Court of Appeal Cause No. 68979 -7- I

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

WASHINGTON STATE ATTORNEY GENERAL ET AL, [Respondent]

v.

JOHN WORTHINGTON, [Petitioner or Appellant]

AMENDED REPLY TO RESPONSE TO PETITION FOR REVIEW

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ORIGINAL

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

RAP Rules

Washington State Constitution

U.S. Constitution

I. DISCUSSION IN REPLY

The Respondents would love for the Washington State Supreme Court to believe Worthington had all the facts in 2007, or at least by 2009, to pursue his claims within the statute of limitations.[1] However, Worthington still has two public records cases, Worthington v. Washington State Military 08-2-09119-3 (2008), Worthington v. WestNET 11-2-02698-3 (2011), 436892-II (2013), one federal case Worthington v. Panetta C11-5916 BHS, and one outstanding FOIA request in the administrative appeal process Case Number 14-00126-P.

The Respondents attorneys have been professionally adept at twisting and hiding truth and the record to suit their arguments, while they themselves possessed all the records from the get go. The Attorneys for the Respondents have been hands on participants in a fraud that remains ongoing.

The Counsel for the Respondents knew that Fred Bjornberg did not act[2], and knew that WEST NET had acted all along, after they withdrew the Kitsap County Superior Court documents they initiated the raid with and claimed to be turning the case over to the U.S Department of Justice.[3] Yet state and local counsel conspired with U. S. Attorneys to invoke the Westfall and Federal Tort Claims Acts to dismiss Worthington's 2009 complaint.[4]

The U.S. Attorney's Office never received official approval to

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[1] Respondents moved for and were granted a stay of discovery in the 2009 federal case.
[2] Bjornberg took official responsibility for the acts alleged in Worthington's 2009 complaint after being instructed to do so to utilize the Westfall Act. CP 689-692.
[3] Worthington v. Washington State Patrol 08-2-01985-1 (2008),386976-II
[4] Worthington has active bar complaints on all the attorneys involved and will seek an appeal to the Washington State Supreme Court once he is thru exhausting administrative remedies.

represent Bjornberg yet they did so anyways, even though they were barred from individual capacity representation without approval.[5]

For now, this much of the fraud is clear. Federal and State Drug control Agencies were upset that Worthington embarrassed Washington State Multi-Jurisdictional Drug Task Forces regarding their own secret medical marijuana plant limits,[6] and were also upset Worthington interfered in U.S v. Ken Stone, and U.S. v. George Correll.[7] Worthington was also closing in on the HIDTA grant trail to have cross designated state and local law enforcement seize medical marijuana for the DEA, and was starting to investigate the use of forward looking infra-red equipped Washington State National Guard aircraft without a warrant.

The facts are, that prior to the raid on his residence, Worthington complained about Office of National Drug Control Policy (ONDCP) HIDTA grant bribed state and local officers bypassing state laws and seizing marijuana for the DEA, and complained about the use of FLIR without a warrant. After complaining about those policies, the ONDCP HIDTA grant leveraged drug task forces and Washington State National Guard executed those very tactics on Worthington, and then conspired to hide the truth until the statute of limitations had expired, by hiding records and are still hiding things to this day.

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[5] Respondents included this case in their brief even though the actual motion Worthington filed was time barred and was not substantively ruled upon. Worthington is going to file an independent Federal Rule 60 (d) (3) motion which should not be subject to a time bar under Federal Rule 60 (c) (1).

[6] TNET's investigation of Worthington starts here. Recently discovered in FOIA Case Number 14-00126-P.

[7] This led to the email from U.S. Attorney Janet Freeman to Roy Alloway requesting for dirt on Worthington. (CP 532-534)

Based upon Worthington's medical marijuana activism, U.S. Attorney Janet Freeman requested dirt on John Worthington and Steve Sarich. At that point the two Multi-Jurisdictional Drug Task Forces claimed they decided to investigate Worthington and Sarich, and later conducted multiple knock and talks at multiple locations at the same time.[8] When that plan failed, the two task forces adjusted their strategy to acquire the warrant for Worthington, by claiming they went to Sarich's house first and developed probable cause to send the "DEA" to Worthington's house. The DEA was actually Tacoma Narcotics Enforcement Team.(TNET) TNET just assisted on the raid and WestNET actually conducted the raid.

