99670-9

No: 97610-4

SUPREME COURT OF THE STATE OF WASHINGTON

PATRICIA CROGHAN, Petitioner

v.

COLUMBUS PARK, Respondent,

PETITION FOR REVIEW

Patricia Croghan, Petitioner pro se,
P.O. Box 6451, Olympia WA 98507
360-878-6181

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A. IDENTITY OF PETITIONER

Appellant Patricia Croghan asks this Court to accept review of the Court of Appeals decision terminating review designated in Part B of this petition.

B. COURT OF APPEALS DECISION

Croghan asks this Court to accept review of the decision of the Court of Appeals, which was filed on March 15, 2021. No motion for reconsideration was submitted. A copy of the decision is in the Appendix.

C. ISSUES PRESENTED FOR REVIEW

i) Should Superior Court commissioners be able to change their minds **after** the 10 days has passed, when under RCW 2.24.050, the judgment is already rendered final?

Standard of review: Error of law

ii) At the presentation hearing on 3/29/19, Commissioner Zinn stated, *"I am actually going to change my mind, which I have the prerogative to do until I set a written order based on my findings"* [RP 3/29/19, Pg 46, Line 2]. If commissioners are allowed the same "prerogative" as a credentialed judge to change their ruling up until they have issued a written order, does not this practice conflict with RCW 2.24.050's rules for judicial review of commissioners rulings? Standard of review: Error of law

iii) Did Columbus Park gain a procedural, substantive, or tactical advantage by the commissioner's ex parte *"briefing from another attorney"?* Standard of review: Judicial Code of Conduct regarding ex parte communications

iv) Did Croghan have an equitable right to argue the reasoning of the new issues presented to the commissioner, especially since the result of those communications was a reversal of the commissioner's ruling to dismiss the case as without merit and retaliatory? Standard of review: Right to due process

v) Should the trial court have ruled upon Respondent's unserved, unfiled motion in limine? Standard of review: Error of law

vi) Since the court did rule, is the motion then affirmed the same as though it were filed with the Clerk? Should the court have then instructed that the motion be properly filed with the Clerk, since the Clerk had no record of the motion? [Note: Croghan filed Respondent's *Motion in Limine* herself, on 10/11/19, CP 193-195 and 209-218]. Standard of review: Error of law

vii) Must not the court enforce the 5 days' time required by court rules for the litigant to prepare an adequate response to a motion in limine that is received just moments prior to trial? Standard of review: Standard of review: Error of law

viii) Did the trial court block and prevent Croghan from asserting all legal and equitable defenses available to her when it: a) granted the

motion in limine; and b) on its own discretion, narrowed the scope of trial even further than requested in the motion in limine, to a notice requirement not even stated in the statute? Standard of review: Judicial error

ix) Do the retaliation statutes (RCW 59.18.240 and 59.18.250) require that the **tenant** prove that the landlord knew the identity of the whistleblower, or does not the presumption extended that the eviction was in retaliation presume that the landlord knew the identity of the tenant prior to eviction? Standard of review: Error of law

x) Did the trial court err in misapplication of an erroneous definition of the term "premises", which effectively blocked Croghan's ability to utilize the protections offered by RCW 59.18.240? Standard of review: Error of law

xi) Should Lerud have been impeached as a witness based on her numerous instances of proven dishonesty? Judicial error

xii) Can a judgment based in whole or in part on falsified and forged documents be affirmed, consistent with due process of law? Standard of review: Error of law

D. STATEMENT OF THE CASE

To save precious time, Croghan requests that this Court refer to her *Opening Brief* to obtain the same statement of the case she would record here. As stated in her *Declaration of Patricia Croghan,* dated March 10 2021, Croghan is challenged in her living conditions, and must

move every 2-3 days to another state campground. This has posed enormous obstacles to the filing of this petition, and payment of the fee for this petition will be perfected on April 15, 2021.

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

This Court should accept review of this case because:

1) there are significant questions of law under the Constitution of the United States. There is clear conflict between Article III of the Constitution and the long-standing legal doctrine of "cases or controversies", and its progeny, the doctrine of "standing". Despite the challenge of legal scholars as to the constitutionality of these two doctrines, they have become entrenched into the legal system via a third doctrine, that of "case precedent", which was improperly adopted from the British court by the first Supreme Court, in disregard of the Framers' stance, as set forth in the *Declaration of Independence*;

2) there is a statutorial conflict in Washington law at the state court level, as regards judicial review and whether commissioners enjoy the same privileges as certified judges.

