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No. 53344-8-II

COURT OF APPEALS, DIVISION II,  
OF THE STATE OF WASHINGTON

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NANCY MILLER, personal representative of the Estate of  
HEATHER DURHAM,

Appellant,

v.

PIERCE COUNTY,

Respondent,

and

STATE OF WASHINGTON, DEPARTMENT OF CORRECTIONS,

Defendant.

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DURHAM ESTATE REPLY BRIEF

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Julie A. Kays, WSBA #30385  
Evan T. Fuller, WSBA #48024  
Matthew J. Wurdeman, WSBA #49940  
Connelly Law Offices, PLLC  
2301 North 30th St.  
Tacoma, WA 98403  
(253) 593-5100

Philip A. Talmadge, WSBA #6973  
Talmadge/Fitzpatrick  
2775 Harbor Avenue SW  
Third Floor, Suite C  
Seattle, WA 98126  
(206) 574-6661

Attorneys for Appellant Miller

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A. INTRODUCTION

Ignoring the facts in this case and well-developed legal principles governing the “take charge” duty of a government under *Restatement (Second) of Torts* § 315, Pierce County (“County”) contends that it owed no duty to Heather Durham who was savagely beaten by her ex-husband, Abel Robinson, an offender under its custody. In an astonishing feat of legal interpretation, the County contends that the trial court’s Warrant of Commitment remanding Robinson to the custody of its Director of Adult Corrections somehow does not mean exactly what it said – Abel Robinson was ordered to be in its custody after 9:00 a.m. on August 5, 2016, either subject to electronic home monitoring (“EHM”) or in its Jail.

Had the County undertaken electronic monitoring of Robinson, or placed him in its Jail, as the court *ordered* it to do, he would not have been free to beat Heather.

Indeed, the brief of the Department of Corrections (“DOC”) only confirms that the County had the “take charge” duty as to Robinson. DOC br. at 7-8.<sup>1</sup>

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<sup>1</sup> DOC complains about the statement in the Estate’s opening brief about references to its responsibility for Robinson. DOC br. at 6. But if the County is correct (and it isn’t) that it had no responsibility for Robinson, and if DOC is correct that it didn’t have responsibility for him, the Estate is correct. Despite the sentencing court’s decision and implementing orders, *no one* had responsibility for this dangerous offender.

The trial court here obviously erred in ruling that the County had no duty, as this Court's Commissioner determined in granting review. This Court should reverse the trial court's ill-advised CR 12(b)(6) order of dismissal and allow Heather's Estate its day in court to secure a measure of justice for her.

B. RESPONSE TO RESPONDENTS' STATEMENTS OF THE CASE

The County's recitation of the facts in many instances is simply contrary to the record in this case. Taking the facts and inferences from them in a light most favorable to the Estate, as the County *concedes* in its brief at 10, as this Court must do on review, certain facts are undisputed:

- Abel Robinson was convicted of drug offenses and sentenced to 364 days of confinement. CP 49-64;
- The sentencing court's Warrant of Commitment (*see* Appendix) ordered that Robinson was remanded to the "custody" of the County's Director of Adult Detention to serve his sentence either under an EHM regime or in the County Jail. CP 47-48;
- At the time of Robinson's sentencing, the County's deputy prosecutor never advised the sentencing court that it did not operate an EHM program, as the County now claims it did not offer;
- The County did not supervise Robinson in any fashion, as it admits, resp't br. at 16;<sup>2</sup>

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<sup>2</sup> DOC's brief fully documents that it placed County officials on notice that Robinson was unsupervised. DOC br. at 3-4.

- Robinson harassed and attacked Heather at her home. CP 195, 199-200;
- On January 6, 2017, Robinson again savagely beat Heather with a wrench, blinding her in one eye. CP 199-200.

In addition to ignoring, or attempting to circumvent, these undisputed facts, the County engages in wishful thinking/revisionist history regarding the record here, a record again that must be considered in a light most favorable to the Estate.

