

**FILED**

No. 340252

**COURT OF APPEALS, DIVISION III  
OF THE STATE OF WASHINGTON**

SEP 17 2016

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
P.O. BOX 40800  
SPokane, WA 99220-0800

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JASON L. WATSON,

Appellant,

v.

CITY OF SPOKANE,

Respondent.

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**BRIEF OF RESPONDENT**

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## **I. INTRODUCTION.**

The respondent, the City of Spokane, by and through its Assistant City Attorney, Matthew M. Folsom, hereby answers Appellant's Opening Brief and respectfully requests this appeal be denied.

Appellant Jason Watson's appeal as a matter of right should be denied because Mr. Watson was provided notice and the opportunity for a full evidentiary hearing. There was no procedural due process violation. Mr. Watson was advised of his constitutional rights, decided to cooperate with the Spokane Police Department (SPD), admitted to engaging in drug trafficking, directed police to the location of his illegal drug proceeds, and voluntarily entered into a civil stipulation agreement. Mr. Watson's signature on the Stipulation and Release agreement is objective evidence of his intent to waive his right to a hearing. The Hearing Examiner's subsequent decision to dismiss Mr. Watson's claim without holding a hearing was a valid agency action under the Washington Administrative Procedure Act (APA).<sup>1</sup> Ch. 34.05 RCW.

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<sup>1</sup> "If an agency decides not to conduct an adjudicative proceeding in response to an application, the agency shall furnish the applicant a copy of its decision in writing, with a brief statement of the agency's reasons and of any administrative review available to the applicant." RCW 34.05.416.

Mr. Watson has failed to articulate an invalid agency action or an erroneous interpretation or application of the law. His appeal should be denied.

## **II. STATEMENT OF THE CASE.**

On November 13, 2014 appellant, Jason Watson, was arrested for delivery of a controlled substance. *SPD Additional Report No. 14-802744*, See Appellant's Brief (AB) at Ex. C. This SPD additional report, to which no error is assigned, is signed and certified under penalty of perjury and states, in part:

I read as witnessed by Detective Mehring WATSON's Constitutional Rights which he stated he understood and wished to waive...

WATSON stated he was being supplied Oxycodone from a black male WATSON knew as "DD". WATSON said he was paying \$21 a pill, and would receive up to 100 pills on average every two weeks for the last 6 months. WATSON stated he believed DD was from the eighty trey street gang out of Los Angeles. WATSON gave the phone number of 509-309-5557 for DD. WATSON described DD as black male, 5'8", 230lbs, and bald. WATSON also stated he believed DD drove a dark colored SUV...

WATSON said he was being supplied powder cocaine from a white male he knew as "pops". WATSON said pops was the middle man for a white male in Newport who drove a White Dodge Ram type of vehicle. WATSON stated he would drive pops to Newport Washington where he would give pops money, and pops would then meet the unknown male. WATSON

said he was paying \$1,500 an ounce for powder cocaine and was selling it for \$100 a gram.

WATSON stated he had a friend named Barington YOUNG who he had used in the past two weeks to deliver Oxycodone...

WATSON said he currently had \$13000 in cash located at his address 4308 N. Ella, Spokane, WA. WATSON stated the cash was in a safe located in his closet. WATSON said that not all of the cash was from drug proceeds, but that a portion was. WATSON stated he also had a Glock .40 and a Smith and Wesson 9mm located in a file cabinet at his residence.

At approximately 1730 I initiated the search warrant at 4308 N. Ella. Jason WATSON was with us and opened the residence...\$13000 in cash [was] located ... in a small safe in the bedroom (This item was recorded as item #13 and #14 do [sic] to there being \$290.00 of our buy money in the \$13000...a glock 22 autoloader .40 caliber ... [was] located ... [and a] Smith and Wesson autoloader 9mm.

WATSON was given a copy of the search warrant and inventory of items seized regarding the Ella address.

WATSON and I believed it would be best to wait to initiate the warrant at SmoovCuts until business hours were over because of WATSON's cooperation.

Detective Mehring and I transported WATSON to the Detective office to wait until 9pm until we could do the search warrant at SmoovCutz. At the Detective's office I served WATSON with a seizure notice and WATSON voluntarily signed a stipulation of release for the \$13000 in cash found in the safe.