There is also conflict between State of Washington whistleblower laws and federal whistleblower laws. Washington state's applicable statutes, 59.18.240 and .250, do not provide compensation for losses or mitigation of harm to the tenant, while federal employment laws allow a percentage of the sanctions assessed on the violator to be shared with the whistleblower. Croghan asserts that the loss of one's job is only a

temporary setback, while the sudden loss of one's home disrupts all aspects of the tenant's life, including their employment. In this case, the covid pandemic caused rents to skyrocket, jobs to diminish, as well as many other effects which adversely affected Croghan's ability to get back on her feet.

3) a valuable State of Washington natural resource was lost, in that for at least two years, returning salmon have been unable to spawn at this last remaining salmon spawning site on all of Black Lake in Olympia, Washington. Even if the exterior of the mouth of the stream is rebuilt with new wetlands construction, the "scent" and topography of the mouth of the stream may be forever changed such that salmon may have lost the "scent" and location of this centuries-old spawning site.

Croghan asks this Court to assess sanctions upon Respondent Columbus Park for the destruction of this rare State of Washington natural resource, and for lying on the County environmental permits about the non-presence of salmon, and for fraudulently misrepresenting the stream, just a few feet away from the construction site, as *"an unnamed stream further south on the lake"*.

4) Appellant's *Motion for Third-Party Standing* seeks to obtain standing for Nature, in all its forms. Standing for corporations, a legal construct only, and for maritime ships, which are inanimate objects, have enjoyed long-term standing in the courts. Why not Nature, the author of every living creature on the face of the Earth? Why not Nature, which

supplies the oxygen that humankind must have every single moment, and robbed for that oxygen for even 5 minutes, will perish? This fact of human dependence upon Nature's oxygen was morbidly highlighted in the death last summer of a man deprived of oxygen by a knee to his back by a police officer. The world erupted in outrage, and the fallout from that death is still reverberating around the planet.

Although there have been a handful of U.S. cases seeking standing for ecosystems and whales, this matter has not been settled in the Washington Supreme Court nor the U.S. Supreme Court.

To date, no case has arrived at the Supreme Court level which seeks standing in the courts for *all of Life* -- meaning, the natural energy frequencies, Schumann frequency and magnetic fields of the Earth which balance everything from the weather to the regulation of all life, to microbes, bacteria and viruses, insects, amphibians, birds, fish and marine mammals, all the way up to humans -- *the entire evolutionary ladder.*

Since the Supreme Court may not rule upon a controversy unless a case involving that controversy lands in its lap, Croghan respectfully delivers this case which involves the toxic pollution of microbes and bacteria in soil and water, plants and minerals which take up that poison, amphibians, fish, animals and birds that consume it as "grit" in the form of lead gun shot measuring .05-.06 mm, and ingested by humans via the fish caught off the Columbus Park fishing piers and shoreline. Thus, this case qualifies as a matter that involves the entire evolutionary ladder, and

qualifies Croghan's *Motion for Third-Party Standing* for all of Nature as properly granted by this Court.

Aside from the issue of the motion for standing for Nature, Croghan's rights, claims and defenses regarding the retaliation issue are obscured and unable to be exercised fully without the inclusion of these third parties. This case began with the Army Corps of Engineers stopping Respondent's manager Lerud's shoreline construction project. However, Respondent and the Appeal Court both framed this environmental whistleblower matter as a simple unlawful detainer about *rent.* To this end, Respondent submitted false testimony about returning Croghan's November rent in order to artificially create a basis for filing the lawsuit. The first judge that heard this case was correct: it was a frivolous lawsuit without merit, that was filed in retaliation for Croghan's whistleblower reports.

It was the harm being done by Respondent's Manager Lerud to these third parties which drew Croghan into Lerud's long-time war on the Park ecosystems, wetlands and wildlife at Columbus Park.

