NO. 99344-1

SUPREME COURT OF THE STATE OF WASHINGTON

IN RE THE PERSONAL RESTRAINT PETITION OF

ROBERT R. WILLIAMS

Petitioner.

DEPARTMENT OF CORRECTIONS' ANSWER TO MOTION FOR DISCRETIONARY REVIEW AND RESPONSE TO AMICUS

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II. INTRODUCTION

Eight months have passed since Williams filed his personal restraint petition, asking for his immediate release from prison based on speculation and conjectures about the Department's response to the unprecedented Covid-19 pandemic. Since that time, the Department has continued its strong and comprehensive Covid-19 response. One third of Department prisons have had no positive Covid-19 cases among the incarcerated population and the mortality rate among incarcerated individuals who have contracted Covid-19 is 0.17%[1], far lower than the 1.3% death rate in Washington.[2] Despite Williams' claim that the Department would not provide him adequate medical care should he test positive for Covid-19, the Department in fact provided Williams an extraordinary level of care—transferring him to a community hospital the day after he reported a symptom; monitoring him in the prison infirmary upon his return, with round-the-clock medical care; and then transferring him to a special medical isolation unit in accordance with the Department's Covid-19 protocol, where he continued to receive round-the-clock medical observation and care until he was cleared to return to general population.

[1] https://www.doc.wa.gov/corrections/covid-19/data.htm#confirmed
[2] https://www.doh.wa.gov/Emergencies/COVID19/DataDashboard

Currently, Williams is able to reside in general population and receives medical care as needed, including evaluation and care in the local hospital as appropriate. He has returned to the Coyote Ridge Corrections Center (Coyote Ridge), which had no active Covid-19 cases among the incarcerated population from mid-August to mid-November 2020, and which has had only 34 active Covid-19 cases in the last 30 days.[3]

The Court of Appeals granted accelerated review of Williams' petition and carefully considered the parties' briefing, evidence, and multiple supplemental filings. The Court of Appeals correctly determined Williams had not demonstrated that he is under unlawful restraint. And there is no basis for ordering Williams' early release from prison. The Court should deny his motion for discretionary review.

III. ISSUES PRESENTED FOR REVIEW

1. Whether the Court of Appeals correctly held that Williams failed to demonstrate unlawful restraint because his conditions of confinement do not violate the Eighth Amendment.

2. Whether the Court of Appeals correctly held that Williams failed to demonstrate unlawful restraint because his conditions of confinement do not violate article I, section 14 of the Washington

[3] https://www.doc.wa.gov/corrections/covid-19/data.htm#confirmed

Constitution, which is not more protective than the Eighth Amendment in this context.

IV. STATEMENT OF THE CASE

Williams is serving a 22.5-year sentence for attempted murder. He entered prison at age 66, is now 78 years old, and will be 85 years old at the time of his earned release date on April 30, 2028. Williams first asked this Court for an emergency release from prison on May 15, 2020, over eight months ago. This Court transferred the matter to the Court of Appeals. The Court of Appeals granted Williams accelerated review of his petition.

In mid-June 2020, the Department filed its response, outlining the extensive efforts the Department had undertaken to combat the introduction and spread of Covid-19 in its prisons and other facilities. *See* Response, at 3-33. This information covered in detail the Department's early identification of the risk of Covid-19, including its robust Health Services and infectious disease prevention program; the early February 2020 activation of the Emergency Operations Center and early March 2020 activation of Incident Command Posts at each prison; the early March 2020 suspension of all in-person visitation and volunteer programs; the Chief Medical Officer, Infectious Disease Physician, and Health Services' creation of the WA State DOC COVID-19 Screening, Testing, and Infection Control Guideline (currently in Version 23); Covid-19 testing performed in

compliance with Department of Health guidelines, then greatly expanded to include serial testing at Coyote Ridge and other prisons; staff and new system intake screening efforts; the reduction of inter- and intra-system transfers; the early April 2020 mandatory face-covering requirement for all staff and incarcerated individuals; the comprehensive personal protective equipment (PPE) requirements; the strict cleaning, disinfection, and hygiene protocols; the widespread social distancing measures; the special precautions for units housing vulnerable populations; the creation of multiple regional care facilities to provide an intermediate level of care to individuals with Covid-19; its substantial compliance with the CDC Correctional Facility Guidelines; the Governor's emergency proclamation and commutation, which allowed for the discretionary early release of over 1,000 incarcerated individuals; and the widespread Covid-19 testing of incarcerated individuals at Coyote Ridge. Response, at 3-28.

