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NO. 64838-1-I

COURT OF APPEALS, DIVISION I
STATE OF WASHINGTON

(King County Superior Court Cause No. 09-1-05321-5 SEA)

CITY OF AUBURN

Petitioner,

V.

DUSTIN GAUNTT,

Respondent,

2010 JUL 19 PM 4:30
COURT OF APPEALS
DIVISION I
STATE OF WASHINGTON

BRIEF OF PETITIONER

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A. IDENTITY OF PETITIONER

The Petitioner, City of Auburn, hereinafter referred to as the Plaintiff, is the prosecuting jurisdiction of the case on review before this Court.

B. DECISION SUBJECT OF REVIEW

The Plaintiff is asking this Court to review and reverse the decision of the King County Superior Court following the RALJ1 Appeal of the Respondent, Dustin Gauntt, hereinafter referred to as the Defendant, where the Supreme Court reversed the rulings by the Auburn Municipal Court, ruling that the Plaintiff did not have authority to prosecute the Defendant for violations of state law because the state law violations were not adopted by the Plaintiff, City of Auburn.

C. ISSUES PRESENTED FOR REVIEW

The issue before this Court is whether a city may enforce state law without having adopted the state law by reference or having adopted a compatible ordinance. More particularly, the issue, as applied to this case, is whether the City of Auburn is entitled, pursuant to section 39.34.180 of the

¹ Rules for Appeal of Decisions of Courts of Limited Jurisdiction.

Revised Code of Washington (RCW), to charge the Defendants with non-felony crimes occurring within the corporate limits of the City and referred for prosecution by the City's Police Department.

D. STATEMENT OF THE CASE

The Defendant was charged in the Auburn Municipal Court, under its Cause Number C99329, with the crimes of Possession of 40 Grams or Less of Marijuana and Unlawful Use of Drug Paraphernalia. CP 88-89. In these charging documents, the Defendant was charged under state law, not city ordinance, with the crime of Possession of 40 Grams or Less of Marijuana, a misdemeanor contrary to RCW 69.50.4014 [Count 1] and the crime of Unlawful Use of Drug Paraphernalia, a misdemeanor contrary to RCW 69.50.412 [Count 2]. CP 88-89.

While the charges were pending before the Municipal Court, the Defendant brought several motions that were decided in favor of the Plaintiff, City of Auburn, and contrary to the Defendant. CP 17; 48-53. Among those motions was a motion to dismiss challenging the jurisdiction of the Auburn Municipal Court to hear the criminal charges as they were filed under state law, rather than city ordinance. CP 48-53. Thereafter, in light of the adverse

rulings in the Municipal Court wherein the Municipal Court ruled that the City of Auburn was legally authorized to charge the Defendant under state law, the Defendant chose not to take the matter to trial, instead submitted the charges to the Municipal Court pursuant to a Statement of Defendant on Submittal or Stipulation to Facts whereby the police report was to be read by the judge, and based on the evidence therein and other material presented, the judge would decide if the Defendant was guilty of the crimes charged. CP 11.

The police reports, as submitted to the Municipal Court in connection with the Statement of Defendant on Submittal or Stipulation to Facts, indicated facts including the following:

On December 5, 2008, at approximately 4:22 p.m., officers of the Auburns Police Department observed the Defendant traveling within the City of Auburn, using what they recognized as a marijuana pipe to inhale smoke that they suspected to be marijuana smoke. CP 16-17. The police officers stopped the Defendant's vehicle, verified their suspicions and ultimately arrested him, and issued him Citation No. CR099329 for the marijuana and paraphernalia charges. CP 16-17.

As indicated above, during the pendency of the criminal charges before the Municipal Court, the Defendant brought a motion to dismiss

challenging the Municipal Court's authority to hear the criminal charges since they were charged under state law, not under city ordinance. CP 48-53.

