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Court of Appeals  
Division III  
State of Washington

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
3/4/2024  
BY ERIN L. LENNON  
CLERK

Court of Appeals Case No. 39178-7-III  
3/4/2024 11:30 AM

SUPREME COURT OF THE STATE OF WASHINGTON

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CITY OF SPOKANE VALLEY,

Respondent,

v.

BLAYNE DUTTON,

Petitioner

---

Appeal from Division III of the Court of Appeals,

Motion to Reconsider

---

*PETITION FOR REVIEW*

---

Attorney for Petitioner, Blayne Dutton:  
Douglas D. Phelps, WSBA #22620  
Phelps & Associates  
N. 2903 Stout Rd.  
Spokane, WA 99206  
(509) 892-0467

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## **IDENTITY OF PETITIONER**

The Petitioner, Blayne Dutton, by and through his attorney of record, Douglas Phelps, respectfully brings this Petition for Review pursuant to RAP 13.4 and respectfully requests this court accept review of the Court of Appeals decision designated in Part II of this petition.

### **I. COURT OF APPEALS DECISION**

The Petitioner seeks review of the Court of Appeals Decision issued February 2, 2024, allowing summary judgment contrary to Washington Supreme Court case Ranger Ins. Co. v. Pierce Cnty, 164 Wn. 2d 545, 192 P.3d 686 (2008) in the Court's unpublished opinion filed on January 11, 2024. A copy of the decision is in the Appendix at pages A-1 through A-11. A copy of the order denying Petitioner's motion for reconsideration is in the Appendix at page B-1.

## II. ISSUES PRESENTED FOR REVIEW

- C. Did the Court of Appeals rule contrary to Ranger Ins. Co. v. Pierce Cnty, 164 Wn. 2d 545, 192 P. 3d 686 (2008) in granting summary judgment as genuine issues of material facts existed regarding the condition of the property?**
- D. Did the Court of Appeals rule contrary to the Washington Supreme Court in Wilson v. Steinbach, 98 Wn 2d 434, 437, 656 P. 2d 1030 (1982) in failing to consider all facts in a light most favorable to the non-moving party?**

## III. STATEMENT OF THE CASE

Defendant Blayne Dutton inherited the property on 7918 E. Utah Ave from his mother. In July 2019, acting on a citizen tip, City Code Enforcement Officer Montano served a writing Warning Notice identifying two violations of the Spokane Valley Municipal Code (“SVMC”). Specifically, the Notice identified a violation of SVMC 7.05.040(D) “Accumulations of Materials, Garbage, Recyclables, Furniture, Machinery” and a violation of SVMC 7.05.040(N) “Junk Vehicles”. This Notice identified three specific

vehicles that violated the Junk Vehicles provision and mentioned that a substantial accumulation of items existed on the property.

On August 23, 2019, Mr. Dutton was served with a written Notice and Order that assessed a \$500 civil monetary penalty. The Notice and Order said that corrective action must be completed within 13 days or that the City may seek a judicial abatement order from the Spokane county Superior Court.

Defendant Blayne Dutton appealed the Notice and Order on September 4, 2019. The appeal hearing was held in front of the Spokane Valley Hearing Examiner on October 21, 2020. At this hearing, Defendants' appeal was denied. Defendants appealed this decision to the Spokane County Superior Court on November 25, 2020. On July 13, 2021, the Spokane County Superior Court dismissed the Defendants' appeal. On August 13, 2021, Defendants filed an appeal in the Court of Appeals, Division III, which was ultimately dismissed for a failure to timely file the notice of appeal. The City then filed a Motion for Summary Judgment, which was heard before the Honorable Charnelle Bjelkengren in Spokane

Superior Court on May 17, 2022. Judge Bjelkengren granted the City's motion for Summary Judgment and granted a warrant of abatement.

During this time, Mr. Dutton has undertaken significant measures to abate the conditions on the property. Mr. Dutton built a six-foot-tall wooden fence, cleaned up his property, and made other measures that have significantly improved the property.

## ARGUMENT

**A. The Court of Appeals rule contrary to Ranger Ins. Co. v. Pierce Cnty, 164 Wn. 2d 545, 192 P. 3d 686 (2008) in granting summary judgment as genuine issues of material facts existed regarding the condition of the property.**

The facts alleged by the City of Spokane Valley admit that Mr. Dutton had erected a fence to obstruct the view of the property. The Court of Appeals cites to the Superior Court reference that a six-foot fence does not comply with the definition of a structure. (COA Decision, page 7, footnote 1) The court improperly focused upon the definition of a structure while ignoring the practical effect



that the six-foot fence abates any nuisance by obstructing the view of the property from the public right of way.