This information reiterated and expanded on what this Court considered in *Colvin v. Inslee*, 195 Wn.2d 879, 467 P.3d 953 (2020), and what the Court of Appeals considered in *Matter of Pauley*, 13 Wn. App. 2d 292, 313, 466 P.3d 245 (2020), *review denied*, No. 98586-3 (Aug. 6, 2020). As this Court noted in *Colvin*, the Department developed a multistep plan to combat Covid-19; it "issued social distancing guidelines to offenders in early March 2020, started screening visitors on March 6, and stopped visits

on March 13, all in an effort to prevent the virus from spreading into facilities." *Colvin*, 195 Wn.2d at 886. Additionally, "the Department has tried to follow United States Center for Disease Control and Prevention guidelines by administering screening protocols, creating special procedures for transporting offenders, implementing physical distancing protocols, providing free soap and handwashing facilities, and issuing instructions for facility cleaning and sanitizing" and imposed "an order that all facilities ensure that all staff and offenders wear face coverings." *Id.* at 888. The Court noted that the prison population had been reduced from around 18,000 to just over 16,000.[4] *Id.* at 889. "The Department has implemented a multifaceted strategy designed to protect offenders housed at various facilities, increasing those protections as more information becomes available about the virus and its risks." *Id.* at 901.

In *Pauley*, the Court of Appeals similarly recognized that "[t]he record shows that DOC has taken the threat of COVID-19 seriously and taken reasonable and appropriate steps to mitigate the risk to incarcerated individuals." *Pauley*, 13 Wn. App. 2d at 316.

> DOC has taken significant steps to mitigate the risk to [Petitioner]—including screening everyone entering the facility for symptoms, mandating that staff wear a mask or face covering at all times, providing face coverings for

[4] The most recent Average Daily Population of those in total and partial confinement was 15,111, with 14,626 individuals in prison facilities. www.doc.wa.gov/docs/publications/reports/400-RE002.pdf, *last accessed* Jan. 21, 2020.

> inmates to wear whenever they are unable to social distance, providing unrestricted access to soap and water, implementing PPE requirements for staff when working with symptomatic inmates, reducing the number of inmates congregating in any one common area, isolating people who have confirmed or suspected COVID-19, quarantining those who had contact with confirmed or suspected COVID-19 cases, and increasing the frequency of cleaning common areas. [Petitioner] has not demonstrated why all these safety precautions are inadequate steps to prevent, to the extent possible, the spread of infection in the [prison].

Id.

Here, the Court of Appeals allowed multiple supplemental filings. As a result, the Department provided even more evidence of its robust and thoughtful response to Covid-19, and in particular of the high level of medical care provided to Williams. This included the testing of all staff and incarcerated individuals in the Medium Security Complex at Coyote Ridge in June 2020, the implementation that month of serial testing of all staff, issuing surgical masks, and issuing N95 respirators to staff. In July 2020, the Department expanded serial staff testing and now conducts serial staff testing in all prisons. Supp. Response, at 4-6.

Williams tested positive for Covid-19 in early June 2020, at which point he transferred to a community hospital for treatment, then released to the Airway Heights infirmary. When medically appropriate, he transferred to the Covid-19 medical isolation unit at the Monroe Correctional Complex until he was cleared to return to general population. Supp. Response, at 9.

He has received a high level of medical care since returning to Coyote Ridge in early August 2020, being seen in the Coyote Ridge infirmary, and transferring to a local hospital for testing and observation as appropriate. He has had multiple negative Covid-19 tests. Supp. Response, at 9-10.

In November 2020, multiple staff members at Coyote Ridge tested positive through the Department's serial staff testing. Mot. Supplement, at 2-4. Through contact tracing and widespread serial testing, positive cases were identified and the number of active cases reached 69 before declining to two. Answer to Motion for Release, Exhibit 1, at 2. There have been 34 active cases at Coyote Ridge in the past 30 days.

