STATE OF WASHINGTON) NO. 1045522
)
V.) MOTION FOR
DALTON POTTER) PETETION FOR
DEFENDANT/APPELLANT) REVIEW ENTRY
PETITIONER, RAP 13.4(A)

treated as a Petition for Review

I DALTON POTTER, WROTE THIS LETTER IN REGAURDS TO THE AUGUST 21, 2025, (UNPUBLISHED OPINION) I HAVE FILED FOR (INEFFECTIVE ASSISTANCE OF COUNSEL) DUE TO AUGUST 29, 2024 BRIEF FILED BY KYLE BRYCE BERTI, I AM A LITIZEN OF A (WRONGFUL CONVICTION) THAT IS CURRENTLY ENCARCERATED, TRYING TO SEEK REVIEW IN ORDER TO HAVE (CHARGES VACATED) TO RESTORE MY RIGHTS, I DISAGREE WITH AUGUST 21, 2025 (UNPUBLISHED ORINION) IN WHICH IT IS BASED ON INSUFFICENT EVIDENCE, THE STATE HAS PROVIDED NO EVIDENCE, OR ANYTHING OF A EVIDETIARY VALUE IN THE PERSONAL (OPINION),

I AM PROCEDING PRO SE

I WILL AGREE WITH THE STATE THAT INSUFFICENT EVIDENCE HAS BEEN PRESENTED AT TRIAL TOO SUPPORT THE TWO CONVICTIONS FOR INTIMIDATING A WITNESS, I AM PURSUING (CITATIONS) AND (CONSTITUTIONAL RIGHTS VIOLATED) THIS CASE IS A GIANT ERROR, AND ERRORS ARE SUBSTANTIAL, A REVIEW IS NESSACARY TO PROVE I AM A VICTIM, A CASE OF (MISCONDUCT)

(TABLE OF CONTENTS)

A PREJUDICE JURY FOUND ME GIULTY OF A CRIME OF ONE COUNT OF FIRST DEGREE (PREMEDITATED) MURDER, CRIMES OF TWO COUNTS OF FIRST DEGREE ASSULT, CRIMES OF TWO COUNTS OF INTIMIDATING A WITNESS, AND A CRIME OF ONE COUNT OF FIRST DEGREE UNLAWFUL POSSESSION OF A FIREARM.

I AM CHALLENGING THE SUFFICIENCY OF THE EVIDENCE THAT I HAVE BEEN WRONGFULLY CONVICTED ON, AND I DISAGREE WITH THE ACCUSATIONS OF ME BEING INVOLVED IN THESE CRIMES.

THE TRIAL COURT ABUSED ITS DISCRETION WHEN IT FOUND MR. POTTER WAS COMPETENT TO STAND TRIAL. (MISCONDUCT)

DESPITE, (INEFFECTIVE ASSISTANCE OF COUNSEL) THROUGHOUT MY CASE, DURING COURT PROCEDINGS WITH DOUGIAS COUNTY ON THE RECORD. "JUDGE SAFAR" DENIED ME MY 6TH AMENDMENT CONSTITUTIONAL RIGHT TO SELF-REPRESENTATION, AFTER I PROPERLY WAIVED COUNSEL. HE DIRECTLY ASKED ME IF I HAD ANY EXPERIENCE WITH LAW, OR SKILLS THAT OF A LAWYER.

AT NO POINT IN TIME DID "JUDGE SAFAR" RAISE AWARENESS OF DANGERS, DISADVANTAGES OF SELF-REPRESENTATION. AND CONCIUDED THE COURT HEARING THAT I DID NOT HAVE ENOUGH KNOWLEDGE IN ORDER TO REPRESENT MYSELF. (FIRST AMENDMENT)

UNDER "WASHINGTON CRIMINAL LAW"

IF COUNSEL IS PROPERIY WAIVED, A CRIMINAL DEFENDANT

HAS A RIGHT OF SELF-REPRESENTATION. (QUOTING) CONST. ART. 1, § 22 (AMEND. 10); U.S. CONST. (AMEND 6); FARETTA VS. CALIFORNIA, 422 U.S. 806, 45L. ED. 2d. 562, 95, S. CT. 2525 (1975) ALTHOUGH A DEFENDANT NEED NOT HIMSELF HAVE THE SKILL, AND EXPERIENCE OF A LAWYER IN ORDER COMPETENTLY AND INTELUGENTLY TO CHOOSE SELF-REPRESENTATION, HE SHOUID BE MADE AWARE OF THE DANGERS, DISADVANTAGES, OF SELF-REPRESENTATION. SO THAT THE RECORD WIUL ESTABLISH THAT "HE KNOWS WHAT HE IS DOING AND HIS CHOICE IS MADE WITH HIS EYES OPEN."

THIS HAS EFFECTED ME ALSO BECAUSE IT IS IN VIOLATION OF MY CONSTITUTIONAL RIGHTS, AND I SUFFER FROM A MENTAL ILLNESS CALLED "PHYCHOTIC DELUSIONAL DISORDER" I WAS IN A ACTIVE DELUSION DURING COURT, AND I DID NOT FEEL LIKE JUDGE SAFAR WAS A REAL JUDGE. WHEN HE VIOLATED MY CONSTITUTIONAL RIGHTS, IT INDUCED FURTHER PHYCHOTIC DELUSIONS.

I WANT YOU TOO UNDERSTAND BECAUSE OF MY DIAGNOSIS THAT I WAS DELUSIONAL IN COURT. I DID NOT BELIEVE OR UNDERSTAND THAT "JUDGE SAFAR" WAS A REAL JUDGE. OR THE NATURE OF THE CHARGES, OR ACCUSATIONS.

THE COURTS PROUIDED IMFORMATION THAT I HAD DISENGAUGED IN ACTIVITYS. THIS FACT IS DUE TO MY DIAGNOSIS, AND MY 6TH AMENDMENT

RIGHTS BEING VIOLATED, IN SUPPORT BY THE UNITED STATES CONSTITUTION.

DALTON SCOTT POTTER, AS THE VICTIM IN THIS CASE, AISO THAT OF WRONGFUI CONVICTION. AT A LATER HEARING I HAD ASKED FOR CIARIFICATION OF MY LEGAL RIGHTS.

A ALLEGED EVALUATOR "DR. BAKER" WITHOUT ANY DIRECT MEDICAL DATA, WITHOUT ANY SUPPORTING EVIDENCE OF POTTER "COMPETENT," OR A VALID EXPIANATION OF HOW THAT OPINION COULD BE REACHED IN THE ABSENCE OF MEDICAL DATA, THE EVALUATOR CONCLUDED MR. POTTER WAS COMPETENT.

THE EVALUATOR AISO FAILED TO EXPIAIN HOW TALKING TO MR. POTTERS FATHER, SUPPORTED A FINDING THAT MR. POTTER WAS COMPETENT.

(THE COURT ABUSED ITS DISCRETION) IN FINDING MR. POTTER COMPETENT BASED ON A INADEQUATE RECORD/EVALUATION.

UNDER "WASHINGTON CRIMINAL LAW" § 14.05 "RIGHTS OF DEFENDANT AT COMPETENCY EVALUATION" 14.05, A PERSON MAY WAIVE HIS OR HER RIGHT TO COUNSEL, HOWEVER, THE COURT MUST MAKE A SPECIFIC FINDING THAT HE OR SHE WAS OR IS COMPETENT TO SO WAIVE.

RCW. 1077.020 (1)

DOUGIAS COUNTY FAILED TO CONDUCT A PROPER EVALUATION, BACKGROUND INVESTIGATION. WHENEVER A PERSON IS SUBJECTED TO EXAMINATION, HE OR SHE MAY RETAIN A EXPERT OR PROFESSIONAL PERSON TO PREFORM A EXAMINATION ON HIS OR HER BEHALF. WHERE A PERSON IS INDIGENT, THE COURT SHALL UPON HIS OR HER REQUEST, ASSIST THE PERSON IN OBTAINING A EXPERT. (QUOTING RCW 10.77.020(2) RCW 10.77.070.

ANYTIME THE DEFENDANT IS BEING EXAMINED BY COURT APPOINTED EXPERTS, OR PROFESSIONAL PERSONS FOR COMPETENTCY, THE DEFENDANT SHALL BE ENTITLED TO HAVE HIS OR HER ATTOURNEY PRESENT. RCW. 10.77.020(3) IN A COMPETENCY EVALUATION, THE DEFENDANT MAY REFUSE TO ANSWER ANY QUESTION IF HE OR SHE BELIEVES HIS OR HER ANSWERS MAY TEND TO INCRIMINATE HIM OR HER OR FORM LINKS LEADING TO EVIDENCE OF A INCRIMINATING NATURE. RCW 10.77.020(4) QUOTING RCW,

MR. POTTER DID NOT ANSWER ANY QUESTIONS DURING THE CURRENT "EVALUATION ATTEMPT" REGAURDING HIS "PSYCHOSOCIAL HISTORY" OR CURRENT LEGAL SITUATION. I REPEATED A REQUEST TO SPEAK TO A "ATTOURNEY OR LAWYER" DESPITE HIS ATTOURNEYS PRESENCE AT THE INTERVIEW, AS A RESPONSE TO SELECT QUESTIONS, HOWEVER, HE DID NOT DISPLAY.

