COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

No. 86474-2-I

GRENADINAH DELA LLANA,

Appellant,

v.

DARRION HOLIWELL,

Respondent,

MOTION TO PUBLISH [RAP 12.3(e)]

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I. IDENTITY OF MOVING PARTIES

Pursuant to RAP 12.3(e), Appellant Grenadinah Dela Llana, brings this Motion to Publish the Court's November 3, 2025 opinion (the "Opinion"). In addition to the King County Bar Association Domestic Violence Legal Advocacy Project ("DV LEAD"), the Northwest Justice Project, the Sexual Violence Law Center, and the Eastside Legal Assistance Program join in this motion to publish pursuant to RAP 12.3(e).

Ms. Dela Llana is represented by DV LEAD. As part of the King County Bar Association's Pro Bono Services Department, DV LEAD is a project dedicated to representing survivors of domestic violence in protection order proceedings and family law cases. DV LEAD employs both staff and volunteer attorneys to advocate for survivors, focusing on cases where children are at risk due to domestic violence and where survivors face additional barriers to justice in accessing the court system. DV LEAD aids survivors with safety planning and is a

strong proponent of making the protection order process more accessible and safer for survivors of domestic violence. Many of the survivors DV LEAD represents have been exposed to gun violence. Because DV LEAD consistently advocates for survivors of domestic violence who face high lethality risks in civil protection order, family and weapon surrender proceedings, DV LEAD has a strong interest in ensuring that the court holds respondents in civil domestic violence protection order ("DVPO") cases accountable for firearm surrender pursuant to RCW 7.105, RCW 9.41.800 and RCW 9.41.801.

The Northwest Justice Project (NJP) is the largest publicly funded legal aid program in Washington State, with a mission to combat injustice, strengthen communities, and protect human dignity. NJP works to secure justice through high quality legal advocacy that promotes the long-term well-being of low-income individuals, families and communities. NJP prioritizes legal assistance to victims of domestic violence through representation in civil legal matters, advice and brief services,

and online legal information and court forms provided free to the public through Washington Law Help.[1] Due to limited resources, a large majority of people who contact NJP for assistance must proceed pro se in civil legal proceedings and trials, including victims of domestic violence seeking protection orders pursuant to chapter 7.105 RCW. NJP supports publication of this opinion because it will keep survivors safer when they are seeking protection orders and surrender of weapons.

The Sexual Violence Law Center (SVLC) is a nonprofit law firm dedicated to advancing the privacy, safety, and civil rights of survivors of sexual and gender-based violence throughout Washington State. SVLC provides holistic, trauma informed and survivor-centered legal services free of charge, including direct representation, appellate advocacy, and continuous support via a statewide legal resource hotline. In our role as legal counsel for petitioners under RCW 7.105 throughout

[1] https://www.washingtonlawhelp.org/issues/personal-safety/domestic-violence-1

Washington, we witness firsthand the unique and heightened dangers that arise when respondents subject to protection orders remain non-compliant with firearms surrender directives. The presence of firearms in these cases significantly escalates the risk of lethal harm to survivors seeking protection. Publishing this decision reinforces the judiciary's role in ensuring robust enforcement of firearm restrictions in domestic violence and stalking cases, which is critical to protect survivors whose lives are gravely endangered by abusers who disregard court orders. Publishing strengthens the legal framework designed to hold abusers accountable and serves as a precedent to deter similar non-compliance, ultimately advancing survivor safety and justice.

The Eastside Legal Assistance Program exists to ensure that justice is accessible to everyone, regardless of income, because safety and dignity are fundamental rights. Guided by its mission to provide civil legal aid to those who cannot afford it, ELAP stands with survivors of domestic violence in King

County, offering free legal services through its Domestic Violence Legal Project and volunteer legal program. As part of its core work, ELAP represents survivors and their families in domestic violence and family law proceedings, helping them secure safety and stability. ELAP's work goes beyond individual cases; it fights for systemic change and educates communities to break cycles of violence. ELAP supports publication of this opinion because it will save lives. It ensures courts protect survivors and disarm abusers, reducing the risk of lethal harm as the law intended.

II. STATEMENT OF INTEREST

Ms. Dela Llana's interest in publication is to (1) give trial courts guidance on applying the statute on firearm surrender compliance enforcement, (2) prevent the "abandonment" of the statutory duties imposed on the courts thereunder, and (3) keep survivors of domestic violence safe from gun violence. Ms. Dela Llana is joined by members of the legal aid community, many of

whom also represent domestic violence survivors in DVPO cases with firearms at issue.