On February 12, 2015, a forfeiture hearing was held to determine whether Jason Watson released any interest he had in the seized property when he entered into a stipulated settlement and release with the SPD. On February 19, 2015, the Hearing Examiner entered an order dismissing Mr. Watson's claim. On March 19, 2015, Mr. Watson filed a Petition for Review in Spokane County Superior Court. On July 20, 2015, the Spokane Superior Court remanded the matter back to the Hearing Examiner for further proceedings. On July 28, 2015, the Hearing Examiner entered an order dismissing Mr. Watson's claim. On December 21, 2015, the Spokane County Superior Court entered an order affirming the Hearing Examiner's order dismissing Mr. Watson's claim.

### **III. ARGUMENT.**

#### **A. STANDARD OF REVIEW.**

Agency adjudications are reviewed under the standards of the Washington Administrative Procedure Act (APA). Ch. 34.05 RCW; *William Dickson Co. v. Puget Sound Air Pollution Control Agency*, 81 Wn.App. 403, 914 P.2d 750 (1996). An appellate court can grant relief (1) where the agency's interpretation or application of the law is erroneous; (2) the order is not supported by substantial

evidence; or (3) the order is arbitrary or capricious. *Postema v. Pollution Control Hearings Bd.*, 142 Wn.2d 68, 77, 11 P.3d 726 (2000) (citing RCW 34.05.570(3)). RCW 34.05.570(1)(a) provides that “[t]he burden of demonstrating the invalidity of agency action is on the party asserting invalidity.” *Motley-Motley, Inc. v. State*, 127 Wn.App. 62, 71–73, 110 P.3d 812, 817–18 (2005) (citing RCW 34.05.570(1)(a)).

Thus, in this case, where the facts are not in dispute, Mr. Watson bears the burden of demonstrating the Spokane Police Department’s decision was either invalid or based on an erroneous interpretation of the law.

In addition to the assignments of error required...the...appellant...who is challenging an administrative adjudication order under RCW 34.05...shall set forth a separate concise statement of each error which a party contends was made by the agency issuing the order....

RAP 10.3(h).

An appellate court reviews an agency’s legal conclusions de novo, but gives substantial weight to the agency’s interpretation of the statutes and regulations it administers. *King County v. Cent. Puget Sound Growth Mgmt. Hrg’s Bd.*, 142 Wn.2d 543, 553, 14 P.3d 133 (2000).

The issue before this Court is whether the City of Spokane Hearing Examiner's Second Order Dismissing Claim, which follows the procedures of RCW 34.05.416 and .419, is an invalid agency action or is an erroneous application of the law.

Mr. Watson has offered no argument of an invalid agency action and no showing of erroneous interpretation of the law. He has failed to articulate grounds for relief.

**B. MR. WATSON WAS PROVIDED WITH NOTICE AND THE OPPORTUNITY FOR A FULL EVIDENTIARY HEARING; HE WAIVED HIS OPPORTUNITY FOR A HEARING BY VOLUNTARILY ENTERING INTO A CIVIL STIPULATION AGREEMENT.**

**1. MR. WATSON FUNDAMENTALLY MISCHARACTERIZES THE CIVIL STIPULATION AND RELEASE AGREEMENT AS A WAIVER OF A CONSTITUTIONAL RIGHT IN A CRIMINAL MATTER.**

Mr. Watson's fundamental constitutional rights were not implicated as far as criminal proceedings because forfeiture of property is a civil matter. *Moen v. Spokane City Police*, 110 Wn.App. 714, 42 P.3d 456 (2002); *Wilson v. Doe*, No. C15-629 JCC, 2016 U.S. Dist. LEXIS 41543 (W.D. Wash. Mar. 29, 2016). Mr. Watson incorrectly relies on two criminal proceedings cases to argue the government carries the burden of showing waiver of a

constitutional right.<sup>2</sup> See Appellant's Opening Brief (AB), pg. 6-7. This matter is not analogous to a voluntary criminal confession, a waiver of right to testify in one's own behalf, or a waiver of *Miranda* rights. This is a civil in rem seizure that was settled by mutual agreement.

**2. MR. WATSON WAS PROVIDED WITH NOTICE AND THE OPPORTUNITY FOR A HEARING WHEN HE RECEIVED THE NOTICE OF SEIZURE.**

To establish a procedural due process violation, Mr. Watson must establish that he has been deprived of notice and opportunity to be heard prior to a final determination. *Motley-Motley, Inc.*, at 81. Mr. Watson was provided notice and the opportunity for a full evidentiary hearing when he was served with the Notice of Seizure.

