

WASHINGTON STATE COURT OF APPEALS DIVISION THREE

CASE SUMMARIES FOR ORAL ARGUMENT

The following summaries are drawn from briefs and lower court judgments. The summaries have not been reviewed for accuracy by the judges and are intended to provide a general idea of facts and issues presented in the cases. The summaries should not be considered official court documents. Facts and issues presented in these summaries should be checked for accuracy against records and briefs, available from the Court, which provide more specific information.

Date of Hearing: Wednesday, June 13, 2012
Location: Spokane, 500 North Cedar

9:00 a.m.

1) **No.: 30178-8-III**
Case Name: Spokane County v. Eastern Washington Growth Management Hearings Board
County: Spokane

Case Summary: Headwaters Development Group LLC sought amendment of the Spokane County land use map to change a low density residential area to a high density residential area for development of a condominium project. The Spokane County Board of Commissioners approved the amendment. Later, the Growth Management Hearings Board concluded that the amendment was inconsistent with the County's comprehensive plan. The superior court reversed the Hearings Board's order of invalidity and reinstated the land use amendment. The Hearings Board appeals.

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[DIVISION THREE BRIEFS](#)

2) **No.: 29827-2-III**

Case Name: The Estate of Earle T. Kazmark

County: Spokane

Case Summary: Earle and Barbara Kazmark executed reciprocal wills and a community property agreement in 2005. After Barbara died, Earle executed a new will in 2009 excluding some beneficiaries who had been named in the previous wills. Earle's 2009 will was admitted to probate after his death and the excluded beneficiaries contested, seeking enforcement of the agreement to execute the reciprocal wills. The superior court invalidated the 2009 will and admitted the 2005 will to probate, concluding that the 2005 will was the product of an irrevocable contract. The estate appeals.

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3) **No.: 30165-6-III**

Case Name: Lance J. Gonzales, et al v. Pacific Northwest Title Co., et al

County: Spokane

Case Summary: Lance Gonzales and Dina Kissap bought a manufactured home on five acres in Spokane. Before the purchase, their title company, Pacific Northwest Title (now First American Title Insurance Company), eliminated title to the manufactured home so the buyers could obtain financing. Pacific mistakenly entered the wrong permit number on the application to eliminate title. After the sale, the buyers discovered an unpermitted septic system on the property. They sued Pacific for professional negligence and other claims. The superior court summarily dismissed their suit, and they appeal.

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[DIVISION THREE BRIEFS](#)

11:00 a.m.

4) **No.: 29812-4-III**

Case Name: Daniel B. Strange v. Spokane County

County: Spokane

Case Summary: During a routine traffic stop, a Spokane County sheriff's deputy shot passenger Daniel Strange with a Taser when Strange stepped out of the stopped car, made belligerent statements, and refused orders to get back into the car. Strange sued the deputy and Spokane County for use of excessive force in violation of his civil rights and for arrest without probable cause. At trial, the superior court noted that the County had failed to adequately comply with discovery requests, but refused to grant a mistrial. After the close of Strange's case in chief, the court granted the County's motion for judgment as a matter of law, dismissing all of the claims against the County. The jury found that the deputy did not use unreasonable force and did not conduct the arrest without probable cause. Strange appeals.

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[DIVISION THREE BRIEFS](#)

5) **No.: 29790-0-III**

Case Name: Amanda Simpson v. Jonathan Fairfax

County: Spokane

Case Summary: Amanda Simpson gave birth to C.M.F. in 2007. Jonathan Fairfax is the biological father. The superior court designated Simpson the custodial parent, ordered Fairfax to pay child support, and stated that either parent could move the court to establish a residential schedule. Simpson moved to Seattle and left C.M.F. with Fairfax for several months. Both parents signed an agreement recognizing that Fairfax would continue to be the custodial parent until other arrangements were made. Eventually, Simpson took C.M.F. to Seattle without telling Fairfax. Fairfax petitioned the court for a residential schedule, parenting plan, and child support order. At trial, Simpson moved to dismiss the case, arguing that the original order was a final custody decree that could only be modified. The superior court denied her motion and awarded primary custody to Fairfax. Simpson appeals.

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6) **No.: 30269-5-III**

Case Name: Albert Davis v. Fred's Appliance

County: Spokane

Case Summary: While employed at Fred's Appliance, Albert Davis was called "Big Gay Al" by a co-worker—a reference to a character on the animated television show "South Park." A Fred's manager reprimanded the co-worker and made him apologize. Davis became angry at the insincerity of the apology and yelled at the manager and the co-worker. Fred's fired Davis later that day. Davis sued Fred's, claiming he was fired in retaliation for his harassment complaints and due to an erroneous perception of his sexual orientation. His claims were summarily dismissed. Davis appeals.

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7) **No.: 30003-0-III**

Case Name: State of Washington v. Blayne Jeffrey Coley

County: Grant

Case Summary: In June 2008, police responded to a report of an incident involving Blayne Coley and his girlfriend. Coley told the police he had been molested by his girlfriend's 13-year-old son. After an investigation, the State charged Coley with two counts of second degree child rape. Coley was evaluated twice for his competency to stand trial and eventually was deemed competent. He represented himself pro se for a time, later asked for and received appointed counsel, and seemed to have second thoughts about representation throughout trial. He was convicted by a jury and now appeals.

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[DIVISION THREE BRIEFS](#)