In his petition, Williams argued that the conditions of confinement in prison amount to an unlawful restraint because he alleges the Department was deliberately indifferent to the risk of Covid-19 in prisons in violation of the Eighth Amendment and that this also violated article I, section 14 of the Washington Constitution. The only remedy he sought was early release from prison to live in Florida at his sister's home. The Court of Appeals granted accelerated review. After reviewing the parties' extensive briefing, including multiple supplemental submissions, the Court of Appeals dismissed the petition. It determined the Department effected reasonable and adequate measures to mitigate the risks of Covid-19, that Williams has received quality medical care, and that he is not entitled to an early release.

On December 28, 2020, the Department began administering Covid-19 vaccines to eligible incarcerated individuals and staff, in accordance with the Department of Health's recommendations for vaccine prioritization and the Centers for Disease Control and Prevention's vaccine guidance. Answer to Motion for Release, Exhibit 1, at 2-3. The Department expects to make the Covid-19 vaccine available to all staff and incarcerated individuals in the coming weeks and months, though this of course depends on the vaccine supply available. At his age, Williams is eligible to receive a vaccine under Washington's Phase 1-B1, now underway.[5]

V. REASONS THE COURT SHOULD DENY REVIEW

This Court will review the denial of a personal restraint petition only if the decision below conflicts with precedent or raises issues of significant constitutional law or substantial public interest. RAP 13.4(b); RAP 13.5A. Here, the Court of Appeals decision is consistent with all the decisions of this Court and the Court of Appeals to consider conditions-of-confinement personal restraint petitions in the context of Covid-19.

As outlined above, this Court considered a substantially similar factual record in *Colvin*. The only difference since then is an expansion of the Department's Covid-19 response, intensifying its initial efforts by

[5]https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/VaccinationPhasesInfographic.pdf

increasing testing, updating its guidance and procedures based on scientific and medical developments, and recently beginning administration of the Covid-19 vaccine. When denying the *Colvin* petitioners' request to convert the writ petition to a personal restraint petition, this Court ruled that, "no evidence here shows that the respondents have acted with deliberate indifference." *Colvin*, 195 Wn.2d at 901. The same is true here.

The narrow, fact-specific questions in this case do not present a significant question of law under the Constitution or Washington Constitution, nor an issue of substantial public issue warranting this Court's review. The application of the Eighth Amendment and Washington Constitution to one unique personal restraint petition does not in itself present a significant question of law under either provision. *See* RAP 13.4(b)(3). This case involves a narrow, highly fact-specific inquiry that is only of interest to the Petitioner himself and is therefore not an issue of substantial public interest that would allow for review by this Court. *See* RAP 13.4(b)(4). The Court should deny discretionary review.

A. Consistent with *Colvin* and All Other Court of Appeals Decisions Considering this Question, the Court of Appeals Correctly Ruled the Department's Comprehensive Response to Covid-19 Cannot Support a Claim of Unlawful Restraint under the Eighth Amendment

Williams does not meaningfully argue in his motion for discretionary review that there is any ground for this Court to review the

Court of Appeals decision denying Williams' Eighth Amendment claim. He merely argues that this Court should reach a different result than it did in *Colvin* and a different result than the Court of Appeals reached below. But this is not a justifiable basis for discretionary review. *See* RAP 13.4(b).

Williams' entire argument regarding deliberate indifference relates to incidents and decisions that occurred in the past, not any aspect of his current conditions of confinement. As the Court of Appeals correctly noted, "when evaluating a PRP alleging unlawful conditions of confinement, we look to the petitioner's current conditions of confinement." *Matter of Williams*, No. 54629-9-II, 476 P.3d 1064, 1075 (2020); *see* RAP 16.4(c)(6) ("The conditions or manner of the restraint of petitioner *are in* violation of the Constitution of the United States or the Constitution or laws of the State of Washington") (emphasis added). This is further reason to deny review.

And even if the Court were to reconsider the question of deliberate indifference, there would be no basis to overturn the Court of Appeals decision. In a personal restraint petition, Williams bears the burden of proving by a preponderance of evidence that his restraint is unlawful. *Matter of Cook*, 114 Wn.2d 802, 813, 792 P.2d 506 (1990). On his Eighth Amendment claim, Williams must demonstrate that the Department has recklessly disregarded or ignored a substantial risk to him. *See Colvin*, 195 Wn.2d at 900 (citing *Farmer v. Brennan*, 511 U.S. 825, 837, 114 S. Ct.