The court improperly focused on what might be behind the fence and ignored that the fence abated the nuisance by obstructing the view of the property from the public right of way. An issue of material fact was present as the focus on the definition of a “structure” ignored the practical effect of the fence which abated the nuisance.

The language of SVMS 7.05.040(1) was that generally accumulations of material is not permitted. Also this focus on structures ignores the purpose of the SVMC nuisance chapter, which is to create and maintain a safe environment... devaluation of property, and incidences of crime on public and private property. SVMC 7.05.010. The placement of the six foot fence abated the nuisance and achieved the stated purpose of the statute. Plaintiff's Exhibit F demonstrated that the fence obstructed public view and access to the property. The summary judgment was improperly

granted because the fence abated the nuisance even though it did not meet the definition of a “structure.”

As there is a factual dispute, the Court of Appeals erred in granting summary judgment contrary to Ranger Ins. Co. v. Pierce Cnty., 164 Wn. 2d 545, 192 P. 3d 686 (2008), which required a denial of summary judgment where genuine issues of material facts exist.

**B. The Court of Appeals ruled contrary to Washington State Supreme Court in Wilson v. Steinbach, 98 Wn 2d 434, 437, 656 P. 2d 1030 (1982) in failing to consider all facts in a light most favorable to the non-moving party.**

The trial court granted summary judgment in favor of the City, finding no genuine issues of material fact. However, the Petitioner disputes the alleged violations and presents evidence that calls into question the accuracy and completeness of the City's claims. A genuine issue of material fact exists when reasonable minds could differ on the facts controlling the outcome of the litigation. Ranger Ins. Co. v. Pierce Cnty., 164 Wn.2d 545, 192 P.3d 886 (2008). Judgment as a matter of law is appropriate where

there is no legally sufficient basis for a reasonable jury to find for a party concerning the issue. In reviewing a motion for summary judgment, all facts and reasonable inferences are reviewed in the light most favorable to the nonmoving party. Wilson v. Steinbach, 98 Wn.2d 434, 437, 656 P.2d 1030 (1982).

The Petitioner argues that the six-foot-tall wood fence and the non-sight obscuring chain link fence effectively abate the alleged nuisance. According to SVMC 7.05.040(D), an "approved enclosed structure" is required for abatement. Under the plain language of RCWA § 9A.04.110(5), a "fenced area" constitutes a "building" if the fencing completely encloses the area.

The undisputed evidence was that a high fence enclosed the entirety of Mr. Dutton's yard. The Court erroneously concluded that this was insufficient to muster enough evidence to suffice the requirements per RCWA § 9A.04.110(5); that the area constituted a "building" under the statute's plain meaning. Furthermore, the Petitioner contends that the fences, by enclosing the area where the alleged nuisances were located, met the definition of an approved

enclosed structure and should be considered sufficient abatement per statutory law.

Here, the trial court erred by finding no genuine issues of material fact. Reasonable minds could differ on the facts described throughout the case. Moreover, the Petitioner denies the existence of a substantial accumulation of materials, garbage, recyclables, furniture, machinery on the property, and junk vehicles. The Petitioner's assertions create genuine issues of material fact that should be resolved through a trial rather than disposed of through summary judgment consistent with Wilson v. Steinbach, 98 Wn 2d 434, 437, 656 P. 2d 1030 (1982)

## VI. CONCLUSION

The Court of Appeals has ruled contrary to two Washington Supreme Court cases in granting summary judgment inconsistent with Ranger Ins. Co. v. Pierce Cnty, 164 Wn. 2d 545, 192 P. 3d 686 (2008) and Wilson v. Steinbach, 98 Wn 2d 434, 437, 656 P. 2d 1030 (1982). The Petitioner seeks remand for a denial of the

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summary judgment inconsistent with Washington Supreme Court  
decisions.

### CERTIFICATE OF COMPLIANCE

This document contains 1338 words, excluding the parts of  
the document exempted from the word count by RAP 18.17.