Most importantly, Croghan believes she has unearthed new information from the National Archives about the origins of the "cases or controversies" and "standing" doctrines initiated by the first Supreme Court. The original correspondence between Secretary of State Thomas Jefferson on behalf of President George Washington, and the Supreme Court, show clearly that the Court dodged its constitutional duties as

outlined in Article III. Article III extends powers to the Judiciary to have jurisdiction over: a) national treaties; b) controversies in which the U.S. is a party; c) issues of maritime and admiralty law; and d) situations wherein U.S. citizens are sparring with citizens of foreign nations. All of these issues were being challenged at U.S. ports, and President Washington was properly correct in referring these matters to the Supreme Court. As discussed extensively in Croghan's *Brief in Support of Motion for Third Party Standing* (filed with this Court on March 10, 2021), in light of this new information from the National Archives, it appears ***the first Supreme Court erred massively in its denial of its constitutional duty to assert jurisdiction over these national security threats at U.S. ports.*** This erroneous stance of the Supreme Court gave rise to the "cases or controversies" and "standing" doctrines, which inadvertently stripped all U.S. citizens of their right to self-governance through the courts, as intended by the Framers.

Appellant requests that this Court reverse the decision of the Appeal Court, finding that Respondent failed to produce *valid, authentic evidence* that its eviction of Croghan was not in retaliation for her reports to government agencies. The unlawful detainer suit was frivolous from the outset, having no material grounds or defense for the eviction of Croghan. This made it necessary for Respondent's Manager Lerud and her counsel to *contrive a late narrative not presented until the day of trial,* that Manager Lerud returned Croghan's November rent on the day when Lerud

staged a phony "house inspection", so there would be an (artificial) basis for the lawsuit. Lerud and her counsel, Baldwin, stated in open court that the December rent was being held at Baldwin's offices "for safe keeping", Croghan has presented evidence from the envelope given to her by Lerud with Lerud's writing along with Croghan's bank statement, that Lerud returned only the December rent, and that Croghan immediately cashed it, proving that Lerud and Baldwin had lied to the trial court.

Although the quick and easy resolution to the retaliation issue is to dismiss the case, too much water has passed under the bridge, and Croghan's life was turned upside down and she has still not recovered from the harm of the sudden usurpation of her life. All of Croghab's belongings had to remain in storage while she focused on being available for this case to move forward through the appellate courts. Croghan deserves to have not only her moving costs reimbursed, but also mitigation for her losses.

F. CONCLUSION

It has been established that Croghan's rent was completely paid up at the time of the eviction, and that she submitted two more month's rent while she was awaiting Manager Lerud's unlawful detainer lawsuit to be properly filed. Respondent could offer no explanation for her sudden eviction of Croghan, a long-time resident with whom Respondent formerly had a courteous and friendly relationship.

On three (3) occasions prior to Respondent's October 5, 2018 posting of the eviction notice on Croghan's door, Manager Lerud was notified of Croghan's involvement in stopping her shoreline construction project at the mouth of the salmon stream. Her first notice was on September 20th, when her own dredging contractor notified her within minutes of the altercation with resident Croghan. To surmise that Manager Lerud did not ask her contractor for a description of the resident who complained, is beyond credibility. Since Respondent knew Croghan was an environmental paralegal from their previous encounters over logging beside the stream and dumping asphalt at the edge of the stream, and since Croghan was one of the few residents who visited the waterfront on a daily basis in full view from Lerud's office, it is no stretch to state that Respondent knew as of September 20th that it was Croghan who confronted the contractor.

The second and third notifications to Manager Lerud were from the Army Corps of Engineers. Lerud was contacted by phone on September 25th by Brandon Clinton of the Army Corps, who advised Lerud of the resident's complaint and directed that the dredging must be stopped immediately for lack of a permit. According to the Army Corps, the phone call was followed up with written notification to Lerud of her violation, per standard Corps practices. [Note: although Croghan requested a copy of this notification to Lerud from the Army Corps, her request was denied

as outside the protocol of the Army Corps.] See my pleading, (title of pleading and date)

That the Corps indeed notified Lerud on September 25th about the resident's complaint, is revealed by Lerud's own exhibit to her *Declaration of Carrie Lerud,* an email thread. The email, forwarded to Lerud from her project consultant, contained an odd, 3-inch blank area in the email thread where faintly, black specks indicated that text was once there. When the text was revived, it was seen to be an email from the Corps to Croghan dated September 25th, advising Croghan that Brandon Clinton of the Corps had contacted Lerud, the "project proponent", that very day.