Following the Statement of Defendant on Submittal or Stipulation to Facts, submitted on June 8, 2009, and the reading of the police report by the Municipal Court judge, the Defendant was found guilty of both charges, and sentenced on the same date – June 8, 2009. CP 10. The Defendant thereafter appealed the matter to the King County Superior Court under Cause Number 09-1-05321-5 SEA. CP 1-2. The RALJ Appeal Briefing submitted to the Superior Court included the Defendant's RALJ Appeal Brief (CP 108-23) and the City's Responsive RALJ Brief (CP 141-59).

The Superior Court differed from the Municipal Court in its interpretation of Section 39.34.180 RCW, concluding, essentially, that: (1) the Plaintiff was not entitled to enforce state law without having first adopted the state law by reference or having adopted a compatible ordinance; and (2) since the Defendant was prosecuted for a crime under state law, not under code provisions adopted by the City, the findings of guilty were set aside and the case was ordered remanded to the Auburn Municipal Court for dismissal. CP 160-61.

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D. SUMMARY OF ARGUMENT

The Superior Court erred in ruling that “the city may not enforce state law without having first adopted the state law by reference or having adopted a compatible ordinance.” Such ruling is erroneous because every city is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, regardless of *whether filed under state law or city ordinance*. RCW 39.34.180.

First, the plain statutory language is clear and delegates responsibility to cities to prosecute non-felonies committed by adults within the city’s jurisdiction and referred by the city’s police, regardless of whether filed under state law or city ordinance. The Superior Court’s decision ignores the language of the statute that specifies that the responsibility to prosecute the criminal offenses shall be either by “city ordinance or state law.” It further ignores the language of the statute requiring cities to use their own courts, staff and facilities to prosecute these offenses. Second, legislative history supports Petitioner’s position that cities have authority to prosecute such offenses, regardless of whether filed under state law or city ordinance. Third,

the Superior Court's interpretation of the statutes leads to absurd results.

Throughout the pleadings and proceedings of this case, the Defendant has continually argued that, pursuant to RCW 39.34.180, in order to be able to charge and prosecute violations under state law, the City of Auburn would have had to have adopted the language of RCW. The Defendant also argues that RCW 39.34.180 really only requires the city to enter into contracts for and pay the county (King County) to prosecute state law violations. These arguments ignore the very language of the statute upon which the Defendant bases his argument. That statute states as follows:

39.34.180 Criminal justice responsibilities--Interlocal agreements.

*(1) Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, whether filed under state law or city ordinance, and must carry out these responsibilities through the use of their own courts, staff, and facilities, or by entering into contracts or interlocal agreements under this chapter to provide these services. Nothing in this section is intended to alter the statutory responsibilities of each county for the prosecution, adjudication, sentencing, and incarceration for not more than one year of felony offenders, nor shall this section apply to any offense initially filed by the prosecuting attorney as a felony offense or an attempt to commit a felony offense.
.... (Emphasis added.)*

Had the legislature intended (merely intended) that cities shall

contract with counties for prosecution of state law violations occurring within their jurisdictions but not adopted as part of their ordinances, the legislature could have passed a bill that read along the lines of the following:

Each city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, and must either (1) prosecute such offenses filed under city ordinance, carrying out these responsibilities through the use of their own courts, staff, and facilities, or (2) enter into contracts or interlocal agreements under this chapter with the county to provide these services if filed under state law.²

However, again, that is not what the statute says. Moreover, it ignores specific language included in the statute (RCW 39.34.180) that states:

Each ... city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, *whether filed under state law or city ordinance*, and must carry out these responsibilities through the *use of their own courts, staff, and facilities* RCW 39.34.180

² To illustrate how this language differs with the current language of RCW 39.34.180, the changes from the statute are set forth with underlining and strike throughs, as follows:

Each ~~county~~, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, and must either (1) prosecute such offenses ~~whether filed under state law or city ordinance, and must carry~~ carrying out these responsibilities through the use of their own courts, staff, and facilities, or (2) ~~by entering~~ enter into contracts or interlocal agreements under this chapter with the county to provide these services if filed under state law.