Respectfully submitted this 4th day of March, 2024



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Douglas D. Phelps, WSBA #22620  
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(509) 892-0467

**PHELPS & ASSOCIATES, P.S.**

**March 05, 2024 - 2:01 PM**

**Filing Petition for Review**

**Transmittal Information**

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**Appellate Court Case Number:** Case Initiation  
**Appellate Court Case Title:** City of Spokane Valley v. Blayne Dutton (391787)

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**Filing on Behalf of:** Douglas Dwight Phelps - Email: phelps@phelpslaw1.com (Alternate Email: )

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**APPENDIX A**

Copy of Court of Appeals Decision

City of Spokane Valley v. Blayne Dutton, No. 39178-7-III

Dated January 11, 2024

FILED  
JANUARY 11, 2024  
In the Office of the Clerk of Court  
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION THREE

CITY OF SPOKANE VALLEY, a )  
municipal corporation, )  
 )  
Respondent, )  
 )  
y. )  
 )  
BLAYNE DUTTON, J. DOE DUTTON, )  
and any marital community comprised )  
thereof, )  
 )  
Appellants, )  
 )  
J. DOE I-IV, and any marital community )  
comprised thereof, )  
 )  
Defendants. )

No. 39178-7-III

UNPUBLISHED OPINION

PENNELL, J. — Blayne Dutton appeals from a summary judgment order granting the City of Spokane Valley a warrant to abate a nuisance on his property. We affirm.

FACTS

Mr. Dutton owns a home in the City of Spokane Valley. On July 22, 2019, the City received a complaint about conditions at Mr. Dutton’s property. Nicole Montano, a code enforcement officer for the City, went to the property to investigate.

Ms. Montano determined the condition of Mr. Dutton’s property constituted a “nuisance” under two provisions of Spokane Valley Municipal Code (SVMC).

Ms. Montano observed an “accumulation of materials, recyclables, appliances, furniture,



and machinery not properly stored in an approved enclosed structure,” which is proscribed by SVMC 7.05.040(D). Clerk’s Papers at 61. She also noticed three vehicles visible on the property that appeared to meet the City’s definition of a “junk vehicle,” a proscribed nuisance under SVMC 7.05.040(N). *Id.* Ms. Montano photographed the property to document her observations and issued a warning notice. The warning notice identified the relevant provisions of municipal code and gave Mr. Dutton one month—until August 22, 2019—to remedy the purported nuisance. The warning notice explained that a \$500 penalty and a notice and order would issue if Mr. Dutton failed to comply.

On August 23, 2019, Ms. Montano returned to the property and observed “[t]he junk vehicles were still present, and the accumulation of materials remained.” *Id.* at 62. She took additional photographs. The same day, Ms. Montano issued a notice and order to Mr. Dutton. The notice and order listed the continuing violations of the municipal code and provided supporting citations to the code. The notice and order assessed a civil monetary penalty of \$500 and ordered Mr. Dutton to remove or properly store all accumulated items on the property. As to the vehicles, the notice and order advised Mr. Dutton to either prove they did not meet the City’s definition of “junk vehicle,” remove them, or properly store them. The notice and order gave Mr. Dutton 20 days

to pay the civil penalty and warned that the City may seek an abatement order from the superior court.

The notice and order also advised Mr. Dutton that he had a right to appeal within 14 days to the City's hearing examiner. Mr. Dutton timely appealed and a hearing was held before the City's hearing examiner in October 2020. Ms. Montano visited the property one week before the hearing date and determined the nuisance conditions had not been abated. She took photographs to document her observations.

The City's hearing examiner denied Mr. Dutton's appeal on November 2, 2020. The hearing examiner concluded that the City had "clearly established" Mr. Dutton had "allowed nuisance conditions to persist" on the property. *Id.* at 45. As to the ongoing violation of SVMC 7.05.040(D), the City had proffered evidence that

there was a large and exposed collection of construction materials, vehicle parts, appliances, equipment, and other things accumulated on the Property. . . . The photographs . . . show construction waste (wood, metal, wire, etc.), rusted or old appliances, vehicle tires and hubs, fencing materials, and other things piled up in the yard.

*Id.* at 46. The hearing examiner noted that Mr. Dutton had "not contest[ed] the foregoing facts," but Mr. Dutton urged the hearing examiner to conclude there was no nuisance because the condition of the property had remained the same for many years. *Id.* But the hearing examiner reasoned that "[t]he fact that these conditions have existed for many

years does not mean there is no public harm from the activity. . . . [T]he City's authority to regulate ongoing nuisances is not truncated by the mere lapse of time." *Id.*

As to the ongoing violation of SVMC 7.05.040(N), the hearing examiner noted that Mr. Dutton had "not present[ed] any evidence that the subject vehicles" did not meet the City's definition of "junk vehicles." *Id.* at 47. "The only evidence in the record supports the opposite conclusion." *Id.* Further, the hearing examiner rejected Mr. Dutton's arguments that (1) the examiner lacked subject-matter jurisdiction and (2) the City's enforcement of its code was arbitrary and capricious. The hearing examiner declined to opine on constitutional claims brought by Mr. Dutton.

