

# WASHINGTON STATE COURT OF APPEALS DIVISION THREE

## CASE SUMMARIES FOR ORAL ARGUMENT

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The following summaries are drawn from briefs and lower court judgments. The summaries have not been reviewed for accuracy by the judges and are intended to provide a general idea of facts and issues presented in the cases. The summaries should not be considered official court documents. Facts and issues presented in these summaries should be checked for accuracy against records and briefs, available from the Court, which provide more specific information.

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**Date of Hearing: Wednesday, October 23, 2019**  
**Location: Spokane, 500 North Cedar**

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**9:00 a.m.**

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1) **No.: 35616-7-III**

**Case Name: State of Washington v. Zachary James Fairley**

**County: Franklin**

**Case Summary:** The Pasco Police Department seized and searched a cellular telephone pursuant to a warrant in an unrelated case. Evidence found on this telephone sparked an investigation into Zachary Fairley and subsequent charges. Prior to trial, Mr. Fairley challenged the validity of the search on the grounds that the State violated his constitutional right to privacy and that the State exceeded the scope of the warrant. The lower court rejected Mr. Fairley's arguments. Following entry of guilty verdicts from his trial, Mr. Fairley appeals.

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2) **No.: 36140-3-III**

**Case Name: State of Washington v. Michael Patrick Cargill**

**County: Spokane**

**Case Summary:** Law enforcement arrested Michael Cargill for possessing a stolen dirt bike and the State charged him with possessing a stolen motor vehicle. Below, Mr. Cargill sought to dismiss the prosecution on the grounds that the State could not prove the dirt bike he possessed was a “motor vehicle” as defined by law. The court rejected Mr. Cargill’s argument and a jury convicted him. Mr. Cargill appeals.

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3) **No.: 36453-4-III, cons’d w/ 36455-1, 36456-9, 36454-2, 36457-7**

**Case Name: David Schulz, et al v. State of Washington, Dept. of Natural Resources**

**County: Okanogan**

**Case Summary:** Hundreds of landowners sued the Washington State Department of Natural Resources (DNR) concerning its land management practices leading up to the Carlton Complex Fire and for its actions during the fire. DNR sought, and was granted, summary judgment dismissing the claims on the grounds that RCW 76.04.016 eliminated any common law duty DNR might have owed to the landowners, and that RCW 76.04.760 provided the sole means of establishing liability in this context. The landowners appeal.

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**11:00 a.m.**

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4) **No.: 36395-3-III**

**Case Name: Glenda Koenig v. City of Quincy**

**County: Grant**

**Case Summary:** Glenda Koenig developed post traumatic stress disorder (PTSD) as a result of being sexually harassed and assaulted by coworkers. Ms. Koenig claimed her PTSD constituted a disability under the Washington Law Against Discrimination, chapter 49.60, RCW, and sought accommodation under this law. Ms. Koenig’s employer

denied her requested accommodation and Ms. Koenig sued. The lower court dismissed Ms. Koenig's lawsuit on summary judgment. Ms. Koenig appeals.

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**5) No.: 36038-5-III**

**Case Name: State of Washington v. Kaz Airk Joshua McKenzie**

**County: Spokane**

**Case Summary:** A jury convicted Kaz McKenzie of second degree assault following an altercation with his neighbor. During the trial court proceedings, Mr. McKenzie challenged the admission of his custodial statements to police, the exclusion of a defense witness, and whether the facts supported the State's request to give the jury the "first aggressor" instruction, WPIC 16.04. Mr. McKenzie appeals.

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