It is curious and ironic that both Plaintiff and Defendant argue same statute for the support of their position, but it is bewildering how the Defendant can argue his theory which necessarily ignores a significant portion of the language of the statute. The rules of statutory construction call for all language of the statute to be included, and in interpreting and determining the meaning of a statute, no language is to be deemed meaninglessness and superfluous.

When read in its entirety, the language of RCW 39.34.180 gives two options for cities to address criminal violations of law committed within their jurisdictions when charged under state law, rather than city ordinances; (1) enter into a contract with the county in which the city is located (in which the violation occurred) for the prosecution of such violations, whereby the county would prosecute and the city would pay for prosecution; or (2) prosecute the violations using the city's own resources and facilities, charging the violations under state law (either under state law or under city ordinance).

The purpose of the statute was to make sure that the responsibility for charging violations occurring within city jurisdictions fell upon those cities, either providing the prosecution directly or contracting with the county for prosecution. Particularly since the city would not have authority to charge

a violation of law under city code that was not within its city codes when the violation occurred, in such an instance, the only choices available to the city to address such violations would be to either contract with the county or charge under state law, using its own municipal court and resources. If the Defendant were correct, and the only option currently available to the city would be to contract with the county for prosecution services, if the county declined to enter into such a contract (if for what ever reasons the city and the county could not reach an agreement, including the county's decision that it did not want to enter into such agreements, a choice it could make, as noted by the State Attorney General) the violations of law would be unable to be prosecuted. That does not make sense. Statutory construction also mandates that statutes not be construed so as to create an absurdity.

The only realistic and consistent interpretation of, RCW 39.34.180 is that it requires cities to be responsible for prosecution of them on felony crimes occurring within their jurisdiction and referred for prosecution by their police departments, whether contracting with the county for prosecution services for such offenses or prosecuting the offenses themselves, using their own resources and court facilities, again whether charged under state law or city ordinance.

E. ARGUMENT

1. STANDARD OF REVIEW

Interpretation of statute is question of law and thus must be reviewed *de novo*. *City of Montesano v. Wells*, 79 Wn. App. 529, 902 P.2d 1266 (1995). In interpreting a statute, the appellate court's primary goal is to give effect to legislative intent; thus, the court construes the statute in a manner that best advances the perceived legislative purpose. *Id.* The case at bar requires the Court to interpret RCW 39.34.180. Therefore, the Court must review the case *de novo*.

2. STATUTORY LANGUAGE OF CHARGED OFFENSES

The statutory language of the two criminal offenses with which the Defendant was charged and convicted (Possession of 40 Grams or Less of Marijuana, RCW 69.50.4014 and Unlawful Use of Drug Paraphernalia, RCW 69.50.412) states as follows:

69.50.4014 Possession of forty grams or less of marihuana -- Penalty.

Except as provided in RCW 69.50.401(2)(c), any person found guilty of possession of forty grams or less of marihuana is guilty of a misdemeanor. [2003 c 53 § 335.]

69.50.412 Prohibited acts: E -- Penalties. (Drug Paraphernalia)

(1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process,

prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

(3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his junior is guilty of a gross misdemeanor.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

(5) It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing bloodborne diseases. [2002 c 213 § 1; 1981 c 48 § 2.]³

3 It should also be noted that pursuant to RCW 69.50.608, the state law preempts issues relating to controlled substances. But that would not preclude prosecution by a city either under state statute or city ordinance unless the city ordinances were in conflict with that we law. That statute states as follows:

69.50.608 State preemption

The state of Washington fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter. Such local ordinances shall have the same penalties as provided

There is no dispute that the facts of this case are sufficient to meet the evidentiary requirements for conviction; certainly no argument has been presented, other than the Defendant's argument that certain evidence should have been excluded or that certain motions should have been decided differently.

