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Court of Appeals
Division III
State of Washington
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**THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION III**

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STATE OF WASHINGTON,
Plaintiff/Appellant,

v.

STEVENS COUNTY DISTRICT COURT JUDGE,
Defendant/Respondent.

Court of Appeals No. 359662

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# REPLY BRIEF OF APPELLANT

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## I. ARGUMENT

### 1. JUDGE TVEIT'S ORDER TO THE STEVENS COUNTY DISTRICT COURT CLERK VIOLATED OUR CONSTITUTION.

Respondent's Brief is unfortunately composed of contradictions, misinformation, and patent absurdities. Much of Respondent's writings merit no response, but a clearing of the waters is appropriate.

Respondent's Counsel began his brief with a contradiction. "For several years the District Court has handled all first appearances in criminal matters both for cases filed in the Superior Court and cases filed in the District Court."[1] Brief of Respondent at 1-2. However, four sentences above that factually-unsupported assertion, Respondent's counsel asks, "[c]an a Superior Court Judge enter orders and take other actions in a case that was filed in the District Court if the case is not before the Superior Court in any appellate capacity? The answer to that question seems obvious and Judge Strohmaier ruled that the Superior Court has no authority to enter orders in District Court matters outside of its appellant [sic] court jurisdiction." Brief of Respondent at 1. Respondent's Counsel states that the Respondent has and could rightly hear in-custody matters but the reverse could and should

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[1] Notably, this assertion is placed in Respondent's Statement of The Case though the assertion is unsupported by the record.

never be allowed. In light of the contradiction in Brief of Respondent, it is no wonder why Respondent's Counsel failed to grasp State v. Stock. Counsel for Respondent claims Stock is, "of little help." Brief of Respondent at 13. Stock holds that a district court judge may enter a search warrant in a case that is filed in superior court. State v. Stock, 44 Wash.App. 467, 475, 722 P.2d 1330 (Div. I, 1986) (see also State v. Brennan, 76 Wash.App. 347, 355-56, 884 P.2d 1343 (Div. I, 1994)). If a district court judge may enter a search warrant in a case filed in the superior court, it is axiomatic that a superior court could do the same and, likewise, enter first-appearance orders in cases filed in district court cases.

Of the many instances misinformation, Respondent's rendition of State v. Chapman is likely the worst. See Brief of Respondent at 10-13. Chapman and its progeny (including State v. Cummings, 87 Wash.2d 612, 555 P.2d 835 (1976)) dealt with acquiring jurisdiction over a particular defendant, but in the context of when jurisdiction was acquired for the purposes of understanding the application of former RCW 10.43.010, not in the context of a battle between district and superior courts. In other words, Chapman and its progeny were defendant-centric, rather than court-centric. Chapman and its progeny do not answer the question, nor were they meant to answer the question, of when two courts conflict. Here is the passage from Chapman that is telling of that case's focus: "...when the complaint

was filed in the justice's court and the defendant arrested, that court acquired jurisdiction of him, and a subsequent dismissal of that action was a bar to any later prosecution in any court, under the statute which provides that the order dismissing such prosecution [is a bar to later prosecution in another court]." State v. Chapman, 131 Wash. 581, 585, 230 P. 833 (1924).

Turning to the pinnacle of patent absurdities, Respondent's counsel claims, "[t]he State's argument makes no more sense than if it were to argue that this honorable Court would have the authority to enter non-appellate orders and rulings in any Superior Court action." Brief of Respondent at 6, footnote 3. The analogy and, more importantly, the underlying assertion is absurd. Without belaboring the obvious, this Court operates within well-defined lines, as should the superior and district courts. One of the superior court's well-defined Constitutional lines is original jurisdiction over all criminal matters. WA. Const. article IV, § 6. Our Constitution has another well-defined line within that same article: the power of the superior court may not be infringed. WA. Const. article IV, § 10 ("...shall not trench upon..."). It cannot be emphasized enough that one of the guiding principles in this Case is the same principle that Counsel for Respondent has failed to grasp: statutes do not have the same priority or effect as Constitutional provisions. See Brief of Respondent at 7 ("...the legislature has conferred upon District courts broad powers....").

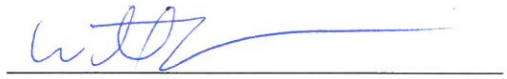
Respondent constructs a false image of chaotic interference in misdemeanor and gross misdemeanor cases. The case before this Court is not a case in which a superior court judge decided to preside over a trial or suppression hearing in district court. If we follow Respondent's reasoning, this Court would open the floodgates, thereby allowing superior court judges to intervene in any matter at any time, if it were to reverse Judge Strohmaier. Nothing could be farther from the truth. This Case concerns first appearances and first appearances only. There are clearly-defined rules in place. WA CrRLJ 3.2, 3.2.1 & WA CrR 3.2, 3.2.1. Instead of disingenuously characterizing this Case as two pilots trying to fly the same plane, Respondent should recognize the deeper impact of this Case. This Case gets to the very foundation of our court system. No district court should be permitted to wall itself off and declare itself sovereign, especially in the face of clear Constitutional authority.

When the Constitution provides the framework and our court rules provide the mechanism by which a defendant may appear in *either* court, without one court losing jurisdiction, then the path is clear; the Respondent's obligations were clear and the Respondent should have been the subject of a peremptory writ.

## II. CONCLUSION

For the reasons stated above, the State requests reversal and remand.

Dated this 24th day of August, 2018.



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## CERTIFICATE OF SERVICE

I certify that on the 24th day of August, 2018, I caused a copy of this document to be mailed, postage prepaid, to:

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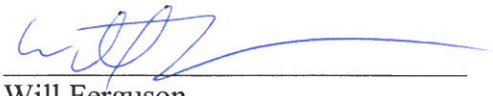

Will Ferguson

## STEVENS COUNTY PROSECUTOR'S OFFICE

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