1970, 128 L. Ed. 2d 811 (1994)). The Court of Appeals considered the Department's comprehensive response to Covid-19 over nearly the entire year of 2020 and correctly determined, consistent with this Court's decision in *Colvin* and at least six other Court of Appeals decisions,[6] that this response cannot support a claim of deliberate indifference. Specifically:

> [T]his record shows numerous new restrictions, protocols, and policies that the Department has implemented since the emergence of COVID-19 in Washington, and even since the *Colvin* and *Pauley* courts found no deliberate indifference. The record shows that the Department's response has expanded and evolved as the risk posed by COVID-19 has grown, and the Department managed to control an outbreak at Coyote Ridge through aggressive testing, contract tracing, and quarantining. This is not deliberate indifference.
>
> ¶99 Further, when Williams exhibited symptoms of COVID-19, he was promptly transported to a hospital where he received medical care that enabled his survival and recovery. Then Williams was transported to an infirmary where he received constant nursing care. The Department's response to [his] infection does not reflect deliberate indifference or reckless disregard to the risk of harm he faced.

Williams, 476 P.3d at 1085-86. And although Williams discusses his unsuccessful Extraordinary Medical Placement application at length, the denial of a favorable exercise of purely executive discretion, even one that could have resulted in release from total confinement, does not demonstrate

[6] *Matter of Cottrell*, No. 37654-1-III (Dec. 22, 2020) (unpublished); *Matter of Hargrove*, No. 37572-2-III (Dec. 10, 2020) (unpublished); *Matter of Taylor*, No. 81679-9-I (Dec. 9, 2020) (unpublished); *Matter of Gorski*, No. 37589-7-III (Dec. 8, 2020) (unpublished); *Matter of Demos*, No. 81362-5-I (Jul. 1, 2020) (unpublished), *review denied*, No. 98758-1 (Sep. 23, 2020); *Pauley*, 13 Wn. App. 2d 292.

deliberate indifference. *See Colvin*, 195 Wn.2d at 901. Williams does not otherwise challenge that decision. On this record, there is no basis for this Court to grant discretionary review of the Court of Appeals' decision on Williams' Eighth Amendment claim or to reach a different conclusion.

B. Consistent with *Colvin* and All Other Court of Appeals Decisions Considering this Question, the Court of Appeals Correctly Ruled the Department's Comprehensive Response to Covid-19 Cannot Support a Claim of Unlawful Restraint under the Washington Constitution

Although the Department disagrees with the Court of Appeals' conclusion that article I, section 14 of the Washington Constitution is more protective than the Eighth Amendment in this specific circumstance, review is not warranted. The Court of Appeals reached the same conclusion as every Washington court to consider the question of whether the Department's response to Covid-19 violates the Washington Constitution, and it correctly concluded that it does not.[7] And the review of an inmate's personal restraint petition alleging unlawful confinement as a result of an unprecedented global pandemic and his particular age, race, and disability is a narrow and fact-specific inquiry. One decision applying a specific standard or test in response to a unique situation is not a basis for this

[7] *Matter of Hargrove*, No. 37572-2-III; *Matter of Gorski*, No. 37589-7-III; *Pauley*, 13 Wn. App. 2d 292.

Court's immediate review. At this time, there is no significant constitutional question or issue of substantial public interest such that review is warranted.

If the Court were to grant review, it should conclude that prison conditions of confinement are a category of cases in which article I, section 14 does not provide greater protection than the Eighth Amendment and should not apply the test adopted by the Court of Appeals. In the context of a conditions-of-confinement personal restraint petition, cases which do "not address the unique circumstances and considerations of the prison environment . . . [are] inapplicable." *In re Gronquist*, 138 Wn.2d 388, 406, 978 P.2d 1083, 1093 (1999). This Court has acknowledged "that the Washington State Constitution's cruel punishment clause *often* provides greater protection than the Eighth Amendment." *State v. Gregory*, 192 Wn.2d 1, 15, 427 P.3d 621 (2018) (emphasis added). But the Court has also ruled in multiple instances that Washington's cruel punishment clause does not always provide greater protection than the Eighth Amendment. *See, e.g.*, *State v. Bassett*, 192 Wn.2d 67, 78, 428 P.3d 343, 348 (2018) (collecting cases). "We recognize that article I, section 14 is not per se broader than the Eighth Amendment. Under certain contexts, the court may have good reason to interpret the state and federal constitutions synonymously rather than independently." *Gregory*, 192 Wn.2d at 16, n.6.

