

SUPREME COURT OF WASHINGTON

State v. Hogan

No. 103824-1 (Wash. June 4, 2026) · No. 103824-1 · Decided June 4, 2026

SUMMARY

The Washington Supreme Court considers whether the State’s peremptory challenge to juror 40 violated Washington General Rule 37, which addresses race discrimination in jury selection. The court holds that stating “GR 37” can preserve an objection, but defense counsel’s explanation limited the trial-court objection to gender identity and therefore failed to preserve the race-based objection. Exercising its discretion to reach the issue, the court concludes that the State failed to comply with GR 37(i)’s procedures for demeanor-based justifications, but that, considering the permissible reasons and totality of the circumstances, an objective observer could not view race as a factor in the challenge.

CASE DETAILS

|                       |                                                                                                                                                                                                         |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Washington                                                                                                                                                                             |
| WRITING FOR THE COURT | Gordon McCloud, J.; Yu, J.P.T.; Mungia, J.                                                                                                                                                              |
| JURISDICTION          | Supreme Court of the State of Washington                                                                                                                                                                |
| DECIDED               | June 4, 2026                                                                                                                                                                                            |
| DOCKET                | 103824-1                                                                                                                                                                                                |
| DISPOSITION           | affirmed                                                                                                                                                                                                |
| PROCEDURAL POSTURE    | Hogan sought review of a Washington Court of Appeals decision affirming his conviction and the trial court's denial of his GR 37 objection to the State's peremptory challenge of a prospective juror.  |
| STANDARD OF REVIEW    | GR 37 decisions are reviewed de novo. Trial-court subjective impressions of juror demeanor receive no special deference and are part of the record rather than findings entitled to deferential review. |
| PRECEDENTIAL VALUE    | published and precedential; en banc Washington Supreme Court decision                                                                                                                                   |
| PARTIES               | Nigel Sinclair Hogan Sr. v. State of Washington                                                                                                                                                         |

TOPICS

- jury selection
- criminal procedure
- appellate procedure
- preservation of error
- standard of review

## PRACTICE AREAS

criminal procedure

constitutional law

appellate procedure

jury selection

civil rights

## QUESTIONS PRESENTED

1. Whether a party preserves a GR 37 objection for appellate review by simply citing GR 37, and whether counsel's additional focus on alleged gender-identity discrimination defeated preservation of a race- or ethnicity-based objection.
2. Whether the Supreme Court could review the race-discrimination claim for the first time on appeal despite ineffective preservation.
3. Whether GR 37(i) barred consideration of the State's demeanor-based justifications because the State failed to provide notice and corroboration.
4. Whether the State's reliance on juror 40's expressed distrust of law enforcement was presumptively invalid under GR 37(h), and whether the totality of the circumstances rebutted that presumption.
5. Whether RAP 10.8 limits statements of additional authorities to authorities issued after briefing was completed.

## HOLDINGS

1. A party can preserve an objection to a peremptory strike under GR 37 by simply stating "GR 37." However, counsel's additional statement that the objection was based solely on gender identity, rather than race or ethnicity, undermined the citation and failed to preserve the race-based GR 37 objection in this case.
2. The court may exercise its discretion to review a claim of racial bias in jury selection for the first time on appeal, and it did so here.
3. The State's demeanor-based justifications for striking juror 40 could not be considered because the State failed to comply with GR 37(i)'s notice, verification, and corroboration requirements.
4. When a party justifies a peremptory challenge with a reason listed in GR 37(h), the presumptive answer to whether an objective observer could view race or ethnicity as a factor is yes. The presumption may be rebutted by the totality of the circumstances. Here, the totality of the circumstances rebutted the presumption, so an objective observer could not view race as a factor in the State's strike of juror 40.
5. RAP 10.8 does not limit statements of additional authorities to authorities published after briefing is completed.

## KEY QUOTATIONS

*"We hold that a party who objects to a peremptory strike on the basis of GR 37 can preserve that objection for review by simply stating, "GR 37." (35-36)*

*"We further hold that when a party justifies a peremptory challenge using a reason listed in GR 37(h), the presumptive answer to GR 37's ultimate question (whether an objective observer could view race as a factor in the use of a challenge) is yes." (35-36)*

*“Considering the totality of the circumstances in this case, we hold that an objective observer could not view race as a factor in the use of a peremptory challenge against juror 40.” (35-36)*

## FACTUAL BACKGROUND

Hogan, who is Black, was tried for second-degree murder and first-degree assault and was convicted of second-degree felony murder. During voir dire, the State used a peremptory challenge against juror 40, a white prospective juror who had expressed concerns about excessive force, racial bias in policing, and the criminal justice system. Defense counsel stated “GR 37” but immediately argued that juror 40 was one of the only transgender persons on the panel, while the State also relied on juror 40's views about law enforcement and alleged demeanor problems. The trial court denied the objection and struck juror 40.