OVERT INDICATIONS OF ACTIVE DELUSIONAL IDEATION OR PHYCHOTIC THOUGHT PROCESSES.

PROVIDED RECORDINGS, MR. POTTER WAS ABLE TO ADRESS AND RESPOND TO COURT OFFICES WHILE HE DID NOT PROVIDE REQUESTED IMFORMATION. TO THE JUDGE IN A PREVIOUS HEARING, HE ASKED FOR CIARIFICATION OF HIS LEGAL RIGHTS.

"THE COURT ABUSED ITS DISCRETION BASED ON A INADEQUATE EVALUATION."

COLLATERAL INTERVIEW WITH SCOTT POTTER ON MARCH 6,TH 2023, 15 MINUTE IN DURATION.

ATTEMPTED INTERVIEW WITH AGGIE POTTER. SOURCES OF IMFORMATION, THE ONLY SOURCE THE EVALUATOR COULD ANALYZE WAS THE 15 MINUTE DURATION PHONE CALL TO MR. SCOTT POTTER - MY FATHER.

THE EVALUATORS NOTED THAT MR. POTTERS PSYCHATRIC HISTORY ARE LIMITED. JAIL RECORDS INDICATE THAT MR. POTTER IS GENERALLY UNCOOPERATIVE WITH CONTACT ATTEMPTS, BUT THAT HE CAN TRACK TIME AND DAYS.

DUE TO MY MENTAL HEALTH DIAGNOSIS I DO NOT CUMMUNICATE LIKE A NORMAL PERSON DOES, BECAUSE OF ACTIVE DELUSIONS, AND DELUSIONAL IDEATION. THERE IS ON RECORD THROUGH MEDICAL DATA, IN RECENT YEARS I WAS DIAGNOSED WITH PHYCHOTIC DELUSIONAL DISORDER. AND I HAVE BEEN WORKING,

ALSO SUFFERING FROM ACTIVE DELUSIONS ON A DAILY BASIS. I HAVE'NT SEEKED MEDICAL ATTENTION OR TREATMENT. UPON MY PAST DIAGNOSIS THE DOCTOR NEVER TOLD ME ABOUT PRESCRIPTION MEDICATION FOR MY DISORDER. SO IM UNAWARE IF DOCTORS CAN TREAT MY DISORDER.

DOCUMENTS FROM CARELON BEHAVORIAL HEALTH WERE REQUESTED, BUT WERE NOT RECIEVED BY THE WRITING OF THE CURRENT REPORT.

UNLIKE IN SISOUVANH, THE EVALUATOR IN MR. POTTERS CASE DID NOT EXPIAIN WHY OR HOW A FIVE MINUTE CONVERSATION - WHERE MR. POTTER DID NOT SPEAK - AND REVIEW OF NON MEDICAL DATA, COUID REVEAL MR. POTTERS COMPETENCY, WHAT IS MOST TROUBLING IS THE EVALUATORS CONTRADICTORY STATEMENTS NOTING THAT MR. POTTER DID NOT PARTICIPATE IN THE INTERVIEW, BUT THAT THERE WAS SUFFICENT DATA TO FORM AN OPINION AS TO HIS COMPETENCY.

THERE IS NO BRITE LINE RULE FOR WHAT CONSTITUTES A EFFECTIVE OR APPROPRIATE COMPENTENTCY EVALUATION, THIS IS BECAUSE OF THE NAUNCES, SUBTIETIES, AND A WIDE LATITUDE FOR DIFFERING, OPINIONS, WITHIN THE MENTAL HEALTH FIELD, AND PRACTICE OF COMPETENCY EVALUATIONS. (CITING QUOTING STATE VS. HARRIS 114 WN. 2d 419, 440, 789 P. 2d 60 (1990);

IN RE PERS, RESTRAINT OF RICE, 118 WN. 2d, 876, 894, 828 P. 2d 1086 (1992)).

UNLIKE MR. POTTERS CASE, IN SISOUVANH, THE COURT HELD THAT THE EVALUATORS COMPETENCY EXAMINATIONS WAS DONE IN A QUALIFIED MANNER.

SISOUVANH, 175 WN. 2d. AT, 626, THE COURT HIGHLIGHTED THOUROUGHNESS OF THE EVALUATION INCLUDING OBJECTIVE EVIDENCE THE EVALUATOR RELIED ON REACHING THERE OPINION.

DR. STRANDQUISTS DETERMINATION THAT SISOUVANH WAS COMPETENT TO STAND TRIAL WAS BASED ON THE OBSERVATIONS OF STAFF AT EASTERN, A NUMBER OF DIAGNOSTIC TESTS, AND DR. STRANDQUISTS OWN FORENSIC INTERVIEW OF SISOUVANH,

THE PROCEDURAL SAFEGAURDS ARE IN WASHINGTON ARE" MODERATTEY MORE PROTECTIVE THEN FEDERAL FORMULATION." ORTIZ V. ABREGO, 187 WN. 2d. AT. 403-04 TRIAL COURTS HAVE BROAD DISCRETION TO CONSIDER THE SUM TOTAL EVIDENCE TO DETERMINE COMPETENCY INCLUDING THE MATTER IN WHICH THE EVALUATION WAS CONDUCTED. (CITING GODINEZ V. MORAN 509 US. AT. 398, 113. S. CT. 2680, 125 L. ED. 2d. 321 (1993)); SISOUVANH, 175 WN. 2d. AT. 620-21.

IN SISOUVANH, THE COURT DIRECTS TRIAL COURTS TO "ORDER A NEW COMPETENCY EVALUATION IF AN APPOINTED EXPERT OR PROFESSIONAL PERSON

CONDUCT A STATUTORY COMPETENCY EVALUATION IN A SUBSTANTIALLY UNQUALIFIED MANNER."

SISOUVANH, 175 WN. 2d. AT. 620. THE COURT HAS REASONED THAT IF THE INITIAL EVALUATION IS SUBSTANDARD," THE FUNDAMENTAL PURPOUSE OF THE REQUISITE APPOINTMENT, EXAMINATION, AND REPORT WILL HAVE BEEN THWARTED AND BOTH THE STATUE AND THE TRIAL COURTS ORDER WILL HAVE BEEN VIOLATED." SISOUVANH, 175 WN. 2d. AT. 621.

(CITING STATE V. WICKLUND, 96 WN. 2d. 798, 800, 638. P. 2d. 1241 (1982)); THIS RIGHT IS ENSHRINED BY THE DUE PROCESS CIAUSE OF THE FOURTEENTH AMENDMENT AND BY THE STATUE IN WASHINGTON, RCW 10.77.050 ORTIZ-ABREGO 187 WN. 2d. AT. 403

THE UNITED STATES SUPREME COURT ESTABLISHED DUSKY STANDARD FOR DETERMINING COMPETENCY DUSKY VS. UNITED STATES, 362 U.S. 402, 80. S. CT. 788, 4L. ED, 2d. 824. (1960). UNDER DUSKY A DEFENDANT IS COMPETENT IF HE HAS SUFFICENT PRESENT ABILITY TO CONSUIT WITH HIS LAWYER, WITH A REASONABLE DEGREE OR RATIONAL UNDERSTANDING. AND A RATIONAL AS WELL AS A FACTUAL UNDERSTANDING OF THE PROCEDINGS AGAINST HIM.

"ORTIZ-ABREGO 187. WN. 2d. 403. (INTERNAL PUNCUATION MODIFIED) "(A) A DEFENDANT IS INCOMPETENT IF HE OR SHE LACKS THE CAPACITY TO UNDERSTAND THE NATURE OF THE PROCEDINGS

OR TOO ASSIST IN HIS OR HER DEFENSE AS A RESULT OF MENTAL DISEASE OR DEFECT. (QUOTING RCW 10.77.010(15));

COMPENTENCY REPORT, RP-77-8. THIS WAS A ABUSE OF DISCRECTION BECAUSE THE COMPETENCY EVALUATION WAS NOT BASED ON ADEQUATE INFORMATION, TO SUPPORT THE FINDING OF COMPETENCY.

REVIEW OF COMPETENCY DETERMINATIONS, INCLUDING THE ADEQUACY OF THE COMPETENCY EVALUATION ITSELF, IS FOR A ABUSE OF DISCRETION

ORTIZ-ABREGO, 187 WN. 2d, AT. 402; STATE V.S. SISOUVANH 175 WN. 2d. 607, 620-21, 290, P. 3d. 942, (2012) IN THIS CONTEXT, "A COURT ABUSES ITS DISCRETION ONLY WHEN A ORDER IS MANIFESTLY UNREASONABLE OR BASED ON UNTENABLE GROUNDS."