In *Woods v. Burton*, 8 Wn. App. 13, 16-17, 503 P.2d 1079 (1972), in the context of a jail habeas petition, the Court of Appeals considered article I, section 14 and the Eighth Amendment and concluded: "The standards to be applied in interpreting these provisions, of both constitutions, have not been precisely delineated . . . . The common thread running through their interpretations, however, relates to the deprivation of human dignity by conditions primarily related to sanitation and hygiene which are so base, inhumane and barberic [sic] they offend the dignity of any human being." This suggests equivalence between the two standards.

The fourth and sixth factors under *State v. Gunwall*, 106 Wn.2d 54, 720 P.2d 808 (1986), most strongly favor reading the constitutional provisions coextensively. The fourth factor—preexisting state law—does so for two principal reasons. First, in 1981—well after the *Woods* decision—the Legislature expressed its legislative intent regarding the statewide system of corrections. RCW 72.09.010. This section lists a number of objectives, including that this "system, as much as possible, should reflect the values of the community." RCW 72.09.010(5). These values emphasize work, self-improvement, and thrift, but not heightened protections regarding conditions of confinement. *Id.* Importantly, the last objective ties the Washington correctional system expressly to "those national standards which the state determines to be appropriate." RCW

72.09.010(9). This objective underscores that Washington does not intend to chart its own course regarding conditions of confinement.

Second, this Court held in *Kusah v. McCorkle*, 100 Wash. 318, 323, 170 P. 1023 (1918), that the state statutes imposing a duty on jailers "are but declaratory of the common law" going as far back as Blackstone's Commentaries. *Id.* at 322 (quoting federal and state cases); *see* Restatement (Second) of Torts § 314A (discussing special relations giving rise to duty to aid or protect). The Supreme Court noted in the landmark decision *Estelle v. Gamble*, 429 U.S. 97, 103-04, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976), that society's evolving standards of decency defining the objective prong of an Eighth Amendment claim are expressed in state laws and regulations that codify the common law on this point. As such, the common law also favors reading the provisions as coextensive in this context.

And the prevention of cruel punishment is not a local concern—avoiding unconstitutionally cruel punishment is a general concern of litigants nationwide. *See State v. Smith*, 150 Wn.2d 135, 152, 75 P.3d 934 (2003); *State v. Dodd*, 120 Wn.2d 1, 22, 838 P.2d 86 (1992). This Court has recognized that it was only in the 1970s that courts began to establish certain constitutional standards for prisons, under the Eighth Amendment standards. *State v. Valentine*, 132 Wn.2d 1, 16, 935 P.2d 1294, 1301 (1997) ("jails themselves are no longer the pestilential death traps they were in

eighteenth century England. Recent Eighth Amendment litigation of prisoners' claims of cruel and unusual punishment has established certain constitutional standards for prisons) (citing *Estelle*, 429 U.S. at 104-05; *Gregg v. Georgia*, 428 U.S. 153, 173, 183, 96 S. Ct. 2909, 2925, 49 L. Ed. 2d 859 (1976)). This suggests the Washington Constitution is not broader in scope than the Eighth Amendment in this context because the Eighth Amendment was the first provision to set standards for prison conditions and did so nationwide.

Williams urges review because he alleges that the Court of Appeals should have used a different test to evaluate his state constitutional claim. The Court should deny review because Williams' claim would fail under any plausible test, given the Department's robust response to the pandemic and the high level of care it has provided to Williams. And the Department has demonstrated good reason to interpret the constitutional provisions synonymously in the context of prison conditions of confinement.

Even assuming greater protections apply under the Washington Constitution, Williams cannot demonstrate that his sentence is disproportionate now, simply because there is a risk of Covid-19 in prison. The courts determined that he should enter prison at age 66 and serve a 22.5-year sentence for a brutal violent crime. His earned release date is in seven years. There are a number of medical ailments that may disproportionately

affect older individuals, or individuals with specific racial or ethnic backgrounds. But just like heart disease or diabetes or cancer does not automatically render an otherwise valid prison sentence unconstitutional, nor does Covid-19. The Department has mounted a comprehensive system-wide response and provided Williams in particular with a high level of care and consideration. There is no basis for further review in this circumstance.