AB Ex. C. The Notice of Seizure states in part:

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<sup>2</sup> Arguing in the alternative, even if the constitutional waiver test is applied, substantial evidence supports the Hearing Examiner and Superior Court's finding that Mr. Watson understood his rights, freely volunteered information, voluntarily discussed the charged crime and intentionally entered into a settlement agreement. It is certainly more likely than not. "The State bears the burden of showing a knowing, voluntary, and intelligent waiver of *Miranda* rights by a *preponderance of the evidence*." *State v. Athan*, 160 Wn.2d 354, 380, 158 P.3d 27 (2007) (emphasis added). However, our courts have "[i]mplied waiver ... where the record reveals that a defendant understood his rights and volunteered information [and] where the record shows that a defendant's answers were freely and voluntarily made without duress..." *State v. Terrovona*, 105 Wn.2d 632, 646-47, 716 P.2d 295 (1986). We also infer a waiver "when a defendant voluntarily discusses the charged crime with police officers and indicates an understanding of his rights." *State v. Ellison*, 36 Wn.App. 564, 571, 676 P.2d 531 (1984). A party's signature is the objective manifestation of intent to be bound by the agreement. *Retail Clerks Health & Welfare Trust Funds v. Shopland Supermarket, Inc.*, 96 Wn.2d 939, 944, 640 P.2d 1051, 1054 (1982). Mr. Watson has made no offer of proof to the contrary.

This is to notify you that pursuant to RCW 69.50.505, the property listed below has been seized...and [is] subject to...forfeiture....If you would like to make a claim..., you MUST...notify the Spokane Police Department in writing....

AB Ex. C. Mr. Watson then stipulated to the forfeiture of the seized property. See Stipulation and Release, AB Ex. C. The Stipulation and Release agreement states that the Spokane Police Department and Mr. Watson “desire that a settlement be had” and that the \$13,000 in US Currency “be forfeited to the City of Spokane.” *Id.* Mr. Watson voluntarily waived his right to a hearing when he signed this stipulation agreement.<sup>3</sup>

**3. MR. WATSON HAS FAILED TO MEET HIS BURDEN OF SHOWING THE STIPULATION AND RELEASE WAS SIGNED UNDER FRAUD, DECEIT OR COERCION.**

In order to later reject their signature, a party must make a showing of fraud, deceit, or coercion. *Retail Clerks Health* at 944. This showing requires evidence of wrongful or oppressive conduct

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<sup>3</sup> See Second Order Dismissing Claim, pg. 3 of 6, AB Ex. E, holding, “At the time of Mr. Watson’s arrest, he was advised of his constitutional rights. Mr. Watson decided to cooperate with the police, admitting to engaging in drug trafficking and directing the police to the location of the drug proceeds subsequently seized by the police. Mr. Watson then voluntarily signed a Stipulation and Release, expressly relinquishing any right to ownership or possession of the seized currency. The language of the Stipulation, in this regard, is unambiguous. The Stipulation recites that the Claimant and the SPD intended to enter into a settlement. The parties specifically agreed and stipulated to dispose of the \$13,000 in U.S. Currency pursuant to the Stipulation. The Stipulation explicitly stated that the seized funds would be forfeited to the SPD.”

to the point of being deprived of free will; stress or pecuniary necessity is not enough to unwind an agreement. *Id.*; *Culinary Workers Local 596 Trust v. Gateway Café. Inc.*, 91 Wn.2d 353, 363, 588 P.2d 1334 (1979).

In this case, the Stipulation and Release is an agreement between two parties with mutual assent and definite terms. *State v. Parra*, 122 Wn.2d 590, 859 P.2d 1231 (1993) (holding that Courts will favor and enforce stipulations absent good cause shown to the contrary where there is definite terms, mutual assent and an agreement between two parties); *see also In re Det. of Scott*, 150 Wn.App. 414, 426, 208 P.3d 1211 (2009) (affirming stipulation to civil commitment); *In re Welfare of M.G.*, 148 Wn.App. 781, 791, 201 P.3d 354 (2009) (affirming stipulation to agreed dependency order); *In re Dependency of J.M.R.*, 160 Wn.App. 929, 941-942, 249 P.3d 193, 200 (2011).

A party seeking to enforce an agreement must only prove the other party's objective manifestation of intent to be bound by the agreement. *Retail Clerks Health* at 944; *Sona Chu v. Hyun H. Seo-Jeong*, No. 69605-0-I, 2014 Wash. App. LEXIS 121 (Ct. App. Jan. 21, 2014) (holding that the party raising an affirmative defense has the burden of proving the elements of that defense).