First, it attempts to portray Robinson as a “low-level offender” and seeks to minimize his risk to Heather. Resp’t Br. at 2-3, 24 n.10, 27. That portrayal is belied by his actual criminal history and violence toward Heather. Robinson had a criminal history that involved 16 prior convictions for assault, weapons offenses, theft, domestic violence, and harassment. CP 236-39. He was a *violent* offender, as this history documents. Moreover, he was violent toward Heather, punching her in the face and slamming her head into a wall in an incident after he should have been in County custody and before he beat her with a wrench. CP 195. Whatever physical limitations Robinson might have had, resp’t br. at 2-3, did not prevent such sickening violence. Indeed, to put the exclamation point to the argument, *the County* believed Robinson to be a risk to the community when it sought *lengthy* prison sentences for his convictions, *id.*

at 1, and describing the sentencing court as having “grossly deviated” from the standard sentencing range for his convictions. *Id.*

A second bizarre factual contention by the County is that Robinson was somehow not in its custody by virtue of the sentencing court’s Warrant of Commitment. Resp’t Br. at 3-4, 13-17.<sup>3</sup> It makes an elaborate argument about the lack of any formal County probation or court monitoring prior to the date of the Warrant of Commitment, August 5, 2016; it also attempts to argue that the commitment of Robinson to the custody of its Director of Adult Detention on that date was not really a commitment to its custody but merely obligated the County to “receive” him. *Id.* at 16-17. Quite frankly, the County’s “distinction” is just plain nonsense.

The Warrant was directed to the County’s Director of Adult Detention. CP 47. The face of the Warrant checked County Jail, obviously indicating the location in which Robinson was to be incarcerated. *Id.* If that was not clear, the court interlineated that Robinson was to be at the Jail with the Commitment Warrant by 4 p.m. if he was not on EHM by 9:00 a.m. on August 5. *Id.* The Warrant was clear and direct. Court orders mean just what they say and officers are obliged

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<sup>3</sup> The County asserts that the Warrant did not mean that it “had a duty to grab Robinson off the streets and place him in custody.” Resp’t Br. at 17. In fact, it had a court-ordered duty to incarcerate Robinson if EHM was unavailable.

to follow their words to the letter. *Osborne v. Seymour*, 164 Wn. App. 820, 849, 265 P.3d 917 (2011) (this Court in § 1983 action noted that officer should have read the terms of the protection order he was enforcing).

The purpose of a Warrant of Commitment is *unambiguous* in Washington law. It has nothing to do with merely “receiving” an offender – it is a legal order to take the person into custody. *State v. Hunt*, 76 Wn. App. 625, 630, 886 P.2d 1170 (1995), *review denied*, 128 Wn.2d 1010 (1996) (“A felony warrant of commitment authorizes the Department of Corrections to take *custody* of a convicted defendant.”) (Court’s emphasis.)

Further, the County argues, as it did below, that it did not operate an EHM program for superior court offenders, describing the Estate’s contrary assertion as “pseudo/historical.” Resp’t Br. at 4-7. But the County’s elaborate factual argument cannot overcome the contrary facts offered by the Estate, appellant’s br. at 14-16, indicating that the County had an EHM program for an offender like Robinson.

Perhaps most noteworthy is the County’s failure to explain why its deputy prosecutor in Robinson’s case before the sentencing court stood mute about the alleged non-existence of a County EHM program for

offenders like Robinson. Why would the DPA let the sentencing court make such a glaring mistake in sentencing?

But, of course, even if no County EHM program existed for Robinson, that makes no difference for the outcome here. Under the terms of the Warrant of Commitment, Robinson should have been in the County's Jail at 4 p.m. on August 5, 2016 if he was not on EHM by earlier that day.

C. ARGUMENT

(1) The County Owed Heather a "Take Charge" Duty of Care

The County contends in its brief at 13-24 that it had no "take charge" duty as to Robinson, largely ignoring the authorities on that duty set forth in the Estate's opening brief at 8-11. DOC's brief confirms the "take charge" duty may exist, citing *Taggart*. DOC br. at 5-6. Denying the Warrant of Commitment, it asserts that "neither a court order nor a statute provided authority for a Pierce County agency to monitor Robinson." Resp't Br. at 13. The County misstates the law on its "take charge" duty or it provides this Court entirely inapposite authorities that are readily distinguishable.

As noted *supra*, the sentencing court's Warrant of Commitment gave the County 364 days of *continuing* custodial responsibility as to Robinson. DOC br. at 7-8. This is entirely consistent with RCW

9.94A.190 making Robinson a county responsibility where his sentence was for less than a year.

The County even *admits* that it breached its duty to ensure compliance with the sentencing court's Warrant of Commitment, stating: "there was no mechanism in which to flag Robinson's failure to report to either EHM or jail..." Resp't Br. at 16.

With regard to its "take charge" duty, the County hopes to persuade this Court that a Warrant of Commitment does not mean exactly what it says, and that it never had a duty to exert custody or control over an offender sentenced to EHM or its Jail, relying on inapposite authorities.