## PROCEDURAL HISTORY

The State charged Hogan with second-degree murder and first-degree assault in 2015. A jury convicted him of second-degree felony murder. During jury selection, the State peremptorily struck juror 40, and the trial court denied Hogan's objection under GR 37. The Court of Appeals affirmed, holding that Hogan failed to preserve a race-based GR 37 claim because his trial objection focused on alleged gender-identity discrimination. The Supreme Court accepted review of the GR 37 issue and the Court of Appeals' refusal to consider Hogan's statement of additional authorities, reached the racial-bias claim notwithstanding preservation, and affirmed.

## DISPOSITION

affirmed

## CASES CITED

- State v. Bell, 5 Wn.3d 54, 571 P.3d 272 (2025)
- State v. Pierce, 195 Wn.2d 230, 239, 455 P.3d 647 (2020)
- State v. Saintcalle, 178 Wn.2d 34, 46-49, 309 P.3d 326 (2013)
- City of Seattle v. Erickson, 188 Wn.2d 721, 398 P.3d 1124 (2017)
- Batson v. Kentucky, 476 U.S. 79, 85-86, 96, 106 S. Ct. 1712, 90 L. Ed. 2d 69 (1986)
- State v. Hogan, 33 Wn. App. 2d 209, 211, 218-20, 559 P.3d 1033 (2024)
- State v. Kalebaugh, 183 Wn.2d 578, 583, 355 P.3d 253 (2015)
- State v. Quismundo, 164 Wn.2d 499, 505-06, 192 P.3d 342 (2008)
- State v. Zamora, 199 Wn.2d 698, 709-12, 512 P.3d 512 (2022)
- State v. Bagby, 200 Wn.2d 777, 522 P.3d 982 (2023)
- State v. Monday, 171 Wn.2d 667, 679-80, 257 P.3d 551 (2011)
- State v. Bellerouche, 33 Wn. App. 2d 877, 901, 565 P.3d 604 (2025)
- State v. Darraji, 34 Wn. App. 2d 410, 414, 568 P.3d 1143 (2025)
- State v. Ibarra-Erives, 23 Wn. App. 2d 596, 605, 516 P.3d 1246 (2022)
- In re Personal Restraint of Skone, 30 Wn. App. 2d 1, 31-34, 543 P.3d 842 (2024)

- In re Personal Restraint of Rhone, 1 Wn.3d 572, 528 P.3d 824 (2023)
- State v. Hawkins, 181 Wn.2d 170, 183, 332 P.3d 408 (2014)
- State v. George, 160 Wn.2d 727, 735, 158 P.3d 1169 (2007)
- In re Disciplinary Proceeding Against King, 168 Wn.2d 888, 899, 232 P.3d 1095 (2010)
- State v. Chhom, 162 Wn.2d 451, 458, 173 P.3d 234 (2007)
- Association of Washington Spirits & Wine Distributors v. Washington State Liquor Control Board, 182 Wn.2d 342, 350, 340 P.3d 849 (2015)
- Department of Ecology v. Campbell & Gwinn, LLC, 146 Wn.2d 1, 9-10, 43 P.3d 4 (2002)
- State v. Stump, 185 Wn.2d 454, 460, 374 P.3d 89 (2016)
- Pacific Northwest Shooting Park Ass'n v. City of Sequim, 158 Wn.2d 342, 354, 144 P.3d 276 (2006)
- American Continental Insurance Co. v. Steen, 151 Wn.2d 512, 518, 91 P.3d 864 (2004)
- Five Corners Family Farmers v. State, 173 Wn.2d 296, 306, 268 P.3d 892 (2011)
- State v. Tesfasilasye, 200 Wn.2d 345, 357-58, 518 P.3d 193 (2022)
- Obergefell v. Hodges, 576 U.S. 644, 681, 135 S. Ct. 2584, 192 L. Ed. 2d 609 (2015)
- Lawrence v. Texas, 539 U.S. 558, 578, 123 S. Ct. 2472, 156 L. Ed. 2d 508 (2003)
- Futurewise v. Western Washington Growth Management Hearings Board, 164 Wn.2d 242, 248 n.2, 189 P.3d 161 (2008)
- State v. Luna, 5 Wn.3d 465, 514 n.18, 578 P.3d 273 (2025)