

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: Monday, June 10, 2019
Location: Spokane, 500 North Cedar

1:30 p.m.

1) **No.: 35933-6-III**

Case Name: State of Washington v. Tamara Louise Cooke

County: Benton

Case Summary: Tamara Cooke needed a place to live and Timothy Ahrens allowed her to temporarily stay in his home. She abruptly left on the same morning that his truck disappeared. He believed she took the truck and it was never found. Five months later, Ahrens entered his home one evening and found that some of his lights had been disabled. Someone struck him in the back as he closed the door. He turned on a light to discover Ms. Cooke standing behind him holding an ice pick. He asked what she was doing in his house and how she got in. She said she wanted to talk. They had not spoken since the day his truck disappeared. He told her to leave and she complied. Ahrens sustained a collapsed lung from the ice pick attack and was hospitalized for five days. He returned home from the hospital to discover that someone had forcibly entered his house through the back door and stole numerous items of value. The perpetrator's identity was undetermined. The State charged Cooke with first degree burglary and first degree assault with a deadly weapon. A jury convicted her as charged, but did not return a deadly weapon special verdict. The court imposed a 111-month sentence that included a 60-month mandatory minimum term for the first degree assault. Without defense

objection, the court imposed restitution totaling \$19,413—comprised of \$15,730 for unspecified damages and \$3683 to the crime victim’s compensation fund. Cooke appeals.

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2) No.: 35926-3-III

Case Name: In re Bates Drug Stores, Inc.

County: Spokane

Case Summary: Cardinal Health 110, LLC (Cardinal Health) and Banner Bank are both creditors of Bates Drug Stores, Inc. (Bates). After experiencing financial problems, Bates went into receivership for the benefit of its creditors. Banner Bank’s predecessor-in-interest, AmericanWest Bank, agreed to extend additional credit to Bates so long as Cardinal Health agreed to subordinate all of its rights and interests in Bates’s assets. Cardinal Health approved and signed the subordination agreement with AmericanWest. AmericanWest also had a commercial security agreement with Bates, and AmericanWest filed a Uniform Commercial Code (UCC) financing statement with the Secretary of State. AmericanWest’s financing statement did not list general intangibles as collateral in which it had a security interest. The superior court determined priority of creditors and ordered \$327,191.00 to be distributed to Banner Bank. Cardinal Health appeals, arguing that it never subordinated its claims to Bates’s general intangibles.

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3) No.: 35792-9-III

Case Name: State of Washington v. Dahndre K. Westwood

County: Grant

Case Summary: The State charged Dahndre Westwood with attempted first degree rape, first degree burglary, first degree assault, second degree assault, and indecent liberties, all stemming from his alleged entry to the home of A.B. and his attempt to rape her. Westwood was age 14 at the time of the alleged crimes, but had turned age 19 at the time of trial. The State proposed to dismiss the attempted rape, burglary, and assault charges in exchange for Westwood pleading guilty to indecent liberties, as well as third degree assault in a separate case. The court rejected the plea agreement and the case proceeded to a jury trial. During a recess, a juror informed the court that two other jurors were discussing DNA transfer. The court denied a defense

motion for mistrial and replaced the offending jurors with alternates. The jury convicted Westwood of attempted first degree rape, first degree burglary, and first degree assault. The court declined Westwood's request for a downward exceptional sentence based on his youthfulness at the time of the offenses. The court also ruled the offenses were not the same criminal conduct for offender score purposes. The court imposed standard range sentences for each offense and ran the attempted rape and assault sentences consecutively. Westwood appeals.

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2:30 p.m.

4) No.: 35696-5-III

Case Name: State of Washington v. Enrique Murillo, Jr.

County: Benton

Case Summary: Jenna Ross and James Whitney were involved in a police investigation regarding stolen vehicles discovered at Ross's residence. Both told police that someone named "Cousins" brought the vehicles to the property. Whitney denied stealing the vehicles but told police that he helped Cousins work on them. Ross denied knowledge that they were stolen. After providing more information regarding Cousins' true identity to police, and with Whitney positively identifying Enrique Murillo as "Cousins" in a photo montage, police stopped Murillo's vehicle and arrested him on the spot. A search incident to arrest revealed a baggie of methamphetamine in Murillo's pocket. Murillo moved to suppress the evidence as the fruit of an unlawful arrest without probable cause. The court denied the motion. Murillo was convicted by a jury of unlawful possession of a controlled substance (methamphetamine). He appeals.

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