ORTIZ-ABREGO 187 WN. 2d. AT. 402 (QUOTING IN REPERS. RESTRAINT OF RHOME, 172 WN. 2d. 654, 668, 260, P. 3d. 874, (2011)); A DISCRETIONARY DECISION IS MANIFESTLY UNREASONABLE OR BASED ON UNTENABLE GROUNDS IF IT RESULTS FROM APPLYING THE WRONG LEGAL STANDARD, OR IS UNSUPPORTED BY THE RECORD.

ONLY COMPETENT IDIUDUALS CAN STAND TRIAL. STATE V. ORTIZ-ABREGO 187 WN. 2d. 394, 402, 387, P. 3d. 638. (2017)

IN THIS CASE, SUPERIOR COURTS OF DOUGLAS COUNTY HAVE ABUSED ITS DISCRETION IN FINDING ME, MR. DALTON POTTER COMPETENT TO STAND TRIAL. BASED ON (MEDICAL RECORDS) I HAVE A PAST DIGNOSIS OF PYHCHOTIC DELUSIONAL DISORDER, THAT WAS NEVER TREATED, I DO SUFFER FROM ACTIVE DELUSIONS ON A REGULAR BASIS. THIS HAS AFFECTED MY THOUGHT PROCESSING THROUGHOUT TRIAL COURT, AND MADE IT DIFFICULT FOR ME TO MAKE CLEAR SENCE OF THE ENTIRE SITUATION AND ALLEGED CHARGES THEY ARE CONVICTING ME ON.

THESE ARE CRIMES, I HAVE BEEN VICTIMIZED, AND WRONGFULLY CONVICTED OF.

ONE COUNT FIRST DEGREE (PREMEDITATED) MURDER, A CRIME OF TWO COUNTS OF FIRST DEGREE ASSULT, CRIMES OF TWO COUNTS OF INTIMIDATING A WITNESS, A CRIME OF UNLAWFUL POSSESSION OF A FIREARM.

THE EVALUATOR HAS FAILED TO DO A PROPER EVALUATION LACK OF TESTING, LACK OF IMFORMATION, AND FORMED A INSUFFICENT OPINION, BASED ON INSUFFICENT INFORMATION,

THIS IS IN VIOLATION OF DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT. U.S. CONST. AMEND. XIV. (1973) WASH. REV. CODE § 10.77.050.

ON DOUGIAS COUNTYS BEHAF "ABUSE OF DISCRETION"

MR. BRAVO

HAS TAKEN ADVANTAGE OF THE FACT THAT I APPEARED (INCOMPETENT) DUE TO MY DIAGNOSIS OF PHYCHOTIC DELUSIONAL DISORDER, AND DELUSIONAL IDEATION.

IN (DIRECT VIOLATION) DUE PROCESS OF THE (FIFTH AMENDMENT) AND (FOURTEENTH AMENDMENT), IN SUPPORT BY THE UNITED STATES CONSTITUTION, MR. BRAVO UPON ME BEING (HARRESSED) OVER A (MISIDENTIFICATON) ISSUE, DURING HIS ATTEMPT AT "INTERROGATION" I EXERCISED MY (FIFTH AMENDMENT RIGHT) "RIGHT TO REMAIN SILENT"

IN A ATTEMPT TO GET INCRIMINATING RESPONSES FROM ME DUE TO MY MENTAL ILLNESS MR. BRAVO PROCEDED TO TRY TO (ELICIT) ME BY (ASKING ME QUESTIONS.) IT IS IN(VIOLATION) OF OF MY (FIFTH AMENDMENT) "RIGHT TO REMAIN SILENT," WITH CONSIDERATION OF MY MENTAL ILLNESS, IN SUPPORT OF THE UNITED STATES CONSTITUTION,

STATE V. BUTLER 34, WN. APP. 2d. 614, [*617]

(QUOTING)

BUTLER APPEALS HIS CONVICTION FOR FIRST DEGREE MURDER, DRIVE BY SHOOTING,

STATE V. BUTLER 34. WN, APP, 2d. 614
AND UNLAWFUL POSSESSION OF A[*617] FIREARM
FIRST DEGREE, HE ARGUES THE TRIAL COURTS ERRED
BY ADMITTING THE BOOKING FORM, THAT ASKED
FOR AND CONTAINED HIS MAILING ADRESS, THE
SAME ADRESS AS BAILONS, HE ARGUES THE
ARRESTING OFFICER SHOULD OF KNOWN THAT
A REQUEST FOR HIS MAILING ADRESS WAS
REASONABLY LIKELY TO (ELICIT) A INCRIMINATING
RESPONSE,

IN BUTLERS CASE, THE OFFICER ASKED BUTLER
A QUESTION IN ORDER TO ATTEMPT TO GET A
POTENTIAL INCRIMINATING RESPONSE, TO LINK HIM
TO A POTENTIAL CRIME, TO (ELICIT) A CITIZEN
OR A DEFENDANT(IT IS IN(VIOLATION)OF
THE (FIFTH AMENDMENT) IN SUPPORT BY THE
UNITED STATES CONSTITUTION

EVERY CITIZEN HAS THE FUNDAMENTAL
RIGHT TO A FAIR TRIAL, AS A CITIZEN OF
THE UNITED STATES HE OR SHE HAS THE RIGHT
TO EXERCISE HIS OR HER "RIGHT TO REMAIN
SILENT,"

WHEN IN THE PRESENSE OF LAW ENFORCEMENT
OR UNDER THE COURT OF LAW,

WASH, RAP. 2.5 (CITATION)

RULE 2.5 CIRCUMSTANCES WHICH MAY AFFECT THE SCOPE
OF REVIEW, MANIFEST ERROR AFFECTING (CONSTITUTIONAL RIGHT,

IN MY CASE, I AM A CITIZEN OF A WRONGFUL CONVICTION, APPEALING THE CONVICTION PRO SE, IN ORDER TO SUSTAIN MY RIGHTS, AND CONSTITUTIONAL M RIGHTS AS A CITIZEN, SO I CAN GET BACK TO PURSUING MY CARREER AS A LISENCED TATTOO ARTIST, AND WORK ON MY MENTAL HEALTH,

STATE V. POTTER

UPON BEING A (VICTIM) OF A (MISIDENTIFICATION) AND BEING HARRASSED BY LAWENFORCMENT, I WAS ARRESTED DUE TO SOMEONE COMMITING A CRIME OF MURDER, ASSULT, WITH A FIREARM, DETECTIVE BRAVO HAD ATTEMPTED A "INTERROGATION AND I EXERCISED MY CONSTITUTIONAL RIGHT, "THE RIGHT TO REMAIN SILENT" UNDER THE (FIFTH AMENDMENT) IN SUPPORT BY THE UNITED STATES CONSTITUTION,

AND OFFICER BRAVO PROCEEDED TO TAKE ADVANTAGE OF MY RIGHT, AND SITUATION, MENTAL HEALTH, BY ASKING ME QUESTIONS IN ORDER TO (EUCIT) POTENTIAL INCRIMINATING RESPONSE, TO TRY TO LINK ME TO A CRIME THAT HE ALLEGED HAD OCCURED, I SUFFER FROM A DISORDER CALLED (PHYCHOTIC DELUSIONAL DISORDER) IN WHICH I WAS IN A ACTIVE DELUSION WHEN MR, BRAVO HAD ME IN CUSTODY, I DID NOT BELIEVE HE WAS A REAL POLICE OFFICER, AND I DID NOT FEEL SAFE

TALKING TO HIM WITHOUT A "REAL LAWYER OR ATTOURNEY," AND I FELT HE WAS TRYING TO TAKE ADVANTAGE OF MY MENTAL ILLNESS, TO TRY TO FIND ME GIULTY OF A CRIME, IN WHICH I DO NOT RECALL BEING INVOLVED IN A CRIME, OR AT A CRIME SCENE, DUE TO THE FACT I WAS ON BADGER MOUNTAIN AT A RESIDENCE NEAR FAMILY, I BELIEVE I HAVE A (ALIBI) AND THE CHARGES SHOUID BE PURSUED ELSE WHERE.

"DETECTIVE BRAVO"

ATTEMPTED TO DEPRIVE ME OF MY RIGHT TO A FAIR TRIAL, (ELICIT) AND HAD NO REGAURDS TO MY CONSTITUTIONAL RIGHTS AS A WORKING CITIZEN, OR ANY REGAURDS TO MY MENTAL ILINESS,

"IT IS CONSTITUTIONAL OBLIGATION TO ASURE ITSELF OF THE DEFENDANTS COMPETENCE."

WASH, RAP 2,5 CITATION

RULE 2.5, CIRCUMSTANCES WHICH MAY AFFECT THE SCOPE OF REVIEW. (3) MANIFEST ERROR AFFECTING CONSTITUTIONAL RIGHT.