Mr. Dutton petitioned in Spokane County Superior Court for review of the hearing examiner's decision under the Land Use Petition Act (LUPA), chapter 36.70C RCW. The superior court granted the City's motion to dismiss, reasoning that the hearing examiner's decision was not timely appealed because Mr. Dutton failed to perfect personal service of the petition on the City as required by LUPA. RCW 36.70C.040(2)-(3), (5); RCW 4.28.080. Mr. Dutton appealed, but a commissioner of this court dismissed his appeal as untimely.

In July 2021, the City initiated an action in superior court for a warrant of abatement of the nuisance and injunctive relief. The complaint alleged that the conditions

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on Mr. Dutton's property violated SVMC 7.05.040(D) and SVMC 7.05.040(N), and that the "violations . . . have not been abated." *Id.* at 7. The City averred that, given the dismissal of Mr. Dutton's LUPA appeal, the hearing examiner's conclusion that the conditions on the property constituted a "nuisance" was a final determination of that issue. It requested Mr. Dutton be enjoined from maintaining the nuisance conditions and that he be ordered to abate the nuisance. The City further requested that, if Mr. Dutton failed to abate the nuisance within a time limit prescribed by the court, the superior court authorize representatives of the City to enter the property to abate the nuisance, and Mr. Dutton be responsible for all expenses incurred by the City in abating the nuisance.

Mr. Dutton retained counsel, answered the City's complaint and asserted that the City's enforcement of its code against him violated his right to due process and constituted an unlawful taking.

Ms. Montano visited Mr. Dutton's property once more on March 30, 2022, and "determined that the conditions . . . continue[d] to constitute a nuisance." *Id.* at 63. Days later, the City moved for summary judgment and for a warrant of abatement. In addition to its motion and a supporting memorandum of authorities, the City submitted a declaration from Ms. Montano, who described her observations of the property and authenticated the photographs she had taken, which were attached.

In his response to the City's motion, Mr. Dutton pointed to the City's most recent photographs as evidence that he had "undertaken significant measures" to improve the condition of his property, including erecting "a six-foot-tall wooden fence" and cleaning up some of the accumulated items. *Id.* at 103. Mr. Dutton explained that, in the most recent set of photographs, "[t]he only visible accumulation of materials . . . are a fridge, grill, and other items near the house." *Id.* at 105. Mr. Dutton conceded the junk vehicles remained on the property but argued summary judgment was improper because the property nevertheless "looks significantly different." *Id.* at 106. Mr. Dutton also argued his indigence made cleaning up the property financially burdensome.

The superior court held a hearing on the City's summary judgment motion in May 2022. At the hearing, the City's counsel asked the court to issue a warrant of abatement giving Mr. Dutton 20 days to bring his property into compliance before the City would be authorized to enter the property to abate the nuisance itself. The City explained that "throughout time," conditions on the property "have not changed much." Rep. of Proc. (May 17, 2022) at 7. The City's counsel argued Mr. Dutton's "[m]ere disagreement with the City's determination" was "not sufficient to overcome summary judgment." *Id.* at 11. In response, Mr. Dutton's counsel pointed to the City's own argument and exhibits, claiming a genuine issue of material fact remained because Mr. Dutton had improved

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*City of Spokane Valley v. Dutton*

the condition of the property and erected a fence. The City's attorney retorted by pointing out that, the new fence notwithstanding, accumulated material remained "visible from the right-of-way." *Id.* at 13.

In its oral ruling, the superior court concluded that, "despite some efforts by Mr. Dutton," a nuisance remained on his property and had not been abated. *Id.* at 19. Accordingly, the court granted the City's motion for summary judgment and a warrant of abatement. The superior court explained its reasoning by referencing the most recent photographs taken by Ms. Montano:

[T]he most recent photographs from March of this year . . . indicate that the vehicles still remain on the property and there are still materials seen on the property . . . .

