

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 12, 2019
Location: Spokane, 500 North Cedar

9:00 a.m.

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- 1) **No.: 35874-7-III**
Case Name: In re the Matter of: Petition of Kittitas County for Declaratory Order
County: Kittitas
Case Summary: In February 2017, Kittitas County sought a declaratory judgment from the Washington State Liquor and Cannabis Board requiring the Board to adhere to local zoning laws when issuing marijuana licenses. The County argued that the consideration was required by both the marijuana licensing statute and Washington's Growth Management Act. The Board disagreed. It found that it was not required to consider zoning under either law. The County appealed to the superior court, which reversed the Board's ruling. The Board appeals.

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2) **No.: 35737-6-III (Anchor Case)**

Consolidated: 35855-1-III

Case Name: In re the Estate of K. Wendell Reugh

County: Spokane

Case Summary: K. Wendell Reugh left behind a sizeable estate upon his death. His estate planning documents consist of a will and trust. The will provides for distribution of certain personal property, but otherwise directs the estate assets to be transferred to the trust. One of Reugh's children, JoLynn Reugh-Kovalsky, was both a beneficiary and a personal representative/trustee. Steve Gill was designated co-personal representative/co-trustee. Pursuant to the will, the court granted them nonintervention powers and declared the estate solvent. Subsequently, the co-personal representatives became concerned about the trust's validity and filed a petition to contest it. They nevertheless distributed certain trust assets to named trust beneficiaries, including Reugh's three children. In order to receive a charitable deduction and lower estate costs, Reugh's trust provided that the residuary assets would pass to Inland Northwest Community Foundation to be held as an endowed donor-advised fund for which his children would serve as advisors. The Foundation filed a motion to remove the personal representatives/trustees for breach of fiduciary duties. The court granted the motion and entered an order removing them and appointing a successor. The Reugh children and the ousted personal representatives/trustees appeal.

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3) **No.: 35649-3-III**

Case Name: Robert E. Larson, et al v. State of Washington

County: Spokane

Case Summary: Robert Larson, Tyler Gassman, and Paul Statler (Claimants) were wrongly convicted of crimes related to a 2008 Spokane robbery. They each spent approximately four years in prison. After their convictions were vacated in 2012 and the charges dismissed, they filed a claim under the "Wrongfully Convicted Persons Act (WCPA), chapter 4.100 RCW, which provides damages of \$50,000 per year per wrongly convicted person, attorney fees, and certain costs. After a bench trial in 2016, the court denied the WCPA claim and entered judgment in favor of the State. Claimants appealed and this court reversed. On remand, judgment was entered in Claimants' favor. While the appeal was pending, Claimants also filed suit against Spokane County under 42 U.S.C. § 1983. The same month that Claimants' judgment was entered in their WCPA claim, they settled their § 1983 lawsuit for \$2.25 million. The trial court entered the WCPA judgment for the Claimants. At the time, the court did not have evidence that

Claimants had been compensated from their § 1983 settlement. Claimants moved to enforce the WCPA judgment. The State opposed the motion based upon exclusive remedy language in the WCPA. The court agreed with the State, denied Claimants' motion, and vacated the WCPA judgment. Claimants appeal.

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4) No.: 36240-0-III

**Case Name: One Energy Development, LLC, et al v. Kittitas County, et al
County: Kittitas**

Case Summary: Iron Horse Solar, LLC (Iron Horse), submitted a conditional use permit (CUP) application to Kittitas County requesting approval for a solar photovoltaic project that would be the largest solar energy facility in Washington State. The facility was sited to be built on agricultural land. There was community opposition to the project. A county hearing examiner held an open record hearing to review Iron Horse's application and to decide the appeal of a Mitigated Determination of Nonsignificance issued under the State Environmental Policy Act (SEPA). The hearing examiner entered a decision affirming the SEPA decision and recommending that the Board of County Commissioners approve Iron Horse's application. Following two closed record hearings, the Board issued a resolution denying Iron Horse's CUP application. Iron Horse filed a petition under the Land Use Petition Act challenging the Board's decision. The superior court affirmed the Board's decision and dismissed Iron Horse's petition. Iron Horse appeals.

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11:00 a.m.

5) No.: 35578-1-III

**Case Name: State of Washington v. Troy Lee Bloor, aka Troy Steenhard
County: Spokane**

Case Summary: Troy Steenhard babysit five-year-old twin sisters for approximately two months. Nearly six months later, both girls revealed to their mother and a forensic interviewer that Steenhard touched their "privates." Steenhard was

convicted in a jury trial of one count of first degree child rape and two counts of first degree child molestation. He appeals.

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11:30 a.m.

6) No.: 35759-7-III

Case Name: State of Washington v. Justin A. Welker

County: Spokane

Case Summary: In 2008, Justin Welker pleaded guilty to possession of depictions of a minor engaged in sexually explicit conduct. The court imposed \$800 in mandatory legal financial obligations (LFOs). After his release from prison, Welker was arrested for failing to make monthly payments towards his LFO balance. His only source of income is Social Security Disability (SSI). In 2017, Welker filed a motion to terminate all of his LFOs because he could not make the monthly payments and was prohibited from using his SSI to make the payments. The trial court denied Welker's motion, but adjusted his amount owing to include only the remaining balance on the crime victim penalty assessment. The court also suspended any collection efforts by the State as long as Welker submitted annual documentation that SSI remained his only income source. Welker appeals.

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7) No.: 35133-5-III

Case Name: In re the Marriage of: Lori Van de Graaf and Rod D. Van de Graaf

County: Yakima

Case Summary: During their 26-year marriage, Rod Van de Graaf worked in the cattle industry while Lori Van de Graaf stayed home to raise their four sons and later returned to work as a part-time substitute teacher. Rod initially worked for his parents' company, Van de Graaf Ranches, Inc. (VDGR). He later started several partnerships with his two siblings, including Midvale Cattle Company, which engaged in various joint enterprises with VDGR. The parties separated in 2011. While the divorce was pending, VDGR transferred 30 percent of its stock shares to each of Rod's siblings and another 30 percent of the shares to an irrevocable trust that identifies Rod as a permissible

beneficiary. He testified that he first learned about the VDGR stock transfers at trial, but his brother testified that the family accountant told him a 30 percent share had been placed in trust, rather than transferred to Rod, “because of the divorce.” The court concluded it could not include Rod’s likely acquisition of the VDGR shares in the property distribution, it did consider the acquisition when determining whether the property distribution was just, and in determining the maintenance award. The court equally divided the marital assets (including an equalization payment to Lori Van de Graaf) and awarded her lifetime monthly maintenance. Rod Van de Graaf appeals.

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