IN REGAURDS TO COURTS OPINION AUGUST 21, 2025 (CONVICTION OF CRIMES) ONE COUNT OF FIRST DEGREE (PREMEDITATED) MURDER, CRIME OF TWO COUNTS OF FIRST DEGREE ASSULT, AN A CRIME OF ONE COUNT OF UNLAWFUL POSSESSION OF A FIREARM.

I OBJECT TO THESE CHARGES ABOVE, AS I WAS NOT INVOLVED IN THE PHYSICAL ASSUIT AN DEATH OF AIYSSA LONGWELL, OR NEAR ANY CRIME SCENE, IN 2023 WHEN HER LIFE WAS TAKEN.

GIASSMAN 175, WN, 2d, AT, 702. 707, 708, OUR SUPREME HELD ~~THAT~~ BY EXPRESSING HIS PERSONAL OPINION OF GIASSMANS GUILT THROUGH BOTH (SLIDESHOWS,) AND HIS CLOSING ARGUMENTS, THE PROSECUTOR ENGAUGED IN (MISCONDUCT) GIASSMAN (707) THE COURT ALSO HELD THERE WAS A (SUBSTANTAL LIKELYHOOD) THAT THIS (MISCONDUCT) AFFECTED THE JURYS VERDICT, (708) THE COURT NOTED THAT VISUAL ARGUMENTS MANIPULATE AUDIENCES BY HARNESSING RAPID UNCONSCIOUS OR EMOTIONAL REASONING PROCESSES

AND BY EXPLOITING THE FACT THAT WE DO NOT GENERALLY QUESTION THE RAPID CONCLUSIONS WE REACH BASED ON VISUALLY PRESENTED INFORMATION,

IN THE OPINION OF AUGUST 21, 2025 AS IN "GIASSMAN" THE STATES SLIDES COMBINED WITH ITS ORAL ARGUMENT CONSTITUTED (PROSECUTORIAL MISCONDUCT) WARRANTING (REVERSAL)

STATE V. POTTER

IN THE STATES CASE THE PROSECUTOR HAS ENGAUGED IN MULTIPLE ACTS OF (MISCONDUCT) (PROSECUTORIAL MISCONDUCT) THE STATE RELIED ON DARREN ESTES, AND HIS DAUGHTER S.E. AS WITNESS TESTIMONY, AND THE COURTS IN THIS CASE PRESENTED (SLIDE SHOWS) OF THE ESTES CLAIMS OF ASSUIT, AND A EXECUTION STYLE HOMICIDE THAT WAS LATER IDENTIFIED AS (ALYSSA LONGWELL) BASED ON CLAIMS OF ESTES, THE PROSECUTOR PRESENTED PHOTOS OF THE ESTES VEHICLE, BUT DID NOT PROVIDE (SPECIFIC PHOTOS) TO COLLABARATE THE ESTES CLAIMS OF A PERSON SHOOTING AT THERE VEHICLE, PHOTOS THAT WERE NOT PROVIDED AT (TRIAL COURT) WERE (DAMAGES) TO THE ESTES VEHICLE TO (PROVE) THE (ASSULT OCCURED),

(LIKE IN "GIASSMANS" CASE)

175 WN. 2d, AT, 702

(AUTOPSY REPORTS) AISO DISCREDIT THE ESTES CIAIMS OF A EXECUTION STYE MURDER,

STATE V. POTTER

HERE THE PROSECUTOR HAS ENGAUGED IN (MISCONDUCT) BY SUPPORTING THE ESTES CIAIMS, IN (TRIAL COURT) REGAURDING POTENTAL EUIDENCE THAT WAS NOT PRESENTED, OR NOT TRUE,

"POTENTIAL EUIDENCE MEANING PHOTOS OF (DAMAGES) TO ESTES UEHICIE ON THE (HOOD OF HIS TRUCK) NOT PRESENTED,"

ESTES CIAIMED THE SUSPECT SHOT HIS TRUCK IN MUITIPIE PIACES, WHICH EUIDENCE WAS NOT PROUIDED, TO PROUE ALL HIS ALIEGATIONS,

THE PROSECUTOR HAS AISO ENGAUGED IN ANOTHER ACT OF (MISCONDUCT) BY EXPRESSING HIS (PERSONAL OPINION) OF POTTERS GIUT THROUGH (SIIDE SHOWS) PRESENTED AT TRIAL THAT DID NOT PROUE THE CREDIBILITY OF THE ESTES CIAIMS, FOIIOWED BY THE PROSECUTORS CIOSING ARGUMENTS HE HAS FORMED A OPINION BASED ON THE (INSUFFICENT EUIDENCE) OF THE ESTES CIAIMS,

IN ANOTHER ACT OF (MISCONDUCT)

IN ATTEMPT TO TAKE ADUANTAGE OF A CITIZEN, THE STATE PROUIDED (INSUFFICENT IMFORMATION) TO THE JURY IN ORDER TO REACH A UERDICT FORMED ON THE PROSECUTORS OPINION, (PERSONAL OPINION)

THIS FACTOR DRASTICLY AFFECTED THE JURYS DECISION MAKING, AND THOUGHT PROCESSES WHEN FORMING A VERDICT, THIS HAS ALSO CAUSED THE JURY TO FORM BIAS OPINIONS OF THERE OWN AS TO MY APPERANCE BASED ON MY TATTOOS, FROM MY LINE OF WORK AS A LISENCED TATTOO ARTIST, MAKING THE JURY (PREJUDICE)

AFTER THE STATE HAS FORMED HIS PERSONAL OPINION, HE PRESENTED IT IN THE (TRANSCRIPTS) AND THE (AUGUST 21, 2025) (UNPUBLISHED OPINION) TRYING TO MAKE ME APPEAR GUILTY TO THE PUBIC, AND THE COURTS, AFTER TAKEN ADVANTAGE OF MY CONSTITUTIONAL RIGHTS, IN ORDER TO CONVICT SOMEONE, BECAUSE HIS COUNTY'S POICE DEPARTMENT FAILED TO PRESERVE A CRIME SCENE, AND FAILED TO APPREHEND THE REAL SUSPECT,

SHORTLY AFTER, HIS PERSONAL OPINION WAS UNPUBLISHED THROUGH THE COURT OF APPEALS, "DOUGLAS COUNTY"

DECIDED TO (VACATE) A CRIME AND CHARGE AGAINST ME OF TWO COUNTS OF INTIMIDATING A WITNESS, FOR (PREJUDICAL) AND INSUFFICENT EVIDENCE, ([redacted])

MR. EDGAR, HAS ALSO ENGAUGED IN (PROSECUTORIAL MISCONDUCT) WHEN HE (VOUCHED) FOR A ALLEGED WITNESS, TO "BOISTER" OR TO "VOUCH" FOR A WITNESS, OR ALLEGED WITNESS, HE (VOUCHED) FOR WITNESS TESTIMONY THAT WAS (VACATED) BECAUSE OF CREDIBILITY ISSUE, IT WAS NOT PRESENTED AT TRIAL COURT IN SUPPORT WITH CLAIMS, THE ESTES CLAIMS WERE (VACATED) FOR (PREJUDICAL REASONS), HE HAS EXPRESSED HIS PERSONAL BELIEF AS TO THE VERACITY OF A WITNESS, OR ALLEGED WITNESS,

(PROSECUTORIAL MISCONDUCT)

CAN BE PROVIN BY A DEFENDANT IF THE PROSECUTING ATTOURNEYS REMARKS WERE (IMPROPER) OR (PREJUDICAL)

- IN RE PERS, RESTRAINT OF GLASSMAN, 175 WN. 2d. 696

IN SUPPORT OF THE UNITED STATES CONSTITUTION, THE RIGHT TO A FAIR TRIAL IS A FUNDAMENTAL LIBERTY SECURED BY THE (SIXTH) AND (FOURTEENTH) AMENDMENTS, TO THE UNITED STATES CONSTITUTION,

(PROSECUTORIAL MISCONDUCT)

MAY DEPRIVE A DEFENDANT OF HIS OR HER RIGHT TO A FAIR TRIAL, IN WHICH MY RIGHTS TO A FAIR TRIAL HAVE BEEN DEPRIVED AND VIOLATED DUE TO (MISCONDUCT) AND (CONSTITUTIONAL) DEPRAVATION,

"DALTON SCOTT POTTER"
AS THE VICTIM, OF A WRONGFUL CONVICTION,
AND THE DEFENDANT,
IT WAS ALSO PROSECUTORIAL MISCONDUCT
FOR "DOUGLAS COUNTY" SUPERIOR COURTS
TO "ABUSE ITS DISCRETION" IN REFRENCE
BURDEN OF PROOF