At no point in the 2007 did the U.S. Department of Justice take over and conduct the raid,[9] and so far as the available records show, at no point was a U.S. Attorney involved with the raid, other than U.S. Attorney Janet Freeman's request for dirt in August of 2006. These are the facts as Worthington knows them now after collecting piece meal information thru public records and FOIA requests, in a process which remains on going.

In 2007, Worthington was told by WestNET during the raid that he was a legal medical marijuana patient, and then picked up their Kitsap County Superior Court paperwork and left. At that point Fred Bjornberg stepped up and stated he

[8] The raid and safety meeting the day prior confirms they had already decided to conduct the knock and talk at Worthington's house. WestNET Superviser Carlos Rodriguez' report also confirms this fact.

[9] Alloway tries to portray a federal raid in his records and affidavit for search warrant. WSP goes along with the fraud and denies public records based on that false representation. See Worthington v. Washington State Patrol 08-2-01985-1 (2008),386976-II

was taking them for the DEA in a DEA investigation. Worthington filed his initial complaint in 2009 based on that information.

After the initial 2009 complaint had been dismissed in federal court pursuant to the Westfall and Federal Tort Claims Acts, after Bjornberg took responsibility for the acts alleged in the complaint, Worthington attempted to prove Roy Alloway and WestNET took the plants and grow light. However, the federal court sided with the respondents arguments that those documents were not authenticated[10], so at that time those were not substantiated facts. If they were substantiated facts common sense dictates the federal judge would have ruled in Worthington's favor and granted the motion.

It was not until November of 2010 when Worthington obtained substantial parts of the WestNET General Report by mistake[11] that Worthington would have been able to authenticate the documents in question for the Federal Rule 60 B motion the respondents are referring to.

It was not until November of 2011, when Worthington received a PRA document from Bonney Lake from the DEA agent in charge of Fred Bjornberg that WestNET took the grow lights and plants could Worthington factually prove

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[10] WestNET participating agency Kitsap County Sheriff's office only allowed Worthington to copy 1 document. The email trail shows the Attorneys for the Respondents were in constant contact with Kitsap County public records officer Kathy Kollings.

[11] Worthington found a memo to the Washington State Patrol showing they were sent the West Net General Report in 2007 and actually had possession of documents they claimed only the U.S. Department of Justice had in Worthington v. Washington State Patrol 08-2-01985-1. Worthington filed a Rule 60 b motion in Thurston County Superior Court That motion was denied by the retired Judge Paula Casey. Worthington's request for appeal in forma pauperis to the Washington State Supreme Court was denied. At that time WSP provided the WestNet General report, without all of the NCIS documents. Those documents Worthington did not get until August 2011.

Bjornberg did not take Worthington's property.[12] Even so the respondents have argued that document is not authentic.

Up until November of 2011, the tact for the U.S.DOJ and the Washington State law enforcement agencies involved was to claim the other side did it. They had Worthington chasing his tail for the responsible parties. When Worthington went to the WSP they claimed it was a DOJ investigation and claimed they had no records. The DEA claimed Worthington was not a federal defendant[13] and failed to provide all of the documents. To this day federal state and local agencies involved are still withholding information regarding their roles in that 2007 raid. If anything, Worthington's claims are unripe until all of the agencies and attorneys involved finally come clean.

Since the statutory interpretation of RCW4.16.080 (4) and the discovery rule were "assumed without being decided", Worthington assumes without deciding that this issue will be treated as a direct review of the trial court's ruling.

II. ARGUMENT

A. The Appellate Court failed to give effect to the plain meaning of RCW 4.16.080 (4) and punted on RCW 4.16.080 (6)

RCW 4.16.080(4) is the limitation period prescribed for the commencement of actions based on fraud is 3 years However, the cause of action is "not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud". RCW 4.16.080 (4) as shown below:

[12] CP 494-495
[13] CP 494-495

(4) An action for relief upon the ground of fraud, the cause of action in such case not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud;

The discovery of the facts constituting the fraud was not definitively discovered until November of 2011.[14] At that time the DEA agent in charge of Fred Bjornberg and TNET admitted that WestNET took both the grow light and plants despite telling Worthington that they were leaving Worthington's property[15] and despite removing the Kitsap County Superior Court documents used to initiate the case.

The Respondents want this issue to be a Red herring but it is a critical fact and is at the heart of the alleged fraud. When someone tells you that you are legal and that they are leaving everything, and they pick up all the court documents and leave, they can't very well take your property for someone else.