In contrast to these three certain notifications to Lerud eleven (11) days **prior to** posting the eviction notice, Lerud offered only the flimsy evidence of her personal declaration stating that she did not know it was Croghan. The "evidence" she offered was from an altered email wherein Lerud claims her project consultant is advising Lerud for the *first time, one month <u>after</u> the project was halted by the Corps,* that the project had been stopped, and Croghan's report to the agencies is at the end of the thread.

When one examines the cc: list on the revived email from the Corps to Croghan on Sept. 25th, one sees all of Lerud's project team members received a copy of Croghan's report to the agencies. Thus, Lerud's Fish and Wildlife agent, her Thurston County permitting agent, her agent from Ecology -- all of these team members received copies of

Croghan's report through the September 25th email from the Army Corps to Croghan, which was found on the revived email exhibit attached to Lerud's exhibit. These folks are all in responsible State positions, and for Lerud to claim via her declaration that not a single one of them bothered to contact her to discuss her project's suspension by the Corps, and that it was not until *a month afterwards* that she first received notice from her project consultant, is beyond ludicrous.

The Appeal Court dodges the environmental, public safety, and state agency liabilities created by the actions of Respondent, and like the trial court, repeatedly characterizes the case as an ordinary unlawful detainer lawsuit, as if perhaps the more times this is stated, the other issues will go away. This is one of the critical reasons why the third-party victims must be afforded standing in this case. *This case has never been about Croghan's tenancy or whether the rent was paid up.* The lawsuit would never have been filed if Lerud had not cruelly slaughtered the migrating bird flocks, and then one week later attempted to dredge at the mouth of the salmon stream. If Manager Lerud had not strayed so far from responsible stewardship of the Park, endangered residents, the public and children with live gunfire for months, and threatened to destroy one of the last salmon spawning sites in the region, there would have been no need for Croghan to speak up. {Note: Manager Leruds' County environmental application (SEPA) stated that no dredging would be

performed -- this is yet more documentary proof of Lerud's propensity for dishonesty.)

Lastly, Appellant requests that this Court ***finish the job here***. To "kick the can down the road" and remand the case back to the trial court for consideration of any issue is detrimental to all parties, including the court, but especially Croghan, who has sacrificed so much to be able to deliver this important case to this Court

For the foregoing reasons, the petition for review should be granted.

DATED this 14th day of April, 2021.

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APPENDIX

1. Unpublished Opinion, Court of Appeals Div. I, filed 3/15/21. Croghan apologizes that the formatting of the Opinion did not dovetail into the margins for this petition, however she is aware that the Court has access to a formatted copy if it so desires.

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

COLUMBUS PARK, Respondent, v. PATRICIA CROGHAN, Appellant.	DIVISION ONE No. 82066-4-I UNPUBLISHED OPINION

SMITH, J. — Patricia Croghan appeals the trial court's judgment in favor of her landlord, Columbus Park, in its unlawful detainer action against her. Substantial evidence supports the trial court's findings of fact that Columbus Park did not know of Croghan's complaint to government agencies before serving her with a notice to terminate her month-to-month tenancy. These findings in turn support the trial court's conclusion that Croghan's allegation of retaliation under RCW 59.18.240 does not apply here. The trial court did not abuse its discretion in declining to admit one of Croghan's proffered exhibits at trial because it contained hearsay. Croghan fails to prove any of her allegations that there was fraud or forgery during the trial court proceedings. We affirm.

FACTS

Appellant Croghan was a tenant on a month-to-month lease at Columbus Park, a housing community, campground, and day-use park in Olympia, Washington. On September 20, 2018, Croghan e-mailed a complaint regarding dredging that was occurring at the waterfront at Columbus Park to employees at the Washington State Department of Ecology and the Washington Department of Fish and Wildlife. Croghan states that she had filed a separate complaint regarding goose hunting at Columbus Park earlier that same month with the same state agencies.

On October 5, 2018, Carrie Lerud, manager of Columbus Park, served Croghan with a notice to terminate her month-to-month tenancy. The notice informed Croghan that her month-to-month tenancy was terminated on October 31, 2018, and that if she did not vacate the premises before that date, she would be in unlawful detainer and judicial proceedings would be initiated for her eviction. Croghan did not vacate the premises.