Mr. Watson argues that the “City of Spokane bears the burden of showing a valid waiver” or “that the signature was made knowingly, voluntarily, and intelligently,” and that this “failure to convene a hearing [to prove the voluntariness of Mr. Watson’s signature] was a complete denial of...due process.” AB, pg. 8-9. This is a specious attempt to shift the burden of proof.

The law is unequivocal, in order for Mr. Watson to repudiate his own signature he must prove fraud, deceit, or coercion with evidence. There is nothing in the record to suggest that wrongful or oppressive conduct deprived Mr. Watson of his own free will at the time of entering this agreement.

Mr. Watson has failed to repudiate his own signature. Substantial evidence supports the Hearing Examiner and Superior Court’s finding that Mr. Watson understood his rights and voluntarily entered into this stipulation agreement. *Rhinehart v. Seattle Times*, 59 Wn.App. 332, 336, 798 P.2d 1155, 1158 (1990); citing *Kelly V. Powell*, 55 Wn.App. 143, 146, 776 P.2d 996 (1989); *State v. Harris*, 106 Wn.2d 784, 790, 725 P.2d 975 (1986), *cert denied* 480 U.S. 940 (1987) (holding that findings of fact to which no error is assigned are accepted as verities on appeal). His appeal should be denied.

**C. THE HEARING EXAMINER POSSESSED JURISDICTION TO DECIDE THIS MATTER BECAUSE RCW 69.50.505 AND CH 34.05 RCW FALL UNDER THE “OR AS OTHERWISE DETERMINED BY LAW” PROVISION OF THE WASHINGTON STATE CONSTITUTION, ARTICLE IV, § 6 AND THE “INFERIOR COURTS” AUTHORIZED UNDER WASHINGTON STATE CONSTITUTION, ARTICLE IV, § 1.<sup>4</sup>**

Article IV, § 6 of the Washington State Constitution states “[t]he superior court shall have original jurisdiction in all cases at law...in which the demand or the value of the property in controversy amounts to three thousand dollars *or as otherwise determined by law.*” CONST. Art. IV, § 6 (emphasis added).

Article IV, § 1 of the Washington State Constitution states “[t]he judicial power of the state shall be vested in a supreme court, superior courts, justices of the peace, and *such inferior courts as the legislature may provide.*” CONST. Art. IV, § 1 (emphasis added).

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<sup>4</sup> In general, new issues may not be raised for the first time on appeal. RCW 34.05.554(1); *Bowers v. Pollution Control Hearings Bd.*, 103 Wn.App. 587, 597, 13 P.3d 1076 (2000). RCW 34.05.554 precludes appellate review of issues that were not raised before the agency. *Id.* Instead, a party aggrieved by a final decision of an administrative agency can only seek judicial review of that decision under the provisions of the APA. *Franklin County Sheriff's Office v. Sellers*, 97 Wn.2d 317, 322, 646 P.2d 113 (1982). The issue of jurisdiction, being raised for the first time on appeal, should be denied.

The Washington State Legislature has vested seizing agencies with the power to hear asset forfeiture cases. RCW 69.50.505.<sup>5</sup>

“Unconstitutionality of a statute must be shown beyond a reasonable doubt.” *Lowery v. Nelson*, 43 Wn.App. 747, 752, 719 P.2d 594, 597 (1986) citing *Hontz v. State*, 105 Wn.2d 302, 306, 714 P.2d 1176 (1986). RCW 69.50.505 “has been held constitutional on its face.” *Lowery*, citing *Crape v. Mount*, 32 Wn.App. 567, 573-74, 648 P.2d 481, review denied, 98 Wn.2d 1008 (1982). “[T]he provision for removing the hearing to a court of competent jurisdiction satisfies any separation of powers concern and that the avenue of appeal through the administrative procedure act (APA) satisfies the due process concern.” *Id.*

RCW 69.50.505 has been held constitutional and satisfies due process through its removal provisions. Mr. Watson failed to exercise his right to remove this matter to District Court. Therefore,

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<sup>5</sup> “If any person notifies the seizing law enforcement agency in writing of the person’s claim of ownership or right to possession of items ... within forty-five days of the service of notice from the seizing agency ... the person shall be afforded a reasonable opportunity to be heard as to the claim or right. ... *The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer’s designee ... any person asserting a claim or right may remove the matter to a court of competent jurisdiction. ... A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. RCW 69.50.505(5) (emphasis added).*”

according to the law, the Hearing Examiner as the chief's designee, has jurisdiction to hear this matter.

