

NO. 93173-9

WASHINGTON STATE SUPREME COURT

JOHN WORTHINGTON,

Appellants

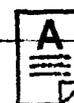
v.

CITY OF BREMERTON ET AL,

Respondents

REPLY TO ANSWER ON PETITION FOR REVIEW

John Worthington
4500 SE 2ND PL.
Renton WA.98059



ORIGINAL

I. Restatement of relevant facts.

In his second and third assignment of error in his opening brief, Worthington alleged his OPMA and PRA claims should have survived dismissal , and were not cause for sanctions.

The trial court did not rule that Worthington's OPMA claims were barred by the statute of limitations, the court ruled that Worthington should have known his complaint was frivolous and harassing because the COA ruled WestNET was not an agency in *Worthington v. WestNET*.

Worthington argued that Court of Appeals ruling applied to WestNET and not the affiliate jurisdictions and could not be used to determine OPMA claims were found to be frivolous.

In Worthington's reply brief, Worthington argued that is OPMA claims were "new", and that if the complaint had been properly considered as a whole, the complaint could not be considered harassing and frivolous pursuant to RCW 4.84.185.

The Court of Appeals for Division II did not rule on either assignment of error regarding the OPMA, and ruled solely on the statute of limitations

issue. The COA then replied to all other issues in the appeal except the OPMA claims in dicta¹.

Worthington filed a motion to reconsider and concentrated on the unaddressed OPMA issue and briefed that the clerk's papers showed that Kitsap County had admitted that Worthington's OPMA claims were "new", and that they actually applied to Kitsap County and not WestNET.

Rather than ask for further briefing, the COA denied Worthington's motion to reconsider and shut the door on any further briefing or any future consideration of the OPMA issues, even though those issues were clearly in the assignment of errors, in the reply brief, and in the motion to reconsider.

II. Disputed and undisputed facts.

1. The respondent also claims that Worthington did not present evidence or argument that the statute of limitations had not expired
2. The respondent claims that review should not be accepted because the issues in the petition for review were not raised at the COA.
3. The respondent claims none of the considerations governing acceptance of review set forth in RAP 13.4(b) support acceptance of review of Worthington's petition for review.
4. The trial court never applied the statute of limitations argument to the OPMA claims.

III. Argument.

Because the trial court never applied the statute of limitations to

¹ The COA ruling states that it is dismissing the case on the statute of limitations issue.

Worthington's "new" OPMA claims, and relied on an overturned COA opinion in a case involving different parties, neither argument nor evidence regarding statute of limitations was required.

The respondent's claims Worthington's arguments in the petition for review were not before the COA is not factually supported by the record. Worthington's assignments of error, reply brief, and motion to reconsider focus on the OPMA claims in two separate attacks.

One attack was whether the trial court relied upon a COA ruling that was applied to an entity that was not in the ² caption. The respondent acquiesced to that issue and the COA never addressed the issue in its ruling.

Another attack was whether the complaint was considered as a whole, and whether the OPMA claims were "new", and therefore not capable of being frivolous nor harassing. The COA never addressed that issue either.

Worthington filed a motion to reconsider and showed the COA, where in the clerks papers that Kitsap County admitted the OPMA claims were new, and admitted the OPMA applied to Kitsap County and not WestNET.

The statute of limitation ruling by the trial court was never applied to the OPMA ruling. The only ruling on that issue was that the COA ruling in

² The Respondent admitted to the COA in briefing that the parties in the two cases were different.

Worthington v. WestNET decided that WestNET was not an agency and that Worthington should have known that before filing his “new” OPMA claim, even though the parties were admitted by the respondent to be different.³

Rather than request an answer to the motion, the COA denied the motion without a findings of facts or conclusions at law, and hastily dispatched the appeal to the infamous unpublished dismissal receptacle.

In its answer to Worthington’s petition, the respondent never addressed the issue of whether the complaint was considered as a whole and has failed to show that the case law requiring a complaint to be considered as a whole, was applicable or not.

The respondent merely asserts that review should not be accepted pursuant to RAP 13.4 (b), but never addresses the specific argument in the petition that relies on case law that requires a complaint to be considered as a whole. Having failed to show that the complaint was considered as a whole, the respondent has not met the burden of showing that review should not be accepted to comply with the COA and Supreme Court case law on that issue.

The record will show that the COA merely mentions the OPMA claims but does not consider them in its statute of limitations ruling or in its dicta

³ Cause for CR 11 sanctions.

regarding the other issues. Here, the respondent mistakenly argues Worthington did not provide evidence or argument that the statute of limitations had not expired. This argument is a distortion of the record. Worthington did argue the statute of limitations did not apply to the OPMA claims and showed evidence in the clerks papers showing Kitsap County admitting the OPMA claims were new, and that they applied to Kitsap County.

The fact that the COA stated it was only ruling on the statute of limitations issues could only mean that it was ignoring the OPMA issue altogether in its opinion. This could only mean that the complaint was never considered as a whole, and was inconsistent with COA and Washington State Supreme Court case law. As a result Worthington's petition for review meets both the criteria under RAP 13.4 (b) (1), and RAP 13.4 (b) (2).

IV. Conclusion.

Worthington respectfully argues that review should be accepted in order to carry out the principles of stare decisis, regarding complaints being required to be considered as a whole when applying RCW 4.84.185. Or Worthington will be unjustly sanctioned \$24,000.

Respectfully submitted this 22nd day of June, 2016

BY John Worthington
John Worthington Pro Se /Appellant
4500 SE 2ND PL.
Renton WA.98059

Certificate of Service

I certify that on the date and time indicated below, I caused to be served email , a copy of the documents and pleadings listed below upon the attorney of record for the defendants herein listed and indicated below.

1. REPLY TO ANSWER ON PETITION FOR REVIEW.

Kitsap County
614 Division Street MS-35A
Port Orchard, WA 98366

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

Executed on this 22nd day of June, 2016.

BY *John Worthington*
John Worthington Pro Se /Appellant
4500 SE 2ND PL.
Renton WA.98059

OFFICE RECEPTIONIST, CLERK

From: OFFICE RECEPTIONIST, CLERK
Sent: Wednesday, June 22, 2016 4:02 PM
To: 'john worthington'
Cc: Ione S. George; Batrice Fredsti; Carrie A. Bruce
Subject: RE: REPLY TO ANSWER ON PETITION FOR REVIEW

Received 6/22/2016.

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From: john worthington [mailto:worthingtonjw2u@hotmail.com]
Sent: Wednesday, June 22, 2016 3:51 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Ione S. George <lGeorge@co.kitsap.wa.us>; Batrice Fredsti <bfredsti@co.kitsap.wa.us>; Carrie A. Bruce <CBruce@co.kitsap.wa.us>
Subject: REPLY TO ANSWER ON PETITION FOR REVIEW

Please file this with the court.

Thank you