Now, Mr. Dutton indicates that he's remedied the situation, and it does appear to some extent he has, by erecting the 6-foot fence so that you can no longer see what's behind the fence. . . . However, there is a specific exception that a fence, 6 feet or less in height, is not a structure, and that does not serve to abate a nuisance based upon the code provision.<sup>[1]</sup>

And junk vehicles could be kept in a lawful structure, but in this case they're still observable, and there's just simply no genuine issue of material fact as to those junk vehicles based upon the code enforcement officer's declaration and [the most recent photographs], which indicate these vehicles are still there and they meet the definition of junk vehicle. There's been no dispute in that regard. . . .

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<sup>1</sup> The court was referencing the municipal code's definition of "structure," which specifically excludes a "fence of six feet or less in height." SVMC App. A(B). This was relevant because the code provides that a landowner can avoid a finding of nuisance by storing offending items within an appropriate "structure." *See* SVMC 7.05.040(D)(1), (2)(b), (3)(a), (4); SVMC 7.05.040(N)(1).

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Regarding the other materials[,] . . . again, in [the most recent photographs] we do see items remaining in visible sight.

*Id.* at 17-18. Further, the court rejected Mr. Dutton's constitutional claims. The court ordered Mr. Dutton to abate the nuisance and provided that if the nuisance had not been completely abated within 20 days, the City was authorized to enter and abate the nuisance at Mr. Dutton's expense.

The superior court adopted the City's proposed order memorializing this ruling. Mr. Dutton timely appealed.

#### ANALYSIS

Mr. Dutton contends the superior court erred in granting the City's motion for summary judgment because genuine issues of material fact remain as to the condition of his property. The City responds by noting that the dismissal of Mr. Dutton's LUPA appeal made the hearing examiner's conclusion, that the conditions on Mr. Dutton's property constituted a nuisance, a final determination. The City points to evidence it furnished showing that the junk vehicles and materials constituting that nuisance had not been removed. Because Mr. Dutton has not pointed to any specific facts that need to be resolved by a fact finder, the City argues, the superior court properly granted summary judgment.

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This court reviews summary judgment orders de novo, and applies the same inquiry as the trial court, viewing the facts and reasonable inferences in the light most favorable to the nonmoving party. *Ramey v. Knorr*, 130 Wn. App. 672, 685, 124 P.3d 314 (2005). Summary judgment is appropriate where there is “no genuine issue as to any material fact and . . . the moving party is entitled to judgment as a matter of law.” *Id.* (quoting CR 56(c)).

The City has constitutional and statutory authority “[t]o declare what shall be a nuisance, and to abate the same.” RCW 35.22.280(30); *see* RCW 35A.21.160; *see also* WASH. CONST. art. XI, § 11. The City’s power to regulate land through its police powers is “nearly plenary.” *King County Dep’t of Dev. & Env’t Servs. v. King County*, 177 Wn.2d 636, 646, 305 P.3d 240 (2013); *see also Kittitas County v. Dep’t of Transp.*, 13 Wn. App. 2d 79, 88-89, 461 P.3d 1218 (2020).

Pursuant to this authority, the City has defined an unlawful “nuisance” broadly to include “[a]ny accumulation . . . of building or construction materials”; “[a]ny accumulation of broken or neglected items”; “[a]ny broken or discarded” household furnishings or appliances; and “[a]ny broken or inoperable accumulation of . . . machinery or equipment.” SVMC 7.05.040(D)(1), (2)(b), (3)(a), (4). A landowner can avoid having such an accumulation designated as a nuisance by enclosing it within an approved



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“structure.” *Id.* The City has also designated “junk vehicles”<sup>2</sup> as an unlawful nuisance if they are “visible from” the street and not “enclosed within a lawful structure.”

SVMC 7.05.040(N)(1).

Mr. Dutton has failed to demonstrate a material issue of fact that would preclude the City’s entitlement to summary judgment and a warrant of abatement. *See* RCW 7.48.260 (authorizing actions for a warrant of abatement); SVMC 17.100.320(B) (same). The 2020 hearing examiner decision established that there was a visible accumulation of items on Mr. Dutton’s property that met the criteria for a nuisance. Although Mr. Dutton engaged in some remedial efforts, the undisputed facts before the superior court at the time of the summary judgment hearing showed that the nuisance had not been completely abated. Under the City’s municipal code, “any” accumulation of prohibited materials outside of an enclosed “structure” is considered a nuisance. SVMC 7.05.040(D)(1), (2)(b), (3)(a), (4). Furthermore, even though Mr. Dutton built a fence that obscured some of the offending items, the fence was not high enough to constitute a “structure” under the City’s code. *See* SVMC App. A(B) (providing that

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<sup>2</sup> A “junk vehicle” is a vehicle meeting at least three of the following four criteria: (1) three years or older, (2) “extensively damaged”, (3) “apparently inoperable”, and (4) the vehicle’s “approximate fair market value” is “equal only to the approximate value of the scrap in it.” SVMC 7.05.020.