III. STATEMENT OF RELIEF SOUGHT

Ms. Dela Llana and the non-party applicants request that this Court publish the opinion filed on November 3, 2025 in *Grenadinah Dela Llana v. Darrion Holiwell,* No. 86474-2-I. The panel determined that the Opinion would not be printed in the Washington Appellate Reports pursuant to RCW 2.06.040. For the reasons below, Ms. Dela Llana and the non-party applicants submit that the Opinion should be published.

IV. STATEMENT OF RELEVANT FACTS

Ms. Dela Llana accepts the facts as stated in the Opinion.

V. GROUNDS FOR RELIEF AND ARGUMENT

A. Standard for Publication

Under RAP 12.3(e), a party may request that this Court publish an opinion that has been filed for the public record. The motion must address:

> (1) if not a party, the applicant's interest and the person or group applicant represents; (2) applicant's reasons for believing that publication is necessary; (3) whether the decision determines an unsettled or new question of law or constitutional principle; (4) whether the decision modifies, clarifies or reverses an established principle of law; (5) whether the decision is of general public interest or importance; or (6) whether the decision is in conflict with a prior opinion of the Court of Appeals.

RAP 12.3(e).

The present case satisfies criteria (2), (3) and (5) of RAP 12.3(e) and should be published.[2]

B. Argument for Publication

Ms. Dela Llana and the non-party applicants joining in this motion believe that publishing the Opinion filed on November 3, 2025 in *Grenadinah Dela Llana v. Darrion Holiwell.*, No. 86474-2-I is necessary for the following reasons.

a. Publication Is Necessary to Ensure Domestic Violence Survivors Are Protected from Gun Violence

[2] Undersigned counsel are not aware of any prior decision(s) of the Court of Appeals that conflicts with the Opinion.

If our firearm surrender laws are not enforced, survivors of domestic violence face being murdered or maimed. Given the dangers associated with the failure to disarm domestic violence abusers, it is crucial that trial courts be bound by the Opinion finding it is an abuse of discretion for the trial court to (1) refuse to impose the remedial contempt sanction of indeterminate incarceration and (2) terminate firearm surrender compliance enforcement proceedings without credibly accounting for the location of missing firearms.

It is not hyperbole to state effective enforcement of the firearm surrender requirement is literally a matter of life and death. According to our legislature, there is a "heightened risk of lethality to petitioners when respondents to protection orders" continue to have access to firearms. RCW 9.41.801(1). More ominously, "[w]hen an abusive partner has access to a gun, a domestic violence victim is 11 times more likely to be killed." RCW 7.105.900(3)(a). The weapon surrender requirement is a "lifesaving tool" that is "critical to public health." RCW

7.105.900(4). As a result, "law enforcement and judicial processes must emphasize swift and certain compliance" with weapon surrender orders. RCW 9.41.801(1). Accordingly, there should be little tolerance for courts that do not adhere to the firearm surrender compliance enforcement provisions of RCW 9.41.801. Yet it happens and will continue to do so unless there is binding authority to prevent it.

This case is a case in point. Despite the clear requirements of the firearm surrender compliance enforcement statute, the trial court refused to impose the remedial contempt sanction of indeterminate incarceration and it abandoned its statutory duty by terminating the enforcement process without credibly accounting for the missing firearms.

This is not an isolated case. Other firearm surrender enforcement proceedings have been abandoned without accounting for the location of missing firearms. The burdens associated with enforcing firearm surrender can be a motivation for judges to be less than enthusiastic about the time and effort

required to address the "continued defiance" of surrender orders by abusers. And other trial courts will undoubtedly encounter "intractable behavior" on the part of abusers that will lead to "frustration" by the court and the risk of lack of enforcement.

Some trial courts conducting firearm surrender "compliance review hearings" find the party ordered to surrender firearms "out of compliance" with surrender orders and then abandon the compliance enforcement process by ruling there will be no further hearings. When this happens, survivors of domestic violence are denied the protection from gun violence to which they are entitled under the law and are condemned to living in constant fear and danger. This has been the case with Ms. Dela Llana and her family for almost four years. It is true for other survivors of domestic violence as well.

By publishing the *Dela Llana* Opinion, and thus making it binding on other courts, this Court can act to eliminate the risk of other trial courts making the same errors as occurred in the

Dela Llana case and help ensure the safety of domestic violence survivors.

b. The Opinion Determines an Unsettled or New Question of Law

The firearm surrender compliance enforcement law is relatively new. The present version of RCW 9.41.801 became effective in 2023. While there are published appellate decisions addressing the requirement to surrender firearms, none address the issues presented here.