For example, it cites *Binschus v. State*, 186 Wn.2d 573, 380 P.3d 468 (2016), *McKenna v. Edwards*, 65 Wn. App. 905, 830 P.2d 385 (1992), *Couch v. Dep't of Corrections*, 113 Wn. App. 556, 54 P.3d 197 (2002), *review denied*, 149 Wn.2d 1012 (2003), *Hungerford v. Dep't of Corrections*, 135 Wn. App. 240, 139 P.3d 1131 (2006), *review denied*, 160 Wn.2d 1013 (2007), *Husted v. State*, 187 Wn. App. 579, 348 P.3d 776, *review denied*, 184 Wn.2d 1011 (2015), and *Mock v. State*, 200 Wn. App. 667, 403 P.3d 102 (2017), *review denied*, 190 Wn.2d 1003 (2018), none of which has any bearing on the issues here.

The Supreme Court's decision in *Binschus* stands for the proposition that a county's "take charge" liability did not extend to crimes

committed by a jailed offender *after* the offender's lawful release from custody. 186 Wn.2d at 580-81. Obviously, Robinson was under the County's custody/control for 364 days from August 5, 2016 forward by the terms of the Warrant of Commitment.

The Estate has previously noted why cases like *Hungerford* and *Husted* involving LFOs or absconding offenders are inapplicable here. Appellant Br. at 11 n.5. Robinson was under the County's custody/control; he was not merely being monitored for compliance with financial obligations. *Mock* is factually distinguishable on custody/control. There, no issue of custody/control was in play. The question was whether DOC staff had a duty to report an offender's risk to the sentencing court. That is decidedly not what is at issue here.<sup>4</sup>

The County contends that *Couch*, another LFO case, applies here to require statutory authority and a court order to establish custody/control. Resp't Br. at 12-13. Even were that true, there *was* a court order here that governs this decision – the Warrant of Commitment. And, *Couch* is an LFO case. An LFO does not create the requisite control over an offender for a § 315 “take charge” duty. Our Supreme Court

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<sup>4</sup> The County cites to *McKenna*, but that 1992 case that predated our Supreme Court's decisions in cases like *Hertog, ex rel. S.A.H. v. City of Seattle*, 138 Wn.2d 265, 979 P.2d 400 (1999) and *Bishop v. Miche*, 137 Wn.2d 518, 973 P.2d 465 (1999) ruling that pretrial probation staff had sufficient custody/control over an accused person to establish a “take charge” duty. *McKenna* held that a county had no duty to an accused pretrial. It is of questionable validity after those contrary Supreme Court decisions.

made that clear in distinguishing *Couch*. *Joyce v. Dep't of Corrections*, 155 Wn.2d 306, 319, 119 P.3d 825 (2005).

In sum, the County has failed to offer any authority detracting from its “take charge” duty to the Estate with regard to Robinson.

(2) The Public Duty Doctrine Is Inapplicable to the Duty the County Owed Heather

The County claims that the public duty doctrine applies here. County br. at 11-12. In doing so, it ignores established precedent to the contrary.

Our Legislature abolished sovereign immunity. “The doctrine of governmental immunity springs from the archaic concept that ‘The King Can Do No Wrong.’” *Kelso v. City of Tacoma*, 63 Wn.2d 913, 914, 390 P.2d 2 (1964). In 1961, the Legislature enacted RCW 4.92.090 abolishing state sovereign immunity. That waiver quickly extended to municipalities in 1967. RCW 4.96.010; *Kelso*, 63 Wn.2d at 918-19; *Hosea v. City of Seattle*, 64 Wn.2d 678, 681, 393 P.2d 967 (1964). Local governments have since been “liable for damages arising out of their tortious conduct ... to the same extent as if they were a private person or corporation.” RCW 4.96.010. “[G]overnmental entities in Washington are liable for their ‘tortious conduct’ to the ‘same extent’ as a private person or corporation.” *Washburn v. City of Federal Way*, 178 Wn.2d 732, 753, 310

P.3d 1275 (2013) (citing RCW 4.92.090(2)). These statutes operate to make state and local government “presumptively liable in all instances in which the Legislature has *not* indicated otherwise.” *Savage v. State*, 127 Wn.2d 434, 445, 899 P.2d 1270 (1995) (emphasis in original). The County’s application of the public duty doctrine in this case is nothing more than a backdoor device to effectively restore sovereign immunity despite legislative abolition of that immunity.