IN REFERENCE TO "GLASSMAN" 175 WN.
2d. AT. 707 THE PROSECUTOR ~~AIAS~~ COMITTED
ACTS OF (MISCONDUCT) BY FORMING PERSONAL
OPINION BASED ON THE VERACITY OF WITNESS
TESTIMONY, AND AFFECTED THE VERDICT OF
THE JURS SUBSTANTIALLY, AND VIOLATED
MY RIGHTS AS A CITIZEN OF THE
UNITED STATES,

- CONCLUSION,

(CITATION)

WASH, CRR, 7.5, (RULE 7.5) (A) (2) (5) (6) (8)
"NEW TRIAL"

(A) GROUNDS FOR NEW TRIAL.
(2) MISCONDUCT OF THE PROSECUTION OR JURY
(6) ERROR OF LAW OCCURING AT TRIAL AND OBJECTED TO AT
THE TIME BY THE DEFENDANT,
(8) THAT SUBSTANTIAL JUSTICE HAS NOT BEEN DONE, WHEN
THE MOTION IS BASED ON MATTERS OUTSIDE THE RECORD,
THE FACTS SHALL BE SHOWN ON AFFIDAVIT

YOUR GOING TO SEE IN THIS CASE THAT I AM INOCENT, AND A SUBSTANTIAL AMOUNT OF ERRORS IN REGAURDS TO (CITATION) AND MY CONSTITUTIONAL (RIGHTS) BEING (VIOLATED) THIS IS A CASE OF (MISCONDUCT) AT ITS FINEST. THE ENTIRE CASE IS BASED ON INSUFFICENT EVIDENCE, A REVIEW IS NESSACARY, THE (PROSECUTORS PERSONAL OPINION) IN THIS CASE WAS BASED ON INSUFFICENT WITNESS TESTIMONY, AND THERE IS A REASON FOR IT, THERE ENTIRE TESTIMONY IS CONTRADICTION, THIS IS A CASE WHERE A ASSUIT, MURDER ALLEGEDLY OCCURED, WITH A FIREARM, I WAS TESTED BY WASHINGTON STATE CRIME LAB FOR (GUN SHOT RESIDUE) AND I (TESTED NEGATIVE) WHICH WOUID INDICATE I DID NOT FIRE A FIREARM AT ANYTIME, THE TRIAL COURTS "ADUSED ITS DISCRETION" THE POLICE OFFICER THAT TRANSPORTED THE ALLEGED MURDER WEAPON WAS CHARGED WITH A PRIOR CONVICTION FOR THEFT, AND SWITCHING OUT PRICETAGS ON ITEMS AT A STORE HE PURCHASED, (BRADY VIOLATION) THIS CASE IS BASED ON (MISIDENTIFICATION) AND (INSUFFICENT EVIDENCE) FOR A REASON.
I WOUID LIKE MORE TIME TO ARGUE THIS CASE I AM ON A (30 DAY) TIME FRAME SO I DIDNT HAVE ENOUGH TIME TO ADRESS THE SUBSTANTIAL CRIMES COMMITTED BY THE COURTS, AND SUBSTANTIAL GROUNDS FOR RILEF, THERE ARE

I MOST OF ALL WANT TO ARGUMENT INEFFECTIVE ASSISTANCE OF
(COUNSEL), THERE IS A SUBSTANTIAL AMOUNT OF (MISCONDUCT)
ON BEHALF OF PROSECUTION, TRIAL COURT,
IMPROPER STATEMENTS, SOME (PREJUDICE)
AND (PREJUDICAL) ISSUES THAT NEED ADDRESSED,
TESTIMONY THAT HAS BEEN (VACATED) FOR
A WIDE NUMBER OF REASON, (PREJUDICAL)
(IMPEACHMENT) REASON, (BRADY VIOLATION,)
POTENTIAL SUPPRESSION OF EVIDENCE,
(OBJECTION), MANY OTHER FACTS, CITATIONS,
VIOLATIONS I WANT TO ADRESS, I AM IN
A TIME CRUNCH WITH THE (30 DAY) TIME
PERIOD.

I WOULD LIKE TO ADRESS THE INSUFFICENCY
OF THIS CASE, AND OBJECT TOO CONVICTION
THROUGH (PERSONAL RESTRAINT PETETION) WITH
AND AT THE COURTS DISCRETION, IN WHICH THERE
ARE GROUNDS FOR RELIEF, 9/18/25

RESPECTFULLY SUBMITTED,

Sincerely, Dalton Potter

DATE: 9/18/25

DALTON POTTER

ADRESS: DALTON POTTER / PETITIONER
WASHINGTON STATE PENITITARY
1313 NORTH 13TH AVENUE
WALLA WALLA, WA, 99362
(NO. 104522)

APPELLANT / PETITIONER

E-Filing

September 18, 2025 - 1:55 PM

Transmittal Information

Filed With Court:	Supreme Court
Appellate Court Case Number:	1045522
Appellate Court Case Title:	State of Washington v. Dalton Scott Potter
Trial Court Case Number:	23-1-00010-6

DOC filing on behalf of POTTER - DOC Number 366359

The following documents have been uploaded:
DOC1pWAL1-1-061_20250918_135328.pdf

The DOC Facility Name is Washington State Penitentiary
The E-Filer's Last Name is POTTER
The E-Filer's DOC Number is 366359
The Case Number is 1045522
The entire original email subject is 15,POTTER,366359,1045522,1OF1

The following email addresses also received a copy of this email and filed document(s):
DCPAintake@co.douglas.wa.us,wagoed@nwi.net

FILED
AUGUST 21, 2025
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

STATE OF WASHINGTON, Respondent, v. DALTON SCOTT POTTER, Appellant.	)))))))))	No. 40159-6-III UNPUBLISHED OPINION

MURPHY, J. — A jury found Dalton Potter guilty of one count of first degree (premeditated) murder, two counts of first degree assault, two counts of intimidating a witness, and one count of first degree unlawful possession of a firearm.

Potter appeals, alleging: (1) insufficient evidence was presented to support the convictions for intimidating a witness, (2) insufficient evidence was presented to support the premeditation element of the first degree murder conviction, and (3) the trial court abused its discretion when it found Potter was competent to stand trial. Potter does not challenge the sufficiency of the evidence to convict him of assault and unlawful possession of a firearm.

We agree that insufficient evidence was presented at trial to support the two convictions for intimidating a witness, but disagree that any other error occurred. Although the convictions for intimidating a witness must be vacated for insufficient evidence, resentencing is not required for the reasons discussed below.

We remand for the trial court to vacate with prejudice the two convictions for intimidating a witness, but otherwise affirm.

FACTS

Background

On a winter evening, Darren Estes and his minor daughter, S.E.,[1] were travelling up Badger Mountain Road in Douglas County. S.E. was driving, working to satisfy a requirement for her supervised driver's education hours. They came upon a lime green Kia stopped in the middle of the road with its flashers activated. S.E. passed the Kia and continued on. S.E. was driving slower than the posted speed limit due to the winter conditions. The same Kia they had gone by earlier then drove up behind S.E. and passed. S.E. continued driving until she again encountered the Kia. It was now rolling slowly and

[1] To protect the privacy interests of the daughter, who was a minor at the time of the events in this case, we refer to her by her initials. *See* Gen. Order 2012-1 of Division III, *In re Use of Initials or Pseudonyms for Child Victims or Child Witnesses* (Wash. Ct. App. June 18, 2012), https://www.courts.wa.gov/appellate_trial_courts/?fa=atc.genorders_orddisp&ordnumber=2012_001&div=III.

then came to an abrupt stop. At this point, Estes instructed his daughter to drive any further, stating, "something's going on," with S.E. stopping their vehicle approximately 100 to 150 feet behind the Kia. 2 Rep. of Proc. (RP) (Oct. 24, 2023) at 661-63.

As they watched, the driver's side door of the Kia slowly opened and what looked like a purse fell out. Estes then observed a woman, later identified as Alyssa Longwell, pushing herself out of the Kia:

> Q. And what—what—what—what is the motion that's she's making that leads you to believe she's pushing herself away? Well—what is she doing with her arms and legs?
>
> A. Well, normally when people, I'm guessing, get out of the car, they open the door, they turn and step out. But the door just kind of came ajar and she pushed backwards out onto her hip, onto the road.
>
> Q. And—okay. So, she pushes backwards, lands on her hip on the road. And what other motion does she make as she's doing that?
>
> A. Moving away from the car on her back.

2 RP (Oct. 24, 2023) at 664. Similarly, S.E. testified Longwell "fell out sideways" from the car and "roll[ed] onto her back." 2 RP (Oct. 24, 2023) at 718.

Estes and S.E. both testified that with Longwell still on the ground, a man, later identified as Dalton Potter, also exited the Kia. Estes described that Potter "popped out of the same door" that Longwell exited by appearing to "crawl[] over the seat with the steering wheel and got a leg out and stood up immediately." 2 RP (Oct. 24, 2023) at 665. S.E. testified that Potter came out of the same door the woman fell out of, and he "just kind of stepped out, feet first," and then straddle[d Longwell's body while positioned] . . .

toward[ ] her feet." 2 RP (Oct. 24, 2023) at 719.

