP 18.5.

Further, Snodgrass relies on a 1950 United States Supreme Court case to allege a violation of due process. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 70 S. Ct. 652 (1950). *Mullane* involved a judicial proceeding for the "settlement of accounts by the trustee of a common trust fund." *Id.* at 307. The issue was whether the New York bank laws which permitted service by publication was sufficient notice to satisfy the principles of due process. *Id.* 310–11. The Supreme Court stated that "[a]n elementary and fundamental requirement of due process in any

proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Id.* at 314 (*citing Milliken v. Meyers*, 311 U.S. 457, 61 S. Ct. 339 (1940). The Supreme Court held that the lenient service requirements of the New York laws did conflict with the fourteenth amendment. *Id.* at 320.

Here, it is unclear how Snodgrass alleges that the principles of *Mullane* were violated. First, unlike the unknown beneficiaries in *Mullane*, Snodgrass had notice of this proceeding, had appeared, and filed a number of motions and briefing to the courts. Further, the Appellate Court provided the parties with an opportunity to request oral argument, in which Snodgrass failed to take advantage of. Therefore, Snodgrass's due process claim must be rejected. The principles of due process were not violated by Division III. Snodgrass's arguments are conclusory and lack any legal authority or basis.

VII. ATTORNEYS FEES ON APPEAL

Pursuant to RAP 18.1(j), Brazell requests an award of attorney's fees and expenses for the preparation and filing of this Answer to the Petition for Review. Consistent with RAP 18.1(j), if the Petition for Review is not granted by this Court, Brazell is entitled to such an award and will comply with the rules as to submitting appropriate documentation.

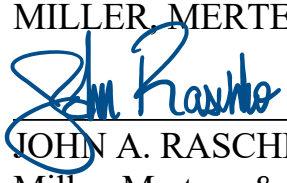
VIII. CONCLUSION

Pursuant to the applicable procedural rules, Snodgrass had thirty days after the entry of the Order to file a Notice of Appeal. Snodgrass failed to do so. Snodgrass has failed to demonstrate that the Court of Appeals' decision conflicts with any Washington court decision, or that it raises a substantial constitutional or public interest question. There is no basis for granting review in this case and the matter should be dismissed as untimely as determined by the Court of Appeals. As such, it is appropriate that this Court deny Snodgrass's Petition for Review and Brazell respectfully requests the same.

This document contains 3091 words, excluding the parts of the document exempted from the word count by RAP 18.17.

DATED this 24th day of September, 2025.

MILLER, MERTENS & COMFORT, PLLC

By: 

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CERTIFICATE OF SERVICE

I certify that on the 24th day of September, 2025, I caused a true and correct copy of the foregoing document to be served electronically on the clerk of the above-entitled court and on the following in the manner indicated below:

James Snodgrass 7804 Savary Drive Pasco, WA 99301 whytehorse@gmail.com	VIA REGULAR MAIL [ ] VIA E-MAIL: [X] VIA FACSIMILE: [ ] LEGAL MESSENGER [ ] HAND DELIVERED [ ]

DATED this 24th day of September, 2025 in Kennewick, Washington.

JOHN A. RASCHKO, WSBA #45481
Attorney for Respondents

MILLER MERTENS & COMFORT

September 24, 2025 - 2:41 PM

Transmittal Information

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