The public duty doctrine does not apply here. The public duty doctrine is a “‘focusing tool’... to determine whether a public entity owed a duty to a ‘nebulous public’ or a particular individual.” *Osborn v. Mason County*, 157 Wn.2d 18, 27, 134 P.3d 197 (2006) (quoting *Taylor v. Stevens County*, 111 Wn.2d 159, 166, 759 P.2d 447 (1988)) (internal quotations omitted). It is not an immunity – a surreptitious restoration of sovereign immunity abolished by RCW 4.92.090 and RCW 4.96.010 – as the City would have this Court believe.

Most patently, the doctrine does not apply to a common law cause of action. *Munich v. Skagit Emergency Comm. Ctr.*, 175 Wn.2d 871, 288 P.3d 328 (2012). The Supreme Court has clearly limited the doctrine’s application to legal obligations imposed by a statute, ordinance, or regulation:

Since its inception, the “public duty” analysis has remained

largely confined to cases in which the plaintiff claims that a particular statute has created an actionable duty to the “nebulous public.” Although we could have been clearer in our analyses, the only governmental duties we have limited by application of the public duty doctrine are duties imposed by a statute, ordinance, or regulation. *This court has never held that a government did not have a common law duty solely because of the public duty doctrine.*

*Id.* at 886-87 (citations omitted, emphasis added).<sup>5</sup>

Division I agreed with that principle in *Mancini v. City of Tacoma*, 188 Wn. App. 1006, 2015 WL 3562229 (2015), holding that the doctrine does not apply to common law claims that exist independent of any statutory duty.

The public duty doctrine is not a judicially-created immunity. It does not bar a common law claim brought by the person to whom the breached duty was owed. The trial court erred in dismissing Mancini’s negligence claim.

*Id.* at \*8. The court permitted Mancini’s claim of common law negligence against the City for its nonconsensual invasion of her home. *Id.* See also, *Mita v. Guardsmark, LLC*, 182 Wn. App. 76, 84, 328 P.3d 962 (2014) (Division III holds that public duty doctrine inapplicable to common law claims); *Preston v. Boyer*, 2018 WL 3416383 (W.D. Wash 2018) at \*3 (same).

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<sup>5</sup> This statement is taken from Justice Chambers’ concurrence, joined by a majority of the Court. The holding of the Court is the position taken by a majority of justices concurring on the narrowest grounds. *Davidson v. Henson*, 135 Wn.2d 112, 128, 954 P.2d 1327 (1998). Justice Chambers’ concurring opinion on the public duty doctrine constitutes the Court’s holding in *Munich*.

In *Beltran-Serrano v. City of Tacoma*, 193 Wn.2d 537, 442 P.3d 608 (2019), our Supreme Court yet again reaffirmed that the doctrine is inapplicable as to common law theories of recovery, noting that to “apply the doctrine so broadly would inappropriately lead to a partial restoration of immunity by carving out an exception to ordinary tort liability for governmental entities. This would undermine the value of tort liability to protect victims, deter dangerous conduct and provide a fair distribution of risk of loss.” *Id.* at 550 (citations omitted).

Washington courts have routinely rejected the doctrine’s application in the “take charge” setting; our Supreme Court has had little difficulty in concluding that governments owe a duty of care to victims harmed by persons who are subject to custody in the criminal justice system and are improperly supervised. *Taggart v. State*, 118 Wn.2d 195, 822 P.3d 243 (1992) (parolees); *Hertog, supra*; 138 Wn.2d 265, 979 P.2d 400 (1999) (probationers); *Joyce*, 155 Wn.2d at 306 (offender on community supervision).

Finally, even if the doctrine is applicable here, it has exceptions. *Cummins v. Lewis County*, 156 Wn.2d 844, 853, 133 P.3d 458 (2006). “Saying an exception applies is simply shorthand for saying the governmental entity owes a duty to the plaintiff.” *Id.* (citing *Taggart*, 118 Wn.2d at 218). As this Court aptly stated, “As with any defendant, the

true question in a negligence suit against a governmental entity is whether the entity owed a duty to the plaintiff, not whether an exception to the public duty doctrine applies it.” *Id.* at 754. At least four exceptions to that doctrine were recognized in *Bailey*, 108 Wn.2d at 268. Several apply here. Moreover, “an enumerated exception is not always necessary to find that a duty is owed to an individual and not to the public at large.” *Beltran-Serrano*, 193 Wn.2d at 549.