At this point, Estes and S.E. observed Potter raising a gun and firing multiple shots at Longwell. Estes described the shooting as: "Execution, maybe two and a half feet? Three feet?" 2 RP (Oct. 24, 2023) at 695.

As soon as Estes noticed Potter firing the gun, he "knew that [he and his daughter] were in trouble" and he told his daughter "get down and get the car into reverse." 2 RP (Oct. 24, 2023) at 667. Estes then heard another gunshot with a bullet going through the front and rear windows of their vehicle, with glass going everywhere, and the bullet eventually hitting the tailgate. Another shot was fired that ricochetted off the hood of their vehicle before hitting the windshield in front of the driver's seat. S.E. was able to shift into reverse and then back up some distance before turning the vehicle to head back down the mountain.

As S.E. got the vehicle moving backward, Estes saw Potter get into the Kia and drive off in the opposite direction, leaving Longwell's body in the road. Concerned for their safety and wanting to relay as much information as soon as possible while it was fresh in his memory, Estes called 911 as they began driving down the mountain. Estes also wanted to seek medical care for S.E., who was concerned about glass in her eyes, and glass imbedded in her hand and eyebrow. Estes and S.E. had travelled only about four miles back down the mountain when they encountered the first law enforcement

vehicle responding to the call. At that point, Estes had S.E. pull over and he took over driving. Estes drove them directly to a hospital emergency room. Additional law enforcement were already at the hospital by the time Estes and S.E. arrived.

Law enforcement eventually apprehended Potter, who was found at a stranger's residence near the scene of the shooting. Longwell was declared dead at the scene.

Pretrial and trial proceedings

Prior to trial, defense counsel requested a mental health competency evaluation of Potter pursuant to RCW 10.77.060. Counsel submitted a declaration in support of the motion, attesting that Potter "presents an inability to participate in conversations with me in any meaningful way, making it difficult, if not impossible for me to assist him in any meaningful way." Clerk's Papers (CP) at 52.

The State opposed the motion for a mental health evaluation, noting that "the record before the Court weighs considerably against doubting [Potter]'s competence." CP at 63. According to the State, Potter at his two previous appearances in court presented as "calm and compliant, with no outbursts, tirades, or incoherent statements." CP at 63. Further, at his preliminary appearance, Potter "asked if he was required to answer questions" with the State pointing out that this was "an intelligent inquiry [by Potter] regarding his legal rights, demonstrating an awareness of his surroundings and the nature of the proceedings against him, and exhibiting a participation in his own defense

by invoking his [Fifth] Amendment [to the United States Constitution] right to remain silent." CP at 63.

On February 14, 2023, the trial court granted the defense motion, ordered a mental health competency evaluation for Potter, and appointed a licensed psychologist/forensic evaluator with the Department of Social and Health Services (DSHS) to conduct the evaluation. On February 22, the psychologist, in the presence of Potter's assigned counsel, attempted to interview Potter from the doorway of Potter's jail cell. Potter's counsel and the psychologist both explained their role and the purpose of the meeting, but Potter did not directly respond. He instead looked at the wall near the cell door and stated several times that he wished to speak to "'an attorney or lawyer.'" CP at 96-97. After about five minutes of attempting to engage with Potter, the interview was terminated.

A competency evaluation report was completed on March 6 and filed with the court the following day. The psychologist states in their report that an interview was conducted with Potter's father, and a document review included discovery materials, mental health notes from jail personnel, and healthcare records, and they also reviewed audio recordings from trial court hearings. It was the psychologist's opinion that Potter was not challenged in communicating clearly and effectively, with it noted that Potter did communicate easily and effectively with jail staff, medical professionals, his father, and, when in the court, consistently addressed the judge as "Your Honor." CP at 91-95.

The conclusion reached by the psychologist was that Potter did not display active symptoms of a mental illness, and that Potter possessed the capacity to understand the nature of the proceedings and assist in his own defense.

During a subsequent hearing, defense counsel did not object to Potter being found competent, but did voice apprehension about how evaluation was performed. Specifically, defense counsel was concerned about the duration and quality of the attempted interview of Potter, and various issues with the quality of the information relied on to complete the report. Defense counsel commented that he originally intended to object to the competency finding and retain an expert to evaluate Potter, but decided not to do this because "competency is a very low bar and [the psychologist did] make some explanations in [the evaluation], and I'm not a doctor." 1 RP (Feb. 14, 2023) at 71.

The trial court determined Potter was competent to proceed. In its oral ruling, the trial court provided the following reasoning:

> [T]he Court did review [the licensed psychologist/forensic evaluator's] report and I appreciate [defense counsel] noting for the record . . . some of your concerns. However, the Court also noted the following, and most importantly the conclusion is that [the psychologist/evaluator] opines that Mr. Potter does not suffer from any psychotic disorder. There's no evidence of delusional ideation, no mental disease or defect. There's no evidence of self-harm of suicidal ideation or imminent risk to self or to others, and there's no evidence that his refusal to participate in the proceedings are a result of a mental disease or defect, and he has the capacity to . . . assist his defense counsel, if he so chooses, and understands the nature of the proceedings against him. And the Court is also mindful of what's called

> the Dusky, D-u-s-k-y standard that is referenced therein, and the case law that surrounds that.
>
> So, based upon the Court's review of the report and the data that was obtained from various sources, the Cour[t] will enter an order finding Dalton Scott Potter competent, and sign the order as proposed.

1 RP (Mar. 7, 2023) at 75-76.

It was discussed during this hearing, with Potter present, that notwithstanding entry of the current competency order the defense retained the right to request a second evaluation by someone outside of the DSHS framework, at any time, including during trial. There is no indication in the record on review that a second evaluation was requested from the court by the defense, or anyone else, at any time thereafter.

While not directly related to the competency issue, shortly after the competency order was entered an investigation did occur into various concerns raised by Potter related to his incarceration. The individual assigned to the incarceration issue began that investigation with the attempt to speak with Potter, who was noted to be "apprehensive about speaking" with the investigator. CP at 672. Potter "declined wanting to be interviewed but then began to speak freely" with the investigator noting, "Potter's demeanor was courteous, respectful, non-combative and matter of fact. He was speaking in complete sentences, and emoted when he spoke, and appeared passionate about his plight." CP at 672.

After a jury trial, Potter was found guilty of one count of premeditated first degree

murder, two counts of first degree assault, two counts of intimidating a witness, and one count of first degree unlawful possession of a firearm.[2]

Posttrial, defense counsel appended to their sentencing memorandum a letter to the court, dated December 1, 2023, from a licensed psychologist who had been retained by the defense in June 2023 to evaluate Potter's mental status. Defense counsel took the position that Potter's diminished capacity was a mitigating circumstance that permitted the court to impose an exceptional sentence downward. *See* RCW 9.94A.535(1)(e). The psychologist noted in their letter that they were hired "to evaluate [the mental status of] Mr. Potter pursuant to RCW 10.77," and indicated that they had:

> "reviewed discovery materials for the case, and interviewed Mr. Potter on two occasions within the Chelan County Regional Justice Center. Prior to these interviews, I received and reviewed historical medical and mental health records provided to me by [defense counsel]. These records shed light on Mr. Potter's history of diagnosed mental illness and subsequent treatment which preceded his current legal involvement. Ultimately, a report was not authored in this matter due to Mr. Potter's reluctance to provide the necessary and relevant information to form an opinion with clinical certainty."

CP at 642.

The trial court sentenced Potter to 637 months in prison. He timely appeals.

[2] The two assault convictions and two intimidating a witness convictions arose from the same set of facts: Potter firing shots at Estes and S.E.

ANALYSIS

Sufficiency of the evidence: intimidating a witness

Potter argues that the evidence presented at trial was insufficient to support the two convictions for intimidating a witness. The State concedes on this issue and agrees with Potter that these convictions should be dismissed.

The due process clause of the Fourteenth Amendment to the United States Constitution "protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which [they are] charged." *In re Winship*, 397 U.S. 358, 364, 90 S. Ct. 1068, 25 L. Ed. 2d 368 (1970). "A defendant's challenge to the sufficiency of the evidence requires the reviewing court to view the evidence in the light most favorable to the State and determine whether any rational trier of fact could have found the elements of the charged crime beyond a reasonable doubt." *State v. Brown*, 162 Wn.2d 422, 428, 173 P.3d 245 (2007) (citing *State v. Hosier*, 157 Wn.2d 1, 8, ¶ 9, 133 P.3d 936 (2006); *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992)). "All reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant." *Id*.