On December 21, 2018, Columbus Park, through counsel, filed a complaint for unlawful detainer against Croghan in Thurston County Superior Court.
Croghan answered the complaint and pleaded the defense that the unlawful detainer action was retaliatory. Specifically, Croghan alleged that Columbus Park retaliated against her because of her complaints to government agencies.
On March 13, 2019, Lerud filed a declaration, stating that at the time she served the notice to terminate, "I was unaware of a complaint against Columbus Park filed by Mrs. Patricia Croghan." The declaration also stated that "I was notified of the complaint via email on October 18, 2018, see Exhibit 1." An e-mail forwarding Croghan's complaint to Lerud on October 18, 2018, was attached as an exhibit to the declaration.
On March 15, 2019, Commissioner Rebekah Zinn held a show cause hearing. Commissioner Zinn said that the rebuttable presumption under RCW 59.18.250[1] was not overcome and, therefore, there was a presumption that it was an unlawful eviction. Because neither party had prepared proposed written findings of facts and conclusions of law, Commissioner Zinn said she would draft findings of fact and conclusions of law and set a presentation hearing.

[1] RCW 59.18.250 provides, "Initiation by the landlord of any action listed in RCW 59.18.240 within ninety days after a good faith and lawful act by the tenant as enumerated in RCW 59.18.240, or within ninety days after any inspection or proceeding of a governmental agency resulting from such act, shall create a rebuttable presumption affecting the burden of proof, that the action is a reprisal or retaliatory action against the tenant."
[2] Croghan's assignment of error 2 states that "[t]he trial court erred by ruling on a motion in limine which was never served, nor filed, nor was appellant given any meaningful opportunity to review and argue the motion in limine." The record reflects that Columbus Park provided both Croghan and the trial court with the motion in limine, and that it was argued and decided during a discussion
On March 29, 2019, Commissioner Zinn held the presentation hearing. Commissioner Zinn explained that "in the process of crafting those findings of fact and conclusions of law and looking carefully at the law and the evidence presented again, I am actually going to change my mind." Commissioner Zinn found that there were material questions of fact that warranted holding a trial and set the matter for trial.
A bench trial took place on April 22, 2019, before Judge Carol Murphy.[2] Croghan and Lerud were the only witnesses at trial. At the conclusion of trial, the No. 82066-4-I/4

about pretrial matters on the day of trial, April 22, 2019. On appeal, Croghan apparently objects to the trial court's statement that it was within the scope of the trial "to hear evidence of Ms. Croghan's claims and reports that she made to Columbus Park that form the basis for her retaliation claim." But the trial court also heard evidence of Croghan's complaints to government agencies and properly ruled that the issue of whether Croghan's complaints to government agencies had merit was outside the scope of the unlawful detainer trial.

[3] Croghan's assignment of error 10 states, "The trial court erred (Murphy) by not preparing her own independent ruling, instead reading verbatim from counsel for Respondent's Findings and Conclusions." The trial court did not err merely by adopting a party's proposed findings and conclusions rather than creating its own; court rules allow for parties to prepare and present proposed findings, conclusions, and judgments, and for the trial court to adopt them. See CR 52, 54.

court scheduled its oral ruling for April 26, 2019, and invited both parties to submit proposed findings of fact and conclusions of law. Both parties submitted written proposed findings of fact and conclusions of law. On April 26, 2019, the court gave its oral ruling, which largely adopted Columbus Park's proposed findings of facts and conclusions of law.[3] The court ruled that Croghan had made a report to a governmental entity prior to October 5, 2018, but it was clear that Columbus Park did not know that the complaint or report was made by Croghan until after the notice to terminate tenancy on October 5. The court determined that the language of RCW 59.18.240 indicates that it is necessary that the landlord must know that the complaint or report is by the tenant for the provision to apply. The court further concluded that RCW 59.18.240 does not apply here because Columbus Park was not aware of the complaint by Croghan. Thus, the court concluded that Croghan had committed unlawful detainer and that her tenancy was terminated. No. 82066-4-I/5

On June 14, 2019, the court held a presentation hearing at which Croghan did not appear. The court signed Columbus Park's proposed written "Findings of Fact, Conclusions of Law and Judgment, and Order for Writ of Restitution." On June 14 and June 17, Croghan filed declarations, alleging that she lacked notice of the hearing because of a failure in Columbus Park's service. The trial court vacated the orders and rescheduled the hearing.

