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SUPREME COURT
STATE OF WASHINGTON
May 16, 2014, 8:02 am
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WASHINGTON STATE SUPREME COURT

JOHN WORTHINGTON,

Appellant,

v.

WEST NET,

Respondents,

CASE NO. 90037-0

COA NO. 43689-2-II

MOTION TO STRIKE KITSAP
COUNTY PROSECUTOR'S
RESPONSE TO PETITION FOR
REVIEW

I. Identify of Moving Party

Appellant John Worthington respectfully asks for the relief designated in

Part 2.

II. Statement of Relief Sought

Worthington respectfully requests the Washington State Supreme Court to
strike the Kitsap County Prosecutor's office WestNET response to Worthington's
petition for review.

The Kitsap County prosecutor's office has stepped forward in this case
to represent WestNET, without any express authority from affiliate jurisdictions to
represent WestNET, and without an official entity to represent.

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A. The Kitsap County Prosecutors office is not an employee of WestNET.

The Kitsap County Prosecutor's office is an independent contractor as shown below:

c. Each contributing agency shall act as an independent contractor and not as employee of the Task Force or of another party to this agreement. As such, each party shall not have the authority to bind other parties nor control employees of other' parties contractors or other entities.

As shown above the Kitsap County Prosecutor is not a WestNET employee and can only act independently and cannot bind the other affiliate jurisdictions to any legal representations on their behalf.

B. The WestNET interlocal agreement is the only binding agreement between affiliate jurisdictions.

The WestNET interlocal agreement is the only binding agreement that can appoint a civil attorney that can represent and bind all the affiliate jurisdictions as shown below:

SECTION 9. INTEGRATION. This agreement contains all the terms and conditions agreed upon by the patties, except necessary operational a efforts between the law enforcement agencies of the respective jurisdictions in furtherance hereof. No other understanding, *oral* or *otherwise*, regarding the subject matter of this agreement shall be deemed to exist or to bind cures of the parties.

As shown above, The WestNET interlocal agreement is the only binding agreement that can appoint a civil attorney that can represent and bind all the affiliate jurisdictions.

1 **C. The Kitsap County Prosecutor was appointed the task to prosecute**
2 **drug felonies and represent Kitsap County and the State in real**
3 **and personal property forfeitures and drug nuisance abatement**
4 **proceedings, not civil PRA matters.**

5 Kitsap County as stepped beyond the boundaries of the language of the
6 WestNET interlocal agreement, which was only intended to address
7 criminal matters and not civil matters. This is confirmed by the language of
8 Section 3, general duties of the parties' part e as shown below:
9

10 e. The Office of the Kitsap County Prosecutor shall, in addition to its
11 main duties in the prosecution of Kitsap County felony drug violations,
12 represent the Cities, Kitsap County, and the State in real and personal
13 property forfeitures and drug nuisance abatement proceedings initiated by
14 Task Force assigned personal.*****

15 As shown above the only language in the interlocal agreement outlining the
16 general duties of all the parties, contains no language that officially appoints the
17 Kitsap County Prosecutor's Office as the civil attorney for WestNET.

18 **D. Worthington did not raise this issue at trial because he thought**
19 **WestNET was a drug enforcement agency.**

20 Worthington did not raise this issue at trial because he thought
21 WestNET was a drug enforcement agency as shown below:

22 d. "Drug Task Force" means a drug enforcement agency created by this
23 agreement.