Mr. Watson has failed to show beyond a reasonable doubt that the procedures set forth in the APA are unconstitutional. His appeal should be denied.

#### **IV. CONCLUSION.**

The Washington State Constitution grants authority to the legislature to create inferior courts while RCW 69.50.505 allows the City's Hearing Examiner to adjudicate asset forfeiture matters. Jurisdiction was proper.

Mr. Watson has failed to show beyond a reasonable doubt that the procedures set forth in the APA are unconstitutional. He has also failed to articulate an invalid agency action or an erroneous interpretation or application of the law.

Following Mr. Watson's reasoning would result in this Court creating new law and applying a criminal constitutional waiver test to a civil stipulation agreement. This would create the novel requirement of every party seeking to enforce a stipulation or settlement agreement to first hold an evidentiary hearing to prove the voluntariness of the other party's signature. This is clearly not the law. The Spokane Police Department followed the procedures

of the APA and provided Mr. Watson with notice and the opportunity for a full evidentiary hearing before he settled the matter by stipulated agreement. For these reasons Mr. Watson's appeal should be denied.

Respectfully submitted this 9<sup>th</sup> day of September, 2016.



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Matthew M. Folsom, WSBA #40043  
Assistant City Attorney  
Attorneys for Respondent  
City of Spokane Police Department

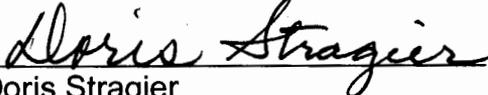
DECLARATION OF SERVICE

I declare, under penalty of perjury, that on the 13<sup>th</sup> day of September, 2016, I caused a true and correct copy of the foregoing "Brief of Respondent," to be delivered to the parties below in the manner noted:

---

Douglas D. Phelps	<input type="checkbox"/> VIA FACSIMILE
Attorney at Law	<input type="checkbox"/> VIA U.S. MAIL
2903 N. Stout Rd.	<input type="checkbox"/> VIA OVERNIGHT SERVICE
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# APPENDIX

Washington State Constitution, Article IV, Section 1 and 6

RCW 34.05.570

RCW 69.50.505(5)

WASHINGTON STATE CONSTITUTION

**ARTICLE IV  
THE JUDICIARY**

**SECTION 1 JUDICIAL POWER, WHERE VESTED.** The judicial power of the state shall be vested in a supreme court, superior courts, justices of the peace, and such inferior courts as the legislature may provide.

*Court of appeals: Art. 4 Section 30.*

...

**SECTION 6 JURISDICTION OF SUPERIOR COURTS.** Superior courts and district courts have concurrent jurisdiction in cases in equity. The superior court shall have original jurisdiction in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to three thousand dollars or as otherwise determined by law, or a lesser sum in excess of the jurisdiction granted to justices of the peace and other inferior courts, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. They shall always be open, except on nonjudicial days, and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, and writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and nonjudicial days. [AMENDMENT 87, 1993 House Joint Resolution No. 4201, p 3063. Approved November 2, 1993.]

**Amendment 65, part (1977) -- Art. 4 Section 6 Jurisdiction of Superior Courts --**  
*The superior court shall have original jurisdiction in all cases in equity and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to three thousand dollars or as otherwise determined by law, or a lesser sum in excess of the jurisdiction granted to justices of the peace and other inferior courts, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of*

*forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. They shall always be open, except on nonjudicial days, and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, and writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and nonjudicial days. [AMENDMENT 65, part, 1977 Senate Joint Resolution No. 113, p 1714. Approved November 8, 1977.]*

*Amendment 65 also amended Art. 4 Section 10.*

**Amendment 28, part (1952) -- Art. 4 Section 6 JURISDICTION OF SUPERIOR COURTS** -- *The superior court shall have original jurisdiction in all cases in equity and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to one thousand dollars, or a lesser sum in excess of the jurisdiction granted to justices of the peace and other inferior courts, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. They shall always be open, except on nonjudicial days, and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, and writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and nonjudicial days. [AMENDMENT 28, part, 1951 Substitute House Joint Resolution No. 13, p 962. Approved November 4, 1952.]*

**Note:** Amendment 28 also amended Art. 4 Section 10.

**ORIGINAL TEXT -- ART. 4 Section 6 JURISDICTION OF SUPERIOR COURTS** -- *The superior court shall have original jurisdiction in all cases in equity, and in all cases at law*