3. PLAINTIFF'S AUTHORITY TO PROSECUTE VIOLATIONS

Contrary to what the Defendant has argued, the Plaintiff has statutory authority to prosecute the violations charged in this case. Even where the City of Auburn had not adopted Ordinances incorporating Sections 69.50.412 or 69.50.4014 RCW, the City of Auburn would still have jurisdiction and responsibility to prosecute misdemeanor and gross misdemeanor violations of State Statutes, including RCW 69.50.412 and 69.50.4014 occurring within its jurisdiction and referred from its law enforcement agency. That authority and responsibility comes from RCW 39.34.180, which reads, in full, as follows:

39.34.180 Criminal justice responsibilities--Interlocal agreements.

(1) *Each county, city, and town is responsible for the*

for by state law. Local laws and ordinances that are inconsistent with the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county, or municipality.

prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, whether filed under state law or city ordinance, and must carry out these responsibilities through the use of their own courts, staff, and facilities, or by entering into contracts or interlocal agreements under this chapter to provide these services. Nothing in this section is intended to alter the statutory responsibilities of each county for the prosecution, adjudication, sentencing, and incarceration for not more than one year of felony offenders, nor shall this section apply to any offense initially filed by the prosecuting attorney as a felony offense or an attempt to commit a felony offense.

(2) The following principles must be followed in negotiating interlocal agreements or contracts: Cities and counties must consider (a) anticipated costs of services; and (b) anticipated and potential revenues to fund the services, including fines and fees, criminal justice funding, and state-authorized sales tax funding levied for criminal justice purposes.

(3) If an agreement as to the levels of compensation within an interlocal agreement or contract for gross misdemeanor and misdemeanor services cannot be reached between a city and county, then either party may invoke binding arbitration on the compensation issued by notice to the other party. In the case of establishing initial compensation, the notice shall request arbitration within thirty days. In the case of nonrenewal of an existing contract or interlocal agreement, the notice must be given one hundred twenty days prior to the expiration of the existing contract or agreement and the existing contract or agreement remains in effect until a new agreement is reached or until an arbitration award on the matter of fees is made. The city and county each select one arbitrator, and the initial two arbitrators pick a third arbitrator.

(4) For cities or towns that have not adopted, in whole or in part, criminal code or ordinance provisions related to misdemeanor and gross misdemeanor crimes as

defined by state law, this section shall have no application until July 1, 1998. [2001 c 68 § 4; 1996 c 308 § 1.] (Emphasis added.)

This statute carries a very strong mandate. Every city, including Auburn, is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, regardless of *whether filed under state law or city ordinance*. Arguably, that statute makes unnecessary or relieves cities from even enacting criminal codes as the jurisdiction and responsibility is conveyed without the need of adopting any ordinance. That jurisdiction and responsibility is not incompatible with the authority of municipal courts either. The language of RCW 39.34.180 which indicates that *cities “must” carry out these responsibilities through the use of their own courts, staff, and facilities*, is compatible with the language of RCW 3.50.020, which deals with the jurisdiction of municipal courts, as the statute speaks to jurisdiction in terms of that which is conferred by statute. RCW 3.50.020 provides as follows:

3.50.020 Jurisdiction.

The municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city in which the

municipal court is located and shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. *The municipal court shall also have the jurisdiction as conferred by statute.* The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith. (Emphasis added.)

RCW 39.34.180 certainly conferred that jurisdiction, in that it demands that cities *must carry out these responsibilities* through the *use of their own courts, staff, and facilities*. According to this statute, regardless of whether the City had its own criminal code, or whether it adopted a criminal code by adopting State Statutes by reference, or whether it has a criminal code at all, and regardless of whether the City has its own Municipal Court or files its cases in the District Court, the City has the authority to prosecute violations of the marijuana and paraphernalia crimes, and it, in fact, has the responsibility for prosecuting such violations as long as the offenses occurred within its corporate boundaries and its own law enforcement agency initiated the investigation.