In *Braatz v. Braatz,* 2 Wn. App. 2d 889, 413 P.3d 612, *review denied,* 190 Wn.2d 1031, 421 P.3d 445 (2018), the Court ruled the "restrained person has the burden to prove by a preponderance of the evidence that they have surrendered their firearms and other dangerous weapons." The *Braatz* case was appealed because the trial judge did not account for all of the restrained party's firearms. The Court of Appeals reversed the trial judge because the trial court's finding that the restrained party had complied with the order to surrender weapons, when

two firearms were missing and unaccounted for, was "not supported by substantial evidence." *Id.* at 902.

In *In re Domestic Violence Protection Order for Montesi*, 34 Wn. App. 2d 777, 572 P.3d 459 (2025) *review denied,* 104410-1, 2025 WL 3100661 (Wash. Nov. 5, 2025), the Court ruled the weapon surrender compliance enforcement statute constitutional under the Fifth Amendment, Fourth Amendment, Second Amendment and the separation of powers doctrine. An earlier decision, *State v. Flannery,* 24 Wn. App. 2d 466, 520 P.3d 517 (2022), had held an earlier version of the weapon surrender statutory scheme unconstitutional.

In *Heather Hudon v. Nicolai Piffath,* 577 P.3d 944 (Wash. Ct. App. 2025), the Court ruled the trial court erred by refusing to issue a weapon surrender order when requested by the petitioner in a successful DVPO renewal proceeding.

As noted, none of these published cases address the issues present here.[3] We are not aware of any published appellate decisions that address the termination of firearm surrender compliance enforcement proceedings without accounting for the location of missing firearms or the refusal by the trial court to impose the remedial contempt sanction of indeterminate incarceration to enforce firearm surrender.

Without publication, the *Dela Llana* Opinion will have "no precedential value" and will not be "binding on any court." GR 14.1(a). One reason for unpublished opinions is that they "merely restate well established principles." *State v. Nysta,* 168 Wn. App. 30, 44, 275 P.3d 1162, 1170 (2012). But here, well established principles have yet to be developed for firearm

[3] We are aware of two unpublished cases that do not address the issues raised here either. *Kaleena Sayson v. Adolfo Espinoza, No. 84168-8-I, (Wash. Ct. App. July 17, 2023) (unpublished) https://www.courts.wa.gov/opinions/pdf/841688.pdf* (trial court's finding of firearm surrender compliance not supported by substantial evidence) and *In the Matter of DVPO for Ilana Hernandez, No. 40749-7-III, (Wash. Ct. App. September 30, 2025) (unpublished) https://www.courts.wa.gov/opinions/pdf/407497_unp.pdf* (trial court's failure to order surrender of weapons reversed).

surrender compliance enforcement. This is the Court's opportunity to begin to build a body of case law regarding RCW 9.41.801.

c. The Decision is of General Public Interest and Importance and Will Save Lives

One of the most important protections the law offers survivors of domestic violence is that, once a qualifying DVPO has been issued, the restrained person must immediately surrender all firearms and other dangerous weapons. The statute recognizes that the safety of domestic violence survivors is critical.

Our Legislature has recognized that the firearm surrender requirement is a "lifesaving tool" that is "critical to public health." RCW 7.105.900(4). Being "critical to public health" makes the *Dela Llana* Opinion of general public interest and importance.

The people of Washington State rely on effective firearm surrender by abusers to ensure the safety of domestic violence

survivors, their families, law enforcement and the general public. Effective application of RCW 9.41.801 ensures that abusers cannot circumvent or undermine firearm surrender compliance enforcement in DVPO cases. Binding precedent will prevent the abandonment of firearm surrender compliance enforcement proceedings prematurely and approve the use of the remedial contempt sanction of indeterminate incarceration to enforce firearm surrender.

VI. CONCLUSION

The Opinion's guidance for trial courts will greatly increase survivor safety. The Opinion should be published.

For the foregoing reasons, Ms. Dela Llana, joined by the Northwest Justice Project, the Sexual Violence Law Center, and the Eastside Legal Assistance Program respectfully request the Court grant this motion and order the Opinion shall be published.

I certify that this motion contains 2186 words in compliance with RAP 18.17(c)(17).

Respectfully submitted this 20th day of November, 2025.

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CERTIFICATE OF SERVICE

I declare that on November 20, 2025, I caused a true and correct copy of the foregoing **Motion to Publish** to be served on the following in the manner indicated:

Brooks De Peyster bdepeyster@kingcounty.gov *Attorney for Respondent*	☐ Hand Delivery ☐ Via U.S. Mail ☒ Via E-mail ☒ Via the Court's E-Service Device

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

Dated this 20th day of November, 2025.

s/ Callie Lahey

KING COUNTY BAR ASSOCIATION

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