The Respondents are cleverly trying to portray a scenario where it doesn't matter what WestNet said and did at the time of the raid, or that it was ok for Bjornberg to take the property,[16] without his own federal property seizure report or his own court documents. This is the twisting of facts the Respondents are relying on to make the initial story told by the two task forces work.[17]

The Respondents are also claiming Worthington knew all of the facts constituting the fraud prior to 2009, yet Worthington only suspected retaliation and cover up and his public records investigations were not nearly complete and did

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[14] CP 494-495.
[15] CP 501
[16] CP 490
[17] The Respondents attorneys' initial story in the trial court was that Roy Alloway was cross designated for the DEA, but they had to file an errata to that bald face misrepresentation when Worthington filed CR 11 sanctions with the trial court on the issue.

not show the entire fraud. "Mere suspicion of wrong is not discovery of the fraud." Davison v. Hewitt, 6 Wn.2d 131, 137, 106 P.2d 733 (1940).

The plain meaning of RCW 4.16.080(4) is not ambiguous. "The cause of action in such case not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud" "In the absence of ambiguity, we will give effect to the plain meaning of the statutory language." In re Marriage of Schneider, 173 Wash.2d 353, 363, 268 P.3d 215 (2011).

The Washington State Supreme Court looks to the plain and ordinary meaning of statutory language to determine legislative intent. The Supreme Court has said it must discern plain meaning from "all that the Legislature has said in the statute and related statutes which disclose legislative intent about the provision in question. (See" Campbell & Gwinn, 146 Wn.2d at 11.)

RCW 4.16.080(4) does not contain any language that requires due diligence to be considered as a means to disqualify Worthington from invoking the statute. Even if it did, considering that Worthington filed an immediate PRA request with the Washington State Patrol in 2008,and immediate FOIA requests with the DEA[18], Worthington, has done his due diligence. In fact, Worthington still has PRA request lawsuits and FOIA requests pending and has exceeded the burden by showing immediate, past and present due diligence.

Until a drug enforcement agency that was involved files intent to seize

[18] CP 495

Worthington's property, the fraud is actually ongoing, and who seized the property and when they seized it would be speculation.

Worthington assumes without deciding, the Washington State Court of Appeals for Division I erred, when they assumed without deciding, the plain meaning of RCW 4.16.080 (4), the discovery rule, or RCW 4.16.080 (6).Perhaps they chose to assume rather than decide, to avoid showing there was a dispute of material fact, and spoil the granting of summary judgment by the trial court.

B. The Respondents have not cited one case that supports seizing and forfeiting property without due process under RCW 60.50.505 (3).

Worthington assumes without deciding, that since the Respondents have not provided any case law from any Appellate court showing that forfeiture procedings are not commenced with the seizure, then the Petition for Review should be granted because the "assumption" by the Washington State Court of appeals conflicts with previous case law rulings by all the Appellate courts meeting the criteria for review under RAP 13.4 (b) (1). RAP 13.4 (b) (2).

Assuming without deciding that Article 1 section 3 still is in the Washington State Constitution, then one would assume that: No person shall be deprived of life, liberty, or property, without due process of law.

Since to this day no seizing agency has provided notice of intent to seize Worthington's property, Worthington has not been afforded his constitutional rights to due process of law guaranteed by Article 1 section 3, and the Fourth Amendment of the United States Constitution. This unique and special

interpretation of RCW 60.50.505 (3) would most certainly be considered a significant question of law under the Constitution of the State of Washington or of the United States, meeting the criteria for review under RAP 13.4 (b) (3).

C. The petition involves an issue of substantial public interest that should be determined by the Supreme Court.

The citizens of Washington State would be substantially interested to find out they had no rights to contest a property seizure if law enforcement never intended to charge them. If this in fact how RCW 69.50.505 works then the public should know. The Washington State Supreme Court should determine if this is how the statute is really constructed or if the Washington State Multi-Jurisdictional Drug Task Forces have a special exemption to the statute because they are immune from Washington State laws in a special hybrid sovereignty.

Worthington has followed these rogue hybrid entities for some time and has noticed they have not followed their requirements under the JAG grant and Washington State law to hold open public meetings or appoint public records officers or publish their public records proceedings. WestNET has even written in its Interlocal Agreement that they intend to operate confidentially and without public input.[19] It is no wonder that WestNET has been able to sell unregistered guns, and OPNET has been able to pad overtime hours, and TNET has been able to seize medical marijuana for the DEA. It is also no wonder why the Washington State National Guard can use FLIR on citizens without obtaining warrants.

[19] See Worthington v. WestNET currently in the Washington State Court of Appeals for Division II. Case No. 386976-II.