On June 28, 2019, the court entered "Findings of Fact, Conclusions of Law and Judgment, and Order for Writ of Restitution," identical to those which it had entered on June 14.

Croghan appeals.

ANALYSIS

It was undisputed at this trial for unlawful detainer that Croghan had a month-to-month tenancy, that she had been served with a notice to terminate tenancy, and that she had not vacated the premises, where she still remained at the time of trial. Thus, the central dispute at trial was Croghan's defense that Columbus Park was retaliating against her for complaints she made to governmental authorities.

Specifically, Croghan alleged that Columbus Park violated RCW 59.18.240, which states that a landlord shall not take reprisals or retaliatory action against a tenant "because of any good faith and lawful . . . [c]omplaints or reports by the tenant to a governmental authority concerning the failure of the landlord to substantially comply with any code, statute, ordinance, or regulation No. 82066-4-I/6

governing the maintenance or operation of the premises, if such condition may endanger or impair the health or safety of the tenant." Columbus Park's response was that it did not retaliate because it had no knowledge of Croghan's complaint before serving the notice to terminate tenancy. For the reasons detailed below, we affirm the trial court's judgment in favor of Columbus Park.

Columbus Park's Knowledge of Croghan's Complaint

Croghan argues that the trial court erred by ruling that Columbus Park did not have knowledge of her complaint to a government agency. We disagree.

When a party does not challenge a trial court's finding, we treat the finding as a verity on appeal. In re Estate of Lint, 135 Wn.2d 518, 532-33, 957 P.2d 755 (1998). When a party challenges a finding, we determine whether substantial evidence supports it. In re Marriage of Griswold, 112 Wn. App. 333, 339, 48 P.3d 1018 (2002). "'Substantial evidence exists if the record contains evidence of sufficient quantity to persuade a fair-minded, rational person of the truth of the declared premise.'" Id. (quoting Bering v. SHARE, 106 Wn.2d 212, 220, 721 P.2d 918 (1986)). We then determine whether the findings of fact (either unchallenged or supported by substantial evidence) support the trial court's conclusions of law. Landmark Dev., Inc. v. City of Roy, 138 Wn.2d 561, 573, 980 P.2d 1234 (1999). We do not review credibility determinations, which we leave to the trier of fact. In re Marriage of Greene, 97 Wn. App. 708, 714, 986 P.2d 144 (1999). No. 82066-4-I/7

The trial court issued three findings regarding Columbus Park's knowledge of Croghan's complaint to government agencies:

4. Plaintiff had no knowledge of Defendant's complaint to government agencies until after October 5, 2018 when Plaintiff provided the Twenty-Day Notice to Terminate Tenancy.

5. On October 18, 2018, Plaintiff was notified by Bracy & Thomas, the entity that was referred to as the permitting agency, that the Defendant had filed a complaint about the dredging of the salmon stream.

6. Defendant herself in a letter to Plaintiff was the first to notify Plaintiff that the Defendant had filed a complaint.

Croghan does not properly assign error to these findings in accordance with the Rules of Appellate Procedure. See RAP 10.3(g) ("A separate assignment of error for each finding of fact a party contends was improperly made must be included with reference to the finding by number. The appellate court will only review a claimed error which is included in an assignment of error or clearly disclosed in the associated issue pertaining thereto."). The findings support the trial court's conclusion that Croghan's assertion of improper termination under RCW 59.18.240 does not apply because Columbus Park was not aware of Croghan's complaint. We may affirm on this basis. See Lint, 135 Wn.2d at 532-33.

Even if Croghan had properly assigned error to these findings, the findings are supported by substantial evidence. Lerud filed a declaration, stating that when she served the notice to terminate tenancy on October 5, 2018, she was unaware of a complaint against Columbus Park filed by Croghan. Her declaration states that she was notified of the complaint via e-mail on October

18, 2018. Attached to her declaration is an e-mail sent to Lerud on October 18, 2018, from Kim Pawlawski at Bracy & Thomas, forwarding Croghan's September 20 e-mail complaint.

Lerud testified at trial that she was not aware of any complaints or reports that Croghan had made in the 90 days before she served the notice to terminate tenancy. She testified that, after serving the notice to terminate tenancy, she received a letter from Croghan that was "somewhat inflammatory" and called her permit company, Bracy & Thomas, to ask what was going on. She said the permitting company then forwarded the e-mail to her. When asked if she took this action to retaliate against Croghan for the complaint she made, Lerud responded, "I didn't have any knowledge of the complaint, so no."

