

WASHINGTON STATE COURT OF APPEALS DIVISION THREE

CASE SUMMARIES FOR ORAL ARGUMENT

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.

Date of Hearing: Tuesday, March 10, 2020
Location: Spokane, 500 North Cedar

9:00 a.m.

1) No.: 36468-2-III

Case Name: David Cebert v. Patrick Kennedy, et al.

County: Spokane

Case Summary: David Cebert brought contract and wage claims against his former employer, Mitigation of Diseases, Inc., and its owners. The superior court dismissed Mr. Cebert's claims as barred by the statute of limitations. The case proceeded to trial on counterclaims brought by the defendants for conversion, misappropriation of trade secrets, and tortious interference. The jury found in favor of the employer. Mr. Cebert appeals dismissal of his claims and errors relating to the trial.

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2) No.: 36466-6-III

Case Name: State v. Dwight Eldon Backherms

County: Okanogan

Case Summary: While executing an arrest warrant, law enforcement discovered evidence of drug dealing by Dwight Backherms. The trial court denied a motion to

suppress the evidence and a jury convicted Mr. Backherms as charged with two counts of unlawful delivery and two counts of unlawful possession. At sentencing the court vacated and dismissed the possession convictions based upon merger. On appeal, Mr. Backherms challenges the sufficiency of the evidence on the delivery counts based on an alleged instructional error, and also challenges the denial of his suppression motion. He conditionally argues against reinstatement of the possession convictions based upon double jeopardy considerations.

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3) No.: 36612-0-III

**Case Name: Spokane Airport Bd. v. Experimental Aircraft Ass'n Chapter
County: Spokane**

Case Summary: The Experimental Aircraft Association (EAA) leased hangar space from the Spokane Airport Board. The Board sought early termination of the lease, but EAA refused to vacate. The Board brought an unlawful detainer action, and EAA defended on the grounds that the unlawful detainer statute did not apply to this situation and that the lease agreement only permitted early termination for cause. The trial court found in favor of the Board. EAA appeals.

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4) No.: 36583-2-III

**Case Name: State v. Brandon Antonio Scalise
County: Stevens**

Case Summary: A jury convicted Brandon Scalise of several theft and drug-related offenses based upon evidence obtained by law enforcement while executing a search warrant. On appeal, Mr. Scalise claims ineffective assistance of counsel for counsel's alleged failure to properly raise and address issues relating to the issuance of the search warrant and its execution.

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11:00 a.m.

5) **No.: 36675-8-III**

Case Name: In re Personal Restraint of Armando Cortez Lopez

County: Yakima

Case Summary: Following a jury trial, the superior court sentenced Armando Cortez Lopez for the crime of indecent liberties by forcible compulsion. On appeal, Mr. Cortez Lopez argues that he is entitled to resentencing on the lesser crime of indecent liberties because the “forcible compulsion” element was not sufficiently specified in the jury instructions.

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6) **No.: 36577-8-III**

Case Name: In re Marriage of Marie Maneau and Marcus Maneau

County: Spokane

Case Summary: Marcus and Marie Maneau lived together for 23 years prior to marrying, and were married for 17 years prior to filing for divorce. During that time, they raised Marie Maneau’s children from a prior relationship and adopted one of their grandchildren who has special needs. During the divorce, the parties disagreed over residential placement of their adopted grandchild, whether the 23 years preceding marriage constituted a committed intimate relationship, characterization of property, and spousal and child support. Marcus Maneau appeals.

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12:00 p.m.

7) **No.: 36542-5-III**

Case Name: State v. Kenneth Leroy Stephens

County: Chelan

Case Summary: Following a traffic stop, law enforcement obtained evidence of theft and unlawful possession of a controlled substance by Kenneth Stephens. Mr. Stephens was initially charged with theft in district court. Those charges were later dismissed and refiled in superior court as trafficking in stolen property and unlawful possession of a controlled substance. Mr. Stephens sought suppression of the evidence

from the traffic stop and also sought dismissal due to the delay in charging. The trial court denied both motions. A jury convicted Mr. Stephens of possession, but acquitted him of trafficking. On appeal, Mr. Stephens challenges the denial of his suppression and dismissal motions, the sufficiency of the evidence, and the sentencing court's decision to deny a drug offender sentencing alternative (DOSA).

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