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May 13, 2021

LETTER SENT BY E-MAIL ONLY

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Re: Supreme Court No. 99745-4 - Candis Rush et al. v. WA Dept. of Corrections et al.
Thurston County Superior Court No. 21-2-00491-5

Counsel:

On May 12, 2021, the Court received the "PETITIONERS' MOTION TO MODIFY CLERK'S RULING; MOTION TO EXPEDITE". The motion to modify objects to the due dates set for an answer and reply to the motion for discretionary review, and the setting of the case on the Supreme Court Commissioner's June 17, 2021, motion calendar. In the Petitioners' motion to accelerate review, the Petitioners stated that they did not seek to accelerate the normal briefing schedule on their motion for discretionary review. The schedule that was set by the Clerk reflects the briefing schedule and setting on the Commissioner's motion calendar that is typically established at the Supreme Court for motions for discretionary review.

The motion to modify clerk's ruling/motion to expedite has been set for consideration on the Court's June 3, 2021, En Banc Conference. Pursuant to RAP 17.7, motions to modify are decided by the justices. The setting of the motion to modify on the June 3, 2021, En Banc Conference is the next available date when the Court considers motions to modify. Pursuant to RAP 17.5(b), the motion will be considered without oral argument. Any answer to the motion to modify/motion to expedite should be served and filed by May 24, 2021. Any reply should be served and filed by noon on May 28, 2021.

In light of the motion to modify, the "PETITIONERS' MOTION FOR DISCRETIONARY REVIEW" and "PETITIONERS' MOTION TO ACCELERATE REVIEW" have also been set for consideration by the Court on the June 3, 2021, En Banc Conference. The motions have therefore been stricken from the Supreme Court Commissioners June 17, 2021, motion calendar. The motions will be considered by the Court without oral argument. See RAP 17.5(b).

Any answers to the motions should be served and filed by May 24, 2021. Any reply to answer should be served and filed by noon on May 28, 2021.

The due date for filing an answer to the statement of grounds for direct review shall also be May 24, 2021. The answer to the statement of grounds for direct review should be filed as a separate document and not combined with the answer to other motions. The Rules of Appellate Procedure do not provide for the filing of a reply to an answer to the statement of grounds.

Last, I note that neither the motion to accelerate review nor the motion to expedite include a recommendation as to when this matter should be set for oral argument before the Court, if review is granted. Petitioners also do not propose a schedule for perfecting the record and the filing of briefing. It is suggested that counsel include proposed schedules in any answer or reply to the motions.

Sincerely,



Susan L. Carlson
Supreme Court Clerk

SLC:jm

cc: John Ballif Midgley
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Page 3
No. 99745-4
May 13, 2021

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