The jury was instructed that:

> To convict the defendant of the crime of intimidating a witness, . . . each of the following elements of the crime must be proved beyond a reasonable doubt:

> (1) That on or about January 21, 2023, the defendant by use of a threat against a current or prospective witness, . . . attempted to influence the testimony of that person or induce that person to absent [themselves] from an official proceeding; or induce that person not to report the information relevant to a criminal investigation; and
> (2) That this act occurred in the State of Washington.
>
> If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.
>
> On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

CP at 539, 542. This instruction is in accord with RCW 9A.72.110(1)(a)-(d).[3]

RCW 9A.72.110 criminalizes "threats made to induce a person not to report a crime and, necessarily, threats made before an investigation is commenced." *State v. James*, 88 Wn. App. 812, 817, 946 P.2d 1205 (1997). It is not necessary to intend that the threat be actually communicated to the victim. *See State v. Hansen*, 122 Wn.2d 712, 719, 862 P.2d 117 (1993); *State v. Ozuna*, 184 Wn.2d 238, 247, 359 P.3d 739 (2015) ("[A] threat need not be communicated to the threat's target but instead can be communicated indirectly to a third party.") However, the defendant must communicate the threat to

[3] "(1) A person is guilty of intimidating a witness if a person, by use of a threat against a current or prospective witness, attempts to: (a) [i]nfluence the testimony of that person; (b) [i]nduce that person to elude legal process summoning him or her to testify; (c) [i]nduce that person to absent [themselves] from such proceedings; or (d) [i]nduce that person not to report the information relevant to a criminal investigation. . . ." RCW 9A.72.110(1)(a)-(d).

someone. *See Ozuna*, 184 Wn.2d at 247.

When asked by the State if he had concerns about "retaliation for what [he] observed," Darren Estes testified that he was concerned at the time the shooting took place, and still had concerns, because he "witnessed a murder and . . . was unaware of the situation, who the people were and what they were capable of." 2 RP (Oct. 24, 2023) at 684. When asked if she had concerns about her safety after the shooting ended, S.E. testified that she was concerned "[b]ecause [she] didn't know if the car was going to turn back around." 2 RP (Oct. 24, 2023) at 734. While this and other testimony from Estes and S.E. conveyed that they were each concerned about retaliation and safety, it more properly supports the charge that Potter assaulted Estes and S.E. by firing shots at them, not that he was attempting to intimidate them.[4] The evidence at trial was insufficient to prove that Potter shot at Estes and S.E. to intimidate them from testifying or to influence their testimony.

We remand for the trial court to vacate with prejudice the two convictions for intimidating a witness. Resentencing is not required for two reasons. First, Potter's offender score will not change on remand. The score was not increased by either conviction at the original sentencing because the trial court concluded that both of the

[4] The jury was instructed on the elements of the crime of first degree assault as to both Estes and S.E. *See* CP at 537, 538.

intimidating of witness offenses were the same criminal conduct as their corresponding assault offenses. *See* RCW 9.94A.589(1)(A) (Current offenses are counted as one crime if the trial court enters a finding that both offenses were the same criminal conduct.). Second, the trial court imposed the minimum standard range sentences for the assault convictions. Had the trial court imposed anything other than the minimum sentences for those convictions, Potter would have been entitled to argue for a lower standard range sentence due to the vacation of the two intimidating a witness convictions. Resentencing is not required when an offender score change does not affect the standard range unless the trial court indicated its intent to sentence at the low end of the sentencing range. *See State v. Kilgore*, 141 Wn. App. 817, 824-25, 172 P.3d 373 (2007) (*Kilgore* I), *aff'd*, 167 Wn.2d 28, 216 P.3d 393 (2009) (*Kilgore* II) (plurality opinion); *see also State v. Fleming*, 140 Wn. App. 132, 138, 170 P.3d 50 (2007); *State v. Argo*, 81 Wn. App. 552, 915 P.2d 1103 (1996).

Sufficiency of the evidence: premeditated element of first degree murder

Potter argues insufficient evidence was presented to support the premeditation element of the first degree murder conviction. He claims that the State did not present evidence of stealth or motive, or of how he obtained the firearm, or what happened inside the Kia driven by Alyssa Longwell before the shooting. Further, Potter argues that there was no evidence of any contextual fact about the relationship between Potter and

Longwell on the day of the shooting, nor was there evidence of statements made by Potter related to the incident. Potter argues that given this lack of evidence, the premeditated first degree murder conviction should be vacated and the case should be remanded for imposition of the lesser included offense of second degree murder. We disagree.

"In considering a sufficiency of the evidence challenge, we must determine 'whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" *State v. Condon*, 182 Wn.2d 307, 314, 343 P.3d 357 (2015) (quoting *State v. Luvene*, 127 Wn.2d 690, 712, 903 P.2d 960 (1995)). "We accept the State's evidence as true and view all reasonable inferences in favor of the State," with "[c]ircumstantial evidence . . . considered to be as reliable as direct evidence." *State v. Stewart*, 141 Wn. App. 791, 795, 174 P.3d 111 (2007). "Premeditation may be proved by circumstantial evidence where the inferences drawn by the jury are reasonable and the evidence supporting the jury's finding is substantial." *State v. Pirtle*, 127 Wn.2d 628, 643, 904 P.2d 245 (1995) (citing *State v. Gentry,* 125 Wn.2d 570, 597, 888 P.2d 1105 (1995)).

"'Premeditation must involve more than a moment in time; it is defined as the deliberate formation of and reflection upon the intent to take a human life and involves

the mental process of thinking beforehand, deliberation, reflection, weighing or reasoning for a period of time, however short.'" *State v. Castro DeJesus*, 7 Wn. App. 2d 849, 883, 436 P.3d 834 (2019) (quoting *State v. Hoffman,* 116 Wn.2d 51, 82-83, 804 P.2d 577 (1991)). "'Premeditation,'" for purposes of first degree murder, "'is the deliberate formation of a reflection upon the intent to take a human life.'" *State v. Sherrill*, 145 Wn. App. 473, 186 P.3d 1157 (2008) (quoting *Hoffman*, 116 Wn.2d at 82). Examples of evidence supporting a finding of premeditation include: motive, prior threats, multiple wounds inflicted or multiple shots, striking the victim from behind, generally the manner or method of killing, assault with numerous means or a weapon not readily available, and the planned presence of a weapon at the scene. *Hoffman*, 116 Wn.2d at 83; *State v. Bingham*, 105 Wn.2d 820, 827, 719 P.2d 109 (1986); *State v. Rehak*, 67 Wn. App. 157, 164, 834 P.2d 651 (1992).

Here, the jurors were instructed:

> The State alleges that the defendant committed murder in the first degree by one or more of the following means or methods: (a) with premeditated intent or (b) in the course of committing robbery in the first degree. To return a verdict of guilty, the jury need not be unanimous as to which of the alternatives has been proved beyond a reasonable doubt, as long as each juror finds that at least one alternative has been proved beyond a reasonable doubt. You will be given a special verdict form that asks whether the jury was unanimous as to each of the alternatives or unanimous as to one of the alternatives.

CP at 518. After finding Potter guilty of first degree murder, the jurors completed a

special verdict form, finding that Potter caused the death of Alyssa Longwell with premeditated intent but not in the course or furtherance of committing first degree robbery. The jury also responded affirmatively to the following question: "If the jury found the defendant guilty of Murder in the First Degree but the jury was not unanimous on one or both of the alternatives, was the jury unanimous that the defendant . . . committed at least one of the alternatives?" CP at 562. [5]

The trial court instructed the jury on the definition of "premeditated":

> Premeditated means thought over beforehand. When a person, after any deliberation, forms an intent to take human life, the killing may follow immediately after the formation of the settled purpose and it will still be premeditated. Premeditation must involve more than a moment in time. The law requires some time, however long or short, in which a design to kill is deliberately formed.

CP at 521. This instruction is in accord with RCW 9A.32.020.

In this case, the manner and method of how the killing occurred could be viewed by the trier of fact as evidence of premeditation, with a rational juror concluding that there was sufficient evidence to find premeditation beyond a reasonable doubt. Although the State presented no direct evidence of premeditation, there was circumstantial evidence of premeditation. Jurors heard testimony from Darren Estes

[5] The jurors were similarly instructed as to the charge of second degree murder, and instructed on the elements necessary to find Potter guilty of first degree assault of Alyssa Longwell.

and S.E. that they encountered the lime green Kia multiple times on Badger Mountain Road. The last time Estes and S.E. came upon the Kia was when it was ahead of them, with the Kia rolling slowing and then abruptly stopping, which prompted Estes to say out loud, "something's going on" and directing his daughter to stop. 2 RP (Oct. 24, 2023) at 661-63. Estes and S.E. watched as Longwell pushed herself out backward from the vehicle, and then saw Potter navigate through the same driver's side door from the passenger's seat, to stand above Longwell, who was on the ground and attempting to move herself away from Potter. Based on this evidence, a rational trier of fact could reasonably conclude Longwell was trying to retreat from a confrontation with Potter that had started inside the Kia.