Ironically, the Defendant has previously argued in this case that this authority deals only with the responsibility to pay the county for prosecuting offenses. Such a conclusion would make no sense in light of the language

calling for use of the city's own court, staff and facilities. Rather, the requirement to contract with and pay the county anything only comes into play if a city does not prosecute such offenses - regardless of whether filed under state law or city ordinance - through the use of its own courts, staff, and facilities.⁴

Similarly argued by the Defendant, Plaintiff notes that *no word of a statute should be deemed superfluous, void or insignificant*. In attempting to give effect to the intent of the legislature, an act must be construed as a whole, harmonizing all provisions to ensure proper construction. *Kasper v. City of Edmonds*, 69 Wn.2d 799, 804, 420 P.2d 346 (1966) (*quoting Groves v. Meyers*, 35 Wn.2d 403, 407, 213 P.2d 483 (1950)). *See also Powell v. Viking Insurance Company*, 44 Wn. App. 495, 722 P. 2d 1343 (1986). However, the construction argued by the Defendant would leave the language stating that cities *must carry out these responsibilities through the use of their own courts, staff, and facilities* as completely meaningless, void and superfluous.

⁴ Again, RCW 39.34.180 states that cities are responsible for prosecuting the criminal violations referred by its police -- whether charged under city ordinance or state law -- and must use of its own court, staff and facilities *or* by entering into contracts or interlocal agreements under this chapter to provide these service. (Emphasis added.)

4. LEGISLATIVE HISTORY SUPPORTS PETITIONER'S ARGUMENT

The court may turn to legislative history and relevant case law to discern the legislature's intent if the plain meaning analysis fails to resolve the question before the court. *Christensen v. Ellsworth*, 162 Wn.2d 365, 373, 173 P.3d 228 (2007).

RCW 39.34.180 carries a very strong mandate. Every city, including Auburn, is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, regardless of *whether filed under state law or city ordinance*. Essentially, that statute makes unnecessary or relieves cities from even enacting criminal codes as the jurisdiction and responsibility is conveyed without the need of adopting any ordinance.

RCW 39.34.180 was promulgated in response to the experience of several cities that were choosing to repeal or significantly pare down their criminal codes, ostensibly leaving the responsibility for prosecution on counties. The FINAL BILL REPORT - SSB 5472 Ch 68 Laws of 2001 (relating to terminating municipal courts) gave a brief description of the

history of RCW 39.34.180, as follows:

Background: In the early 1980s there was concern that some municipalities were terminating their court system, or repealing those portions of their criminal codes that were expensive to enforce while retaining portions of the civil code that generated moneys for the city, and in effect transferring the cost of prosecution, adjudication, and sentencing of criminal cases to the counties.

To prevent that phenomenon from continuing, the Legislature mandated the responsibility upon cities to either prosecute those violations – using its own courts and resources – or contracting with the county for prosecution services. This was consistent with the provisions of RCW 3.50.800 and 3.50.805, which preclude cities from repealing their criminal codes in their entirety. But *even if a city did not entirely repeal* its criminal code, RCW 39.34.180 still imposed on cities the responsibility to either prosecute those non-felony criminal violations referred by their police using its own court or pay the county to do so, and this is true regardless of whether the violations are charged under state law or city ordinance. The fact that the statute was inserted into RCW Chapter 39 and not elsewhere was a decision made by the Code Reviser and not the Legislature, as the initial bill could have been placed in several chapters in the RCW.

Additionally, the Original SENATE BILL REPORT for SB 6211, as

reported by the Senate Committee on Government Operations, January 31, 1996, (ultimately passed as ESSB 6211 – Ch 308 Laws of 1996 [the bill that first promulgated RCW 39.34.180], described the bill as requiring each county, city or town to be responsible for the costs incident to misdemeanors and gross misdemeanor offenses occurring in their respective jurisdictions. The only *exception* to this (responsibility) is by contract or interlocal agreement. *See also* SENATE BILL REPORT ESSB 6211 as Passed by the Senate, February 12, 1996. These bill reports describe the contracts (interlocal or otherwise) as the exception to a city being directly responsible for prosecution of misdemeanors and gross misdemeanor offenses occurring in their respective jurisdictions – regardless of whether the charges are filed under city ordinance or state law.