The special relationship exception applies where the government defendant and the plaintiff have a special relationship that sets the plaintiff apart from the public generally. Such a relationship exists wherever (1) there is direct contact between the public official and the injured plaintiff which sets the latter apart from the general public, (2) there are assurances given, and (3) the contact gives rise to justifiable reliance on the part of the plaintiff. *Beal for Martinez v. City of Seattle*, 134 Wn.2d 769, 785, 954 P.2d 237 (1998). “As to the second element, the assurances need not always be specifically averred, as some relationships carry the implicit character of assurance.” *Chambers-Castanes v. King County*, 100 Wn.2d 275, 286, 669 P.2d 451 (1983).

Further, there is an exception where a defendant voluntarily undertakes to warn or provide aid to a person and does so negligently.

*Brown v. MacPherson's, Inc.*, 86 Wn.2d 293, 299-300, 545 P.2d 13 (1975).

In sum, to the extent the public duty doctrine even applied, as a discussion of the exceptions to the doctrine demonstrates, the County had a duty to Heather individually, not to a nebulous public. The public duty doctrine does not apply.

(3) Whether the County's Breach of Its Duty of Care to Heather Proximately Caused Her Injuries at Robinson's Hands Is a Question of Fact for the Jury

Despite acknowledging in its brief at 25 that proximate cause is a *fact question* for the jury, the County, nonetheless, argues that this Court should resolve causation as a matter of law on CR 12(b)(6) motion. Resp't Br. at 25-28. The trial court declined to so rule, seemingly confining its decision to the existence of a duty of care. RP 12-13.

Not to be flip about so serious a breach of the County's duty toward Heather, had it electronically monitored Robinson at home, Heather would still be alive and we would not be here. EHM would have revealed that Robinson was away from home and at Heather's residence both times he engaged in violence toward her. Law enforcement could have intervened. Alternatively, if the County had no EHM program and obeyed the sentencing court's Warrant of Commitment, Robinson would

have been in its Jail. He could not have assaulted Heather. In either instance, Heather would have been protected from his brutality.

This issue is not *tabula rasa*. Our Supreme Court has *repeatedly* held that, however difficult it may be, government agencies are required to take charge of convicted offenders or alleged offenders in pretrial detention and to stop them from committing future crimes. In so ruling, the Court has found the issue of proximate cause to be a jury question. *See, e.g., Joyce*, 155 Wn.2d at 310 (declining to overrule long-standing rule that the State has a duty to take reasonable precautions to protect community members from reasonably foreseeable dangers that a parolee poses); *Bell v. State*, 147 Wn.2d 166, 179, 52 P.3d 503 (2002) (jury question whether State's negligent supervision proximately caused a parolee sex offender to abduct and rape his victim); *Bishop*, 137 Wn.2d at 532 (County owed a duty to control driving under the influence probationer who failed to comply with court-ordered treatment); *Taggart*, 118 Wn.2d at 227-28 (jury question whether failure of parole officials to respond to teletype from Montana authorities informing them that Montana police were standing by to arrest parolee was cause of injuries suffered by girl raped by parolee).

On causation, the County attempts to foist responsibility for its disobedience of the sentencing court's Warrant of Commitment on the

sentencing court, claiming that court “did not care to remedy the matter” of Robinson’s non-compliance with his sentence. Resp’t Br. at 26. That is just *false*, and a baseless attack on the sentencing court. It was *the County* that did not place Robinson on EHM or incarcerate him; it was *the County* that fumbled the ball when DOC put it on notice that Robinson was on the loose. The issue of “but for” causation is for the jury, in any event.

As for legal causation, resp’t br. at 27-28, such an argument was rejected by our Supreme Court in *Joyce*, 155 Wn.2d at 321-22, and should be rejected by this Court for the same reasons here.

#### D. CONCLUSION

The County is obtuse to its court-ordered duty to electronically monitor or incarcerate Abel Robinson, a dangerous offender with a long history of convictions for violent offenses and a known inclination to harm Heather Durham. Had it performed its duty, Robinson would not have been free to viciously harm Heather. The County should not be rewarded for its patent failure to do its job, as the sentencing court ordered, to protect Heather and the public from Robinson.

This Court should reverse the trial court's dismissal order and afford the Estate its day in court before a jury. Costs on appeal should be awarded to the Estate.<sup>6</sup>

DATED this 14<sup>th</sup> day of October, 2019.