Standing over and straddling Alyssa Longwell, Potter pulled the trigger five times with gunshots being inflicted to the back of Longwell's head, her face, the middle of her back, her shoulder, and her leg. There would necessarily have been pauses between the shots fired and the trigger being pulled again and again. The manner of killing was witnessed and described by Darren Estes as an "[e]xecution," 2 RP (Oct. 24, 2023) at 695, with the distance between Potter and Longwell being close, with the lay witness testimony supported by testimony from a forensic witness. The act of Potter crawling from the passenger seat over and through the driver seat, exiting, and then positioning himself such that he was straddling Longwell, and then shooting Longwell multiple times

does constitute more than a moment of time.

Medical examiner Dr. John Lacey testified about his findings from an autopsy of Alyssa Longwell. Dr. Lacey determined that Longwell sustained five discrete gunshot wounds. According to Dr. Lacey, Longwell "had one [gunshot wound] in her face, left cheek coming out below the right side of her jaw. She had one in the back of her head. She had one that just—it's called a graze wound. It just skinned the skin over her left shoulder blade. She had on[e] in her left leg below her knee that came out right above her—her knee, as well." 3 RP (Oct. 27, 2023) at 1360-61. Dr. Lacey opined that the wounds to Longwell's face and left leg were consistent with the shots being fired from a distance of 6 and 24 inches. The angles and trajectory of the various wounds indicated Longwell was moving, and the shooter could also have been moving, at the time the shots were fired.

A rational trier of fact, viewing the eyewitness testimony and forensic evidence, could find the premeditation element of the first degree murder conviction was proved beyond a reasonable doubt. Substantial evidence supports Potter's conviction for premeditated first degree murder.

Competency

Potter argues that the trial court abused its discretion when it found him competent to stand trial based on what he characterizes as a "substandard" evaluation. Appellant's

Opening Br. at 44. Specifically, Potter argues that "[w]hat is most troubling is the [DSHS] evaluator's contradictory statements noting that Mr. Potter did not participate in the interview but there was sufficient data to form an opinion as to his competency." Appellant's Opening Br. at 46. We disagree.

"We review a trial court's competency determination for abuse of discretion." *State v. Ortiz-Abrego*, 187 Wn.2d 394, 402, 387 P.3d 638 (2017). "A court abuses its discretion only when an 'order is manifestly unreasonable or based on untenable grounds.'" *Id*. (quoting *In re Pers. Restraint of Rhome*, 172 Wn.2d 654, 668, 260 P.3d 874 (2011)). "A discretionary decision is 'manifestly unreasonable' or 'based on untenable grounds' if it results from applying the wrong legal standard or is unsupported by the record." *Id*.

"It is a fundamental principle of state and federal law that incompetent defendants may not stand trial. This right is protected by the due process clause of the Fourteenth Amendment." *State v. Coley*, 180 Wn.2d 543, 551, 326 P.3d 702 (2014). "Washington law implements this due process protection by statute. RCW 10.77.050 provides that '[n]o incompetent person shall be tried, convicted, or sentenced for the commission of an offense so long as incapacity continues.'" *Id*.

"Chapter 10.77 RCW governs the procedures and standards trial courts use to judge the competency of defendants to stand trial." *Id*. "[A] defendant is competent to

stand trial if [they have] the capacity to understand the nature of the proceedings against [them] and . . . can assist in [their] own defense." *Id.* at 551-52 (citing former RCW 10.77.010(15) (2010); RCW 10.77.050); *See also Dusky v. United States*, 362 U.S. 402, 80 S. Ct. 788, 4 L. Ed. 2d 824 (1960) (per curiam). "Whenever there is reason to doubt a defendant's competency to stand trial, the court must order an expert to evaluate the defendant's mental condition. [Former] RCW 10.77.060 [(2004)]. Upon the court's own motion or the motion of *any* party, the court may order an evaluation and report on the defendant's mental condition. [Former RCW 10.77.060]. If the court finds the defendant incompetent following an evaluation under [former] RCW 10.77.060, it must stay the proceedings and may commit the defendant for treatment. [Former] RCW 10.77.088 [(2012)]." *Coley*, 180 Wn.2d at 552.

The trial court has "wide discretion in judging the mental competency of every defendant to stand trial or plead guilty." *State v. Dodd*, 70 Wn.2d 513, 514, 424 P.2d 302 (1967). "The trial judge may make [their] determination from many things, including the defendant's appearance, demeanor, conduct, personal and family history, past behavior, medical and psychiatric reports and the statements of counsel." *Id*.

Here, Potter fails to demonstrate that the trial court abused its discretion. Defense counsel's motion for a mental evaluation was based on communication problems with Potter. In a declaration submitted in support of the motion, counsel stated that Potter

"presents an inability to participate in conversations with me in any meaningful way, making it difficult, if not impossible for me to assist him in any meaningful way. I have reason to believe that mental health issues may be involved in this case . . . . In my professional judgment, Mr. Potter is unable to assist me in my defense of his case at this time." CP at 52. The trial court granted the defense motion and ordered a competency evaluation, which was completed by a DSHS licensed psychologist/forensic evaluator. The psychologist concluded that Potter did not display active symptoms of a mental illness and that Potter possessed the capacity to understand the nature of the proceedings against him and to assist in his own defense. Notably, defense counsel did not object to the competency finding made by the trial court, commenting that "competency is a very low bar and [the psychologist did] make some explanations in [the evaluation]." 1 RP (Feb. 14, 2023) at 71. At the same hearing, the trial court acknowledged that defense counsel had the right to request a second evaluation at any time, even after the commencement of trial. For these reasons, it cannot be said that the trial court's competency ruling was manifestly unreasonable or based on untenable grounds.

The trial court properly exercised its discretion in determining competency and made its determination based on the competency evaluation report and statements made by

counsel.[6] The court also had the benefit of its own observations of Potter's appearance and conduct throughout the proceedings. The trial court did not abuse its discretion by finding Potter competent to stand trial.

CONCLUSION

We remand with instructions for the trial court to vacate with prejudice the two convictions for intimidating a witness, but otherwise affirm the judgment and sentence.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.[7]

Murphy, J.

WE CONCUR:

Lawrence-Berrey, C.J.

Fearing, J.

[6] Defense counsel did make a record at the competency hearing, specifically counsel's concerns about how the psychologist/evaluator reached their conclusions.

[7] Almost four months after this appeal was heard, Potter filed in this court a "Motion for Ineffective Assistance of Counsel." In the motion, Potter claims he received ineffective assistance of appellate counsel. We decline to address Potter's motion on appeal, and direct Potter to pursue these claims through a personal restraint petition. *See, e.g.*, *In re Personal Restraint of Morris*, 176 Wn.2d 157, 288 P.3d 1140 (2012).

Tristen L. Worthen
Clerk/Administrator

(509) 456-3082
TDD #1-800-833-6388

The Court of Appeals
of the
State of Washington
Division III

500 N. Cedar St.
Spokane, WA 99201-1905

Fax (509) 456-4288
http://www.courts.wa.gov/courts

August 21, 2025

E-mail
Lise Ellner
Law Offices of Lise Ellner
P.O. Box 2711
Vashon, WA 98070-2711

E-mail
Kyle Bryce Berti
The Law Office of Catherine C. Clark
110 Prefontaine Pl. S., Ste. 304
Seattle, WA 98104-5161

E-mail
Sean Lewis
Douglas County Prosecuting Attorney
213 S. Rainier St.
Waterville, WA 98858

CASE # 401596
State of Washington v. Dalton Scott Potter
DOUGLAS COUNTY SUPERIOR COURT No. 2310001009

Counsel:

Enclosed please find a copy of the opinion filed by the court today.

A party need not file a motion for reconsideration as a prerequisite to discretionary review of this decision by the Washington Supreme Court. RAP 13.3(b), 13.4(a). If a motion for reconsideration is filed, it should state with particularity the points of law or fact that the moving party contends this court has overlooked or misapprehended, together with a brief argument on the points raised. RAP 12.4(c). Motions for reconsideration that merely reargue the case should not be filed.

Motions for reconsideration, if any, must be filed within twenty (20) days after the filing of a decision. RAP 12.4(b). Please file the motion electronically through this court's e-filing portal. If no motion for reconsideration is filed, any petition for review to the Supreme Court must be filed in this court within thirty (30) days after the filing of the decision (should also be filed electronically). RAP 13.4(a). The motion for reconsideration and petition for review must be received by this court on or before the dates each is due. RAP 18.5(c).

Sincerely,

Tristen L. Worthen
Clerk/Administrator

TLW:btb
Attachment
c: **E-mail** Emily Nores, Douglas County Superior Court Administrator
(Visiting Judge Knodell's case)
c: **E-mail** Dalton Scott Potter (DOC #366359 – Washington State Penitentiary)