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a “structure” does not include “fence[s] of six feet or less in height”). Additionally, Mr. Dutton has never contended that the vehicles parked on his property do not constitute “junk vehicles” as defined by the City. SVMC 7.05.040(N); SVMC 7.05.020. The undisputed evidence before the superior court was that the offending vehicles remained visible.

At the time of the summary judgment hearing, it was undisputed Mr. Dutton had failed to fully remediate the nuisance conditions on his property. Accordingly, the City was entitled to summary judgment and a warrant of abatement.

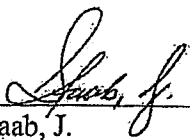
#### CONCLUSION

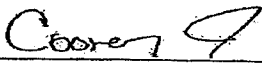
The order granting summary judgment and a warrant of abatement is affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

  
\_\_\_\_\_  
Pennell, J.

WE CONCUR:

  
\_\_\_\_\_  
Staab, J.

  
\_\_\_\_\_  
Cooney, J.

**APPENDIX B**

Copy of Order Denying Motion for Reconsideration  
City of Spokane Valley v. Blayne Dutton, No. 39178-7-III  
Dated February 2, 2024

**FILED**  
**FEBRUARY 2, 2024**  
In the Office of the Clerk of Court  
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION THREE

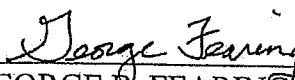
CITY OF SPOKANE VALLEY, a municipal corporation,	)	
	)	No. 39178-7-III
Respondent,	)	
	)	ORDER DENYING MOTION
v.	)	FOR RECONSIDERATION
	)	
BLAYNE DUTTON, J. DOE DUTTON, and any marital community comprised thereof,	)	
	)	
Appellants,	)	
	)	
J. DOE I-IV, and any marital community comprised thereof,	)	
	)	
Defendants.	)	

THE COURT has considered appellant Blayne Dutton's motion for reconsideration of this court's January 11, 2024, opinion; and the record and file herein.

IT IS ORDERED that the appellants' motion for reconsideration is denied.

PANEL: Judges Pennell, Staab, and Cooney

FOR THE COURT:

  
\_\_\_\_\_  
GEORGE B. FEARING  
Chief Judge

**SUPREME COURT OF THE STATE OF WASHINGTON**

CITY OF SPOKANE VALLEY,	)	
a municipal corporation,	)	
Respondent,	)	Cause No. 39178-7
	)	Cause No. 21-2-01900-32
v.	)	
	)	
BLAYNE DUTTON,	)	DECLARATION OF SERVICE
	)	OF PETITION FOR REVIEW
	)	
Appellant.	)	
_____	)	

I, Douglas D. Phelps, declare as follows:

That I am over the age of eighteen (18) years, not a party to this action, and competent to be a witness herein. That I, as the attorney of record for the Appellant, served in the manner indicated below, a copy of the PETITION FOR REVIEW, on March 4, 2024.

WASHINGTON STATE SUPREME COURT

**XX- Appellate Court Portal**

I further declare that I served in the manner indicated below, a true and correct a copy of the PETITION FOR REVIEW, on March 4, 2024.

CITY ATTORNEY, CITY OF SPOKANE VALLEY  
10210 EAST SPRAGUE AVENUE  
SPOKANE, WA 99260                    **XX - Appellate Court Portal**

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

Signed at Spokane, WA on this 4th day of March, 2024

s/Douglas Phelps  
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**PHELPS & ASSOCIATES, P.S.**

**March 04, 2024 - 11:30 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** 39178-7  
**Appellate Court Case Title:** City of Spokane Valley v. Blayne Dutton  
**Superior Court Case Number:** 21-2-01900-6

**The following documents have been uploaded:**

- 391787\_Petition\_for\_Review\_Plus\_20240304112636D3976771\_6011.pdf  
This File Contains:  
Affidavit/Declaration - Service  
Petition for Review  
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**A copy of the uploaded files will be sent to:**

- cprunty@spokanevalley.org
- sbullock@spokanevalley.org
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