24 However, despite the clear intentions of the WestNET affiliate Jurisdictions to
25 create a drug enforcement agency, the trial court and the appeals court ruled
26

1 WestNET was not an agency.

2 Since WestNET is not an agency subject to suit, there is no reasonable
3 reason for a civil attorney to represent such an entity, until that entity can be
4 created. WestNET is a ghost. The Kitsap County Prosecutor's office cannot
5 represent a ghost.
6

7 Without an official entity to appoint a civil attorney to, and with the Kitsap
8 County Prosecutor's office only appointed to handle criminal felonies and
9 represent Kitsap County and the State in real and personal property
10 forfeitures and drug nuisance abatement proceedings, the briefing in this case is
11 void for the lack of authority to legally represent a non-entity.
12

13 The Kitsap County Prosecutor's office cannot act as a civil attorney for
14 WestNET. The WestNET affiliate jurisdictions should have appointed private
15 counsel in this case or designated the proper civil representative for WestNET in
16 the WestNET Interlocal agreement. Since they did neither, the Kitsap County
17 Prosecutor's briefs should be stricken.
18

19 The general rule is that issues not raised in the trial court may not be
20 raised for the first time on appeal. See RAP 2.5(a); State v. Moen, 129 Wash.2d
21 535, 543, 919 P.2d 69 (1996). By its own terms, however, the rule is discretionary
22 rather than absolute. See RAP 2.5(a) (an "appellate court may refuse to review any
23 claim of error which was not raised in the trial court") (emphasis added); Obert v.
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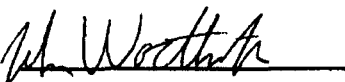
1 Environmental Research & Dev. Corp., 112 Wash.2d 323, 333, 771 P.2d 340
2 (1989) ("rule precluding consideration of issues not previously raised operates only
3 at the discretion of this court"). Accord Bennett v. Hardy, 113 Wash.2d 912, 918,
4 784 P.2d 1258 (1990). Thus, the rule never operates as an absolute bar to review.
5

6 The trial court and Appellate Court Panel has already used the WestNET
7 Interlocal Agreement in making its rulings. Worthington is only asking the
8 Supreme Court to reconsider the WestNET Interlocal Agreement, which have
9 already been brought onto the record, were before the trial court, and preserved on
10 appeal in Worthington's opening brief.
11

12 III. CONCLUSION

13 Worthington respectfully requests the Washington State Supreme Court
14 strike the response to the Petition for Review by Kitsap County Prosecutor's office,
15 because there has been no legal and binding agreement to support them as a legal
16 representative for the affiliate jurisdictions of WestNET in civil matters, and
17 because an entity has to be created in order for them to be able to represent it.
18 The response to the Petition for Review is a hypothetical response.
19

20 Respectfully submitted this 15TH day of May 2014.
21

22 BY 
23 John Worthington Pro Se /Appellant
24 4500 SE 2ND PL.
25 Renton WA.98059
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Declaration of Service

I declare that on the date and time indicated below, I caused to be served
Via email and U.S. Mail, a copy of the documents and pleadings listed below upon
the attorney of record for the defendants herein listed and indicated below.

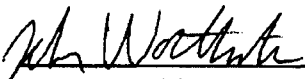
1. APPELLANT'S MOTION TO STRIKE

IONE GEORGE
WEST NET
614 Division Street MS-35A
Port Orchard, WA 98366

PAM LOGINSKY
WAPA
206 10TH AVENUE SE
Olympia, WA. 98501

I declare under penalty of perjury under the laws of the United States that the
foregoing is True and correct.

Executed on this 15th day of May, 2014.

BY 
John Worthington Pro Se /Appellant
4500 SE 2ND PL.
Renton WA.98059

OFFICE RECEPTIONIST, CLERK

From: OFFICE RECEPTIONIST, CLERK
Sent: Friday, May 16, 2014 8:02 AM
To: 'john worthington'
Subject: RE: MOTION TO STRIKE KITSAP COUNTY PROSECUTOR'S OFFICE RESPONSE

Rec'd 5-16-14

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: john worthington [mailto:worthingtonjw2u@hotmail.com]
Sent: Thursday, May 15, 2014 9:11 PM
To: OFFICE RECEPTIONIST, CLERK
Subject: MOTION TO STRIKE KITSAP COUNTY PROSECUTOR'S OFFICE RESPONSE

Hello,
Please file this with the court.
Thank you

John Worthington