*which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll or municipal fine, and in all other cases in which the demand, or the value of the property in controversy amounts to one hundred dollars, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization, and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justice's and other inferior courts in their respective counties as may be prescribed by law. They shall be always open except on non-judicial days, and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, and writs of habeas corpus on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and non-judicial days.*

**RCW 34.05.570****Judicial review.**

(1) Generally. Except to the extent that this chapter or another statute provides otherwise:

(a) The burden of demonstrating the invalidity of agency action is on the party asserting invalidity;

(b) The validity of agency action shall be determined in accordance with the standards of review provided in this section, as applied to the agency action at the time it was taken;

(c) The court shall make a separate and distinct ruling on each material issue on which the court's decision is based; and

(d) The court shall grant relief only if it determines that a person seeking judicial relief has been substantially prejudiced by the action complained of.

(2) Review of rules. (a) A rule may be reviewed by petition for declaratory judgment filed pursuant to this subsection or in the context of any other review proceeding under this section. In an action challenging the validity of a rule, the agency shall be made a party to the proceeding.

(b)(i) The validity of any rule may be determined upon petition for a declaratory judgment addressed to the superior court of Thurston county, when it appears that the rule, or its threatened application, interferes with or impairs or immediately threatens to interfere with or impair the legal rights or privileges of the petitioner. The declaratory judgment order may be entered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.

(ii) From June 10, 2004, until July 1, 2008:

(A) If the petitioner's residence or principal place of business is within the geographical boundaries of the third division of the court of appeals as defined by RCW 2.06.020(3), the petition may be filed in the superior court of Spokane, Yakima, or Thurston county; and

(B) If the petitioner's residence or principal place of business is within the geographical boundaries of district three of the first division of the court of appeals as defined by RCW 2.06.020(1), the petition may be filed in the superior court of Whatcom or Thurston county.

(c) In a proceeding involving review of a rule, the court shall declare the rule invalid only if it finds that: The rule violates constitutional provisions; the rule exceeds the statutory authority of the agency; the rule was adopted without compliance with statutory rule-making procedures; or the rule is arbitrary and capricious.

(3) Review of agency orders in adjudicative proceedings. The court shall grant relief from an agency order in an adjudicative proceeding only if it determines that:

(a) The order, or the statute or rule on which the order is based, is in violation of constitutional provisions on its face or as applied;

(b) The order is outside the statutory authority or jurisdiction of the agency conferred by any provision of law;

(c) The agency has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure;

(d) The agency has erroneously interpreted or applied the law;

(e) The order is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter;

(f) The agency has not decided all issues requiring resolution by the agency;

(g) A motion for disqualification under RCW 34.05.425 or 34.12.050 was made and was improperly denied or, if no motion was made, facts are shown to support the grant of such a motion that were not known and were not reasonably discoverable by the challenging party at the appropriate time for making such a motion;

(h) The order is inconsistent with a rule of the agency unless the agency explains the inconsistency by stating facts and reasons to demonstrate a rational basis for inconsistency; or

(i) The order is arbitrary or capricious.

(4) Review of other agency action.

(a) All agency action not reviewable under subsection (2) or (3) of this section shall be reviewed under this subsection.

(b) A person whose rights are violated by an agency's failure to perform a duty that is required by law to be performed may file a petition for review pursuant to RCW 34.05.514, seeking an order pursuant to this subsection requiring performance. Within twenty days after service of the petition for review, the agency shall file and serve an answer to the petition, made in the same manner as an answer to a complaint in a civil action. The court may hear evidence, pursuant to RCW 34.05.562, on material issues of fact raised by the petition and answer.

(c) Relief for persons aggrieved by the performance of an agency action, including the exercise of discretion, or an action under (b) of this subsection can be granted only if the court determines that the action is:

(i) Unconstitutional;

(ii) Outside the statutory authority of the agency or the authority conferred by a provision of law;

(iii) Arbitrary or capricious; or

(iv) Taken by persons who were not properly constituted as agency officials lawfully entitled to take such action.

[ 2004 c 30 § 1; 1995 c 403 § 802; 1989 c 175 § 27; 1988 c 288 § 516; 1977 ex.s. c 52 § 1; 1967 c 237 § 6; 1959 c 234 § 13. Formerly RCW 34.04.130.]

**NOTES:**

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**Effective date—1989 c 175:** See note following RCW 34.05.010.

RCW 69.50.505

Seizure and forfeiture.

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(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section.

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