Croghan testified at trial that she did not personally notify Lerud about her complaint before she was served with the notice to terminate tenancy. Nor did she personally witness anyone else notify Lerud about her complaint before the notice to terminate tenancy was served. Croghan also submitted into evidence a letter she sent to Lerud days after she was served the notice to terminate tenancy, notifying Lerud that she had filed a complaint.

The evidence before the court was more than sufficient to persuade a fair-minded, rational person that the findings are true. See Griswold, 112 Wn. App. at 339. Substantial evidence supports the trial court's three findings regarding Columbus Park's knowledge of Croghan's complaint to government agencies, quoted above. See id. No. 82066-4-I/9

Croghan argues that evidence supports the fact that Lerud was notified “of the complaint and/or the identity of Croghan” before serving the notice to terminate tenancy. Specifically, Croghan states that she saw the dredging contractor entering Lerud’s office immediately after Croghan’s confrontation with him on September 20; that Brandon Clinton, an employee of the United States Army Corps of Engineers, contacted Pawlawski on September 24 and that same day advised Croghan that he left a message at the Columbus Park office; and that Teresa Nation, an employee of the Washington Department of Fish and Wildlife, called Croghan on September 24 and received a copy of Croghan’s report from the Department of Ecology via e-mail.

Even assuming the above allegations are true and not barred by the hearsay rule, the circumstantial evidence Croghan offers is purely speculative. It relies not on Croghan’s personal knowledge of any communications, but on Croghan’s assumptions about what she believes might have been communicated between other people. Lerud’s declaration and testimony directly contradicted Croghan’s argument that she knew about Croghan’s complaint before serving the notice to terminate tenancy. The record reflects that the trial court found Lerud’s evidence credible. We will not substitute our judgment for the trial court’s and weigh evidence or determine witness credibility. See Greene, 97 Wn. App. at 714.

Croghan argues that Columbus Park did not overcome the rebuttable presumption of retaliation in RCW 59.18.250. First, she states that the trial court did not reference subsection .250 at trial or in its rulings. Croghan addressed this

subsection in her briefing to the trial court and in closing argument. In closing argument, the attorney for Columbus Park specifically cited this subsection and argued that the presumption was rebuttable and there was no retaliation because the Columbus Park had no knowledge of Croghan's complaint when it served the notice to terminate tenancy. Thus, although the trial court did not specifically cite subsection .250 in its rulings, the record reflects that the issue was argued before the court and that the trial court was persuaded by the argument made by Columbus Park. Croghan points to no legal authority requiring the court to enter findings of fact or conclusions of law specifically regarding subsection .250. Second, Croghan points to Commissioner Zinn's oral statement during a show cause hearing that the rebuttable presumption applied. But, as the commissioner herself stated, she later changed her mind and set the matter for trial.[4] Furthermore, the trial court was not bound by the commissioner's earlier oral statements during a show cause hearing.

[4] Croghan assigns error to what she describes as the commissioner's failure to follow through on giving Croghan the remedy she stated she was going to give her—the dismissal of the unlawful detainer action—and to enforce court rules regarding a 10-day deadline to file a motion for judicial review. But Croghan did not challenge the commissioner's written order on March 29, 2019, setting the matter for trial. We decline to consider such a challenge at this late date.

In sum, substantial evidence supports the trial court's three findings regarding Columbus Park's knowledge of Croghan's complaint to government agencies. These findings support the trial court's conclusion that retaliation

under RCW 59.18.240 did not apply because Columbus Park was not aware of Croghan's complaint.[5]

5 In light of this holding, we need not address Croghan's argument regarding the definition of "premises." Even assuming that the goose hunt and the dredging occurred on Croghan's "premises" for the purposes of RCW 59.18.240, the trial court's conclusion that there was no retaliation because Columbus Park lacked knowledge of Croghan's complaint would be dispositive.

Admission of Croghan's Exhibits at Trial

Croghan argues that the trial court violated her right to due process and denied her a fair trial by excluding her exhibits until the end of trial. We disagree.

We review a trial court's decision on whether to admit evidence for an abuse of discretion. State v. Bradford, 175 Wn. App. 912, 927, 308 P.3d 736 (2013). A trial court abuses its discretion when its decision is manifestly unreasonable or based on untenable grounds. Id.