The public has not been allowed to watch and monitor what these rogue entities do and the courts have been charitable in their rulings that attempt to do so thus far. Perhaps it is the revenue from property seizures and HIDT A grant monies for drug courts that keeps these rogue entities in business and perhaps why they have avoided the proper reforms.

Worthington was prepared to take the ONDCP HIDT A grant paper trail to trial to determine if the grants could be accepted when they were specifically created to bypass state medical marijuana laws, and even requested two preliminary injunctions to stop the HIDTA grants and use of FLIR. The policies embodied in the grants were applied to Worthington and he had standing to challenge them.

Instead of challenging these out of control hybrid sovereign factions and bringing them to justice, they are left to perform their sworn contractual duty to circumvent Washington State laws. Now, as 1-502 licensees are being issued licenses to grow, process, and sell recreational marijuana, Washington State is contractually obligated to both sell marijuana and eradicate marijuana at the same time. This is possible because the ONDCP HIDTA grants remain under the radar and because the Washington and federal court system has up until now provided charitable rulings to avoid substantive rulings on the issues of taking federal grants purposely created and offered to undermine Washington State marijuana laws. Worthington has filed two complaints for injunctive relief which were quickly dispatched before the matter could proceed to trial.

It is entirely understandable why the federal district court and Washington State Superior Courts have been so charitable, given the fact that they both receive ONDCP HIDTA and other federal grants for their drug courts. They couldn't drown Worthington's claims in the bath tub fast enough.

Now that 1-502 has passed and is now being implemented, the issues in Worthington's case and the ability of the hybrid sovereign ONDCP HIDTA grant drug control agencies to circumvent Washington State laws has quantified. The ONDCP HIDT A grant leveraged drug control agencies ability to avoid Washington State Laws in the manner in which they did in Worthington's case would be of substantial interest to the public, especially those who have invested thousands if not millions in recreational marijuana production, processing, and retail sales.

Are the 1-502 applicants going to have their property seized and forfeited without due process because it is contraband and because the task forces never intended to charge them? Or is Worthington just a special victim that is being swept under the rug by courts under the influence of drug court grant monies?[20]

Is the Washington State Supreme Court going to sit this issue out so the courts can keep getting HIDTA grants for drug courts and revenue from no contest seizure forfeitures?, Or will they be above the muck and promote justice to stop

[20] **Drug Court Development**-this initiative provides resources to Drug Court programs in each Northwest county.https://www.ncjrs.gov/ondcppubs/publications/enforce/hidta20Ol/nwfs.html http://depts.washington.eduladailpubsltr/ drugcourtlfu Ureport.pdf. http://adai.washington.edulpubs/drugcourtlmentalhealth.pdf http://www.courts. wa.gov /court_ dirl?fa=court _ dir.psc http://www.drugpossessionlaws.comlfederaljudges-moving-toward-state-drug-court-models/

this from happening to others too. How can they be above the muck when the JAG and HIDTA grants has put all of them under the same roof in Judiciary Courts of Washington,[21] and the Temple of Justice is the CEO.

Worthington respectfully argues he has met the criteria in RAP 13.4 (b) (4), and respectfully requests the Washington State Supreme Court to protect the public from this gaming of the system thru the use of HIDTA grant Multi-jurisdictional Drug Task Forces.

III. CONCLUSION

This situation is untenable and the Washington State Supreme Court should intervene before the stakes become astronomical. Worthington respectfully argues he has met the RAP 13.4 thresholds, and respectfully requests his Petition for Review be granted.

Respectfully Submitted this 8th day of March, 2014.

BY: 

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[21] JUDICIARY COURTS OF THE STATE OF WASHINGTON
TEMPLE OF JUSTICE OLYMPIA, WA 98504.
http://business.dnb.com/your-business-credit/?utm_source=bing&utm_medium=cpc_tsa&utm_term=dunn_and_bradstreet_Exact&utm_campaign=MyCredit_BrandHighPriority_Search_USA&medium=tsa&gclid=CKD83_arg70CFQk4KwodDBMAAA&gclsrc=ds

Certificate of Service

I certify that on the date and time indicated below, I caused to be served via email, a true and complete copy of the Amended Reply to Response to Petition for Review, to the attorneys of record in this case.

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

Respectfully executed on this 8th day of March, 2014

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From: john worthington <worthingtonjw2u@hotmail.com>
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Hello,

Attached is my amended reply to response to petition for review.

Thank you.

John Worthington