VI. RESPONSE TO AMICUS

The amicus brief filed in this matter similarly identifies no basis for discretionary review. The amici primarily argue that the pandemic has changed since the Court issued its decision in *Colvin*, and that the Court of Appeals should have adopted a different test under article I, section 14.

The amici support the first part of their argument by pointing to nationwide data and Washington Department of Health data for non-incarcerated individuals and using it to support a conjecture that although Covid-19 infection rates in Department show a disproportionately lower rate of infection for Black inmates than White inmates, the virus could still have disproportionate impacts on Black incarcerated individuals. But this loses sight of the specific question at issue in a personal restraint petition: whether this particular petitioner is under unlawful restraint as a result of the Department's response to the Covid-19 pandemic. As recognized by the Court of Appeals and demonstrated above, he is not. The Department has

engaged in a comprehensive and sustained response to Covid-19. As with many organizations and institutions, there have been setbacks despite the Department's best efforts and the cooperation of most incarcerated individuals. But even so, Williams' prison currently has a limited number of active cases and one third of Department prisons have had no active Covid-19 cases among the incarcerated population at all.[8] Williams received a high level of care and recovered from Covid-19. He has an ADA cell with access to medical care at all times. Covid-19 has not changed his sentence, and the Department has taken great care to keep him safe.

Amici also argue that the Court of Appeals should have weighed evidence differently. Particularly, amici seem to argue that the Court of Appeals should have based its decision about Williams' conditions of confinement on an Office of Corrections Ombuds report on its opinion of events in May and June 2020. That is merely a difference of opinion with the Court of Appeals' consideration of the evidence. And it sheds no light on Williams' current conditions and if he is under unlawful restraint. For both reasons, it demonstrates no basis for discretionary review.

Finally, amici disagree with the Court of Appeals' test under article I, section 14. Their arguments are identical to Williams' arguments

[8] https://www.doc.wa.gov/corrections/covid-19/data.htm#confirmed

regarding the Court of Appeals' determination of the article I, section 14 standard. For the same reasons outlined in response to Williams' argument, the amici's duplicate argument provides no reason to grant review.

VII. THERE IS NO LAWFUL BASIS FOR EARLY RELEASE

This Court should also deny review because the remedy Williams seeks is unavailable to him. In the context of a personal restraint petition challenging an allegedly unconstitutional condition of confinement, the Court can only order removal of the illegal restraint. When an incarcerated individual shows that his conditions of confinement are unlawful, the remedy is not release from confinement but an order remedying the unconstitutional conditions. *In re Det. of Turay*, 139 Wn.2d 379, 420, 986 P.2d 790 (1999) (footnotes omitted); *see Gomez v. United States*, 899 F.2d 1124, 1125-26, 1127 (11th Cir. 1990). Absent an infirmity or change to his sentence, Williams is not entitled to simply leave prison early. *See generally* RCW 9.94A.728. The courts have no authority commute a prison sentence. *Colvin*, 195 Wn.2d at 897 ("like the governor's emergency powers, the governor's power to release inmates by commuting sentences or pardoning offenders is exclusive and discretionary") (citing Wash. Const. art. III, § 9).

Even if Williams were ordered released, the Department does not expect that he would be eligible to transfer his supervision to Florida under the Interstate Commission for Adult Offender Supervision (ICAOS). He

notes that electronic monitoring is available in Florida, but that is not the challenge he faces. The Compact excludes individuals "released from incarceration under furlough, work-release, or other preparole program." ICAOS Rule 2.107, *available at* https://www.interstatecompact.org; *see* RCW 9.94A.745. Even if he were eligible to seek to transfer his supervision to Florida under ICAOS, he would need permission from Florida to do so; he has presented no evidence of such. Williams has not demonstrated that inmates released from confinement to serve a prison sentence on electronic home confinement are eligible under ICAOS rules, and he has presented no in-state release plan. This is further reason to deny review and deny release.

VIII. CONCLUSION

This case does not meet the criteria for discretionary review under RAP 13.4(b) and does not warrant further consideration. The Court should deny review.

RESPECTFULLY SUBMITTED this 21st day of January, 2021.

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CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed the DEPARTMENT OF CORRECTIONS' ANSWER TO MOTION FOR DISCRETIONARY REVIEW AND RESPONSE TO AMICUS with the Clerk of the Court using the electronic filing system and I hereby certify that I have mailed by United States Postal Service the document to the following participants:

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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 21st day of January, 2021, at Olympia, WA.

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