The trial court answered Croghan's questions regarding admission of exhibits at the start of trial, before the parties gave their opening statements. Croghan asserts that it was a violation of her due process rights that, during this exchange, the court asked her to utilize her time during a break in the proceedings to have the clerk mark her exhibits. The record reveals no evidence that this denied Croghan the ability to have her exhibits admitted throughout trial. Croghan was able to proffer exhibits and have them admitted during her cross-examination of Lerud and during her own case-in-chief, as well as reopen her case after Columbus Park's closing argument to have two additional exhibits admitted. No. 82066-4-I/12

The trial court in fact admitted all of Croghan's proffered exhibits except one, a report entitled "Department of Ecology - Environmental Report Tracking System," numbered exhibit 17. The report contains e-mails from people not present at trial, and Croghan stated that she wanted to admit it to prove when Lerud received notice of her complaint. The court declined to admit the exhibit because, to the extent it was even relevant, it was hearsay. The report was hearsay because it contained statements made out of court and Croghan was apparently offering it to prove the truth of the matter asserted. See ER 801(c) (defining hearsay as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted"). The trial court did not abuse its discretion in declining to admit the exhibit. In addition, the record reflects that the exact same "Department of Ecology- Environmental Report Tracking System" report had already been admitted by the agreement of the parties as exhibit 24, and was thus already before the court.

Fraud and Forgery Alleged by Croghan

Croghan alleges that several instances of fraud and forgery occurred during the trial court proceedings. We are not persuaded.

First, Croghan alleges that she has, or is going to obtain, evidence that would demonstrate that Lerud's testimony about her November and December 2018 rent payments was false. However, Croghan has not submitted the evidence she discusses to the trial court or this court.

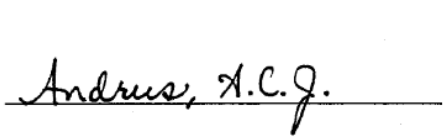
Second, Croghan alleges that her signature on the “Stipulation and Order for Return of Exhibits,” filed after the court’s oral ruling on April 26, 2019, was forged. Specifically, Croghan alleges that Columbus Park’s attorney copied and pasted her signature from a previously filed pleading onto the stipulation to destroy Columbus Park’s exhibits so they would not be preserved for appeal. The record contains no evidence that the signature was forged other than Croghan’s declaration to the trial court stating the same. And Croghan’s appellant’s brief states the court clerk later informed her that no exhibits would be destroyed so that they would be preserved for appeal.

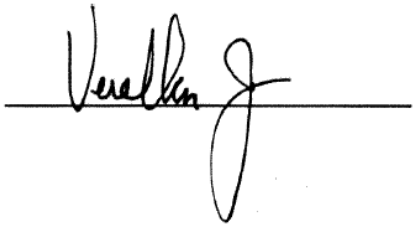
Third, Croghan alleges that Kim Pawlawski’s signature on exhibit 20 was forged. But exhibit 20 was not admitted into evidence and therefore that issue is not before the court.

Last, Croghan alleges that the exhibit attached to Lerud’s declaration, exhibit 23, the e-mail forwarding Croghan’s complaint to Lerud, was altered with correction fluid because letters were faint. The e-mail addresses of senders and recipients (but not the peoples’ names) appear in a lighter font color, as does the second e-mail in the forwarded chain. When Croghan questioned Lerud about this at trial, Lerud responded that it is just the way forwarded messages appear when they are forwarded, and that is just how e-mails are printed. Lerud testified that they are not “whited out.” Croghan herself requested that this exhibit be admitted into evidence after hearing these explanations from Lerud. The exhibit was admitted; Croghan did not argue in closing that it has been altered. No. 82066-4-I/14

We affirm.

WE CONCUR:





CERTIFICATE OF SERVICE

I, Patricia Croghan, hereby certify that I caused a copy of the foregoing document to be served on all parties or their counsel of record, as follows:

VIA COURT OF APPEALS E-FILE:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this _____ day of April, 2021.

Patricia Croghan [Electronic signature]
PATRICIA CROGHAN

PATRICIA CROGHAN - FILING PRO SE

April 14, 2021 - 4:56 PM

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Superior Court Case Number:	18-2-06365-2

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