Respectfully submitted,



Philip A. Talmadge, WSBA #6973  
Talmadge/Fitzpatrick  
2775 Harbor Avenue SW  
Third Floor, Suite C  
Seattle, WA 98126  
(206) 574-6661

Julie A. Kays, WSBA #30385  
Evan T. Fuller, WSBA #48024  
Matthew J. Wurdeman, WSBA #49940  
Connelly Law Offices, PLLC  
2301 North 30th St.  
Tacoma, WA 98403  
(253) 593-5100

Attorneys for Appellant Miller

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<sup>6</sup> The County's arguments are so lacking in merit that its appeal is frivolous or taken for purposes of delay. RAP 18.9(a). An award of fees on appeal to the Estate is merited. *Streater v. White*, 26 Wn. App. 430, 434, 613 P.2d 187, review denied, 94 Wn.2d 1014 (1980); *Brennan Heating & Air Conditioning LLC v. McMeel*, 9 Wn. App. 2d 1024, 2019 WL 2443433 (2019) at \*6.

# APPENDIX

JUL 25 2016



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 14-1-02142-1

vs.

ABEL LAWRENCE ROBINSON,

Defendant.

WARRANT OF COMMITMENT

- 1)  County Jail
- 2)  Dept. of Corrections
- 3)  Other Custody

*Δ must be on EHM by 8-5-16 at 9 am or report to the PC jail on 8-5-16 at 4 pm w/ copy of this order + IO.*

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto.

[ ] 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).

[ ] 2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody).

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07/25/2016

[ ] 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement or placement not covered by Sections 1 and 2 above).

Dated: 7-22-16



By direction of the Honorable  
*[Signature]*

JUDGE  
KEVIN STOCK Ann van Doorninck

CLERK  
By: *[Signature]*  
DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF

Date JUL 25 2016 By *[Signature]* Deputy



STATE OF WASHINGTON

ss:

County of Pierce

I, Kevin Stock, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.

IN WITNESS WHEREOF, I hereunto set my hand and the Seal of Said Court this

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

KEVIN STOCK, Clerk

By: \_\_\_\_\_ Deputy

cad

DECLARATION OF SERVICE

On said day below, I electronically served a true and accurate copy of the *Durham Estate Reply Brief* in Court of Appeals, Division II Cause No. 53344-8-II to the following parties:

Julie A. Kays, WSBA #30385  
Evan T. Fuller, WSBA #48024  
Matthew J. Wurdeman, #49940  
Connelly Law Offices, PLLC  
2301 North 30th St.  
Tacoma, WA 98403

Michelle Luna-Green, WSBA #27088  
Frank Arthur Cornelius Jr., WSBA #29590  
Pierce County Prosecuting Attorney's Office  
955 Tacoma Avenue S., Suite 301  
Tacoma, WA 98402-2160

Zebular J. Madison, WSBA #37415  
Assistant Attorney General  
Attorney General of Washington  
1250 Pacific Avenue, Suite 105  
Tacoma, WA 98401

Original E-filed with:  
Court of Appeals, Division II  
Clerk's Office

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

DATED: October 16, 2019 at Seattle, Washington.



\_\_\_\_\_  
Sarah Yelle, Legal Assistant  
Talmadge/Fitzpatrick

# TALMADGE/FITZPATRICK

October 16, 2019 - 4:01 PM

## Transmittal Information

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 53344-8  
**Appellate Court Case Title:** Estate of Heather Durham, Appellant v. Pierce County and Dept. of Corrections, Respondent  
**Superior Court Case Number:** 19-2-04685-1

### The following documents have been uploaded:

- 533448\_Answer\_Reply\_to\_Motion\_20191016160020D2683269\_8488.pdf  
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- assistant@tal-fitzlaw.com
- bmarvin@connelly-law.com
- efuller@connelly-law.com
- jkays@connelly-law.com
- matt@tal-fitzlaw.com
- mluna@co.pierce.wa.us
- pcpatvecf@co.pierce.wa.us
- pcpatvecf@piercecountywa.gov
- xxx@xxxx.com

### Comments:

Durham Estate Reply Brief

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Sender Name: Sarah Yelle - Email: assistant@tal-fitzlaw.com

**Filing on Behalf of:** Philip Albert Talmadge - Email: phil@tal-fitzlaw.com (Alternate Email: matt@tal-fitzlaw.com)

Address:  
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Third Floor Ste C  
Seattle, WA, 98126  
Phone: (206) 574-6661

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