Furthermore, HOUSE BILL REPORT ESSB 6211, as passed by the House – amended February 29, 1996, gave as a summary of ESSB 6211 the following:

Summary of Bill: It is clarified that each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanors committed by adults within their respective jurisdictions who are referred from their respective law enforcement agencies. This responsibility applies if the action is filed under state law or city ordinance. Each county, city, or town must carry out this responsibility through the use of its own courts, staff, and facilities, or enter into

contracts or interlocal agreements to provide these services.

Legislative history confirms that RCW 39.34.180 presents two options for cities to meet the responsibility of prosecuting these offenses (whether under state law or city ordinance): the city must either prosecute them through its own resources, including use of its own court, or must pay the county to do so.

5. APPLYING THE SUPERIOR COURT'S INTERPRETATION OF STATUTE WOULD LEAD TO ABSURD RESULTS.

There is nothing in RCW 39.34.180 that would mandate a county to necessarily agree to provide prosecution services for a city. *See* Attorney General Opinions - AGO 2000 NO. 2 and AGO 2006 NO. 11. These opinions conclude that RCW 39.34.180 does not obligate a county to enter into a contract with a city or town to handle, through the county's court system, misdemeanor cases referred from the city or town's law enforcement officers.

This gives rise to the most compelling argument in favor of the Petitioner's position with respect to the statute. If, as the Superior Court has ruled, a city cannot prosecute violations under state law in its own court, then if the city had not adopted the criminal statute by ordinances, and if the county was unwilling to prosecute the violation on the city's behalf, such

violations would be completely immune from prosecution. Even if the city should be forced to adopt the state law provisions (if the city hasn't already adopted the statute by reference), subsequent adoption would not apply *ex post facto* to the prior violations.

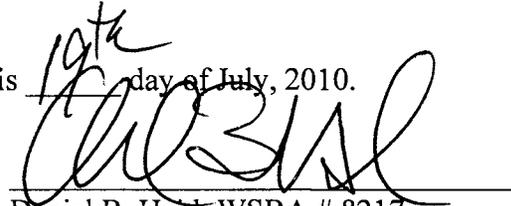
Courts are to avoid reading statutes in ways that will lead to absurd or strained results. *Wright v. Jeckle*, 158 Wn.2d 375, 379-80, 144 P.3d 301 (2006). It would be a strained or absurd result if the statutes meant that cities are responsible for prosecuting criminal offenses, but they must have adopted the relevant state criminal statutes by ordinance, and yet counties cannot be required to enter into contracts with cities.

F. CONCLUSION

For the foregoing reasons, this Court should reverse the Superior Court's ruling that "the City may not enforce state law without having first adopted the state law by reference or having adopted a compatible ordinance." The decision of the Superior Court in this case is contrary to the plain language of the statute and ignores the rules of statutory construction. The Superior Court's approach in implementing RCW 39.34.180 is also highly inconsistent with the accepted and usual course of judicial

proceedings. If allowed to stand, the Superior Court's ruling would impair the ability of the criminal justice system to operate efficiently and consistently.

Respectfully submitted this ^{19th} day of July, 2010.



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IN THE COURT OF APPEALS
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OF THE STATE OF WASHINGTON

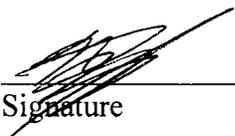
CITY OF AUBURN,) NO. 64838-1-I
)
Petitioner,) CERTIFICATE OF SERVICE OF
) BRIEF OF PETITIONER
v.)
)
DUSTIN GAUNTT,)
)
Respondent.) King County Superior Court
) Cause No. 09-1-05321-5 SEA

I, Michelle Zhang, hereby certify and declare under penalty of perjury under the laws of the State of Washington, that on the date below set forth, I delivered a true and correct copy of the Brief of Petitioner, concerning the above entitled matter to:

David Kirshenbaum
Attorney for Defendant/Respondent
1314 Central Ave S; Ste 101
Kent, WA 98032

by mailing in the United States Mail, postage prepaid, to the above address, on the ~~17th~~ day of ~~February~~, 2010.

SIGNED at Auburn, Washington, this July 19th day of July, 2010.



Signature