

NO. 81067-2

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

(Court of Appeals No. 59457-5-I)

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
2008 APR 24 P 2:41
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CITY OF TUKWILA,

Petitioner,

vs.

KELLAS WILLIAM GARRETT,

Respondent.

ERRATA

Michael R. Kenyon
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Kenyon Disend, PLLC
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Attorneys for Petitioner City of Tukwila

Petitioner City of Tukwila, through its substituting attorney of record, Michael R. Kenyon and Kenyon Disend, PLLC, respectfully files this Errata with regard to the standard of review in the matter.

At page three of the Brief of Petitioner dated September 7, 2007, the standard of review was denominated as abuse of discretion, citing *State v. Williamson*, 100 Wn. App. 248, 253, 996 P.2d 1097 (2000). Under *Williamson*, abuse of discretion is the correct standard for review of a trial court's decision to permit the exercise of an unused peremptory challenge after the jury has been sworn and the first witness has begun to testify.

The issue in this appeal is the trial court's interpretation of the law. CP 313. The correct standard of review is de novo. *State v. Nemitz*, 105 Wn. App. 205, 210, 19 P.3d 480 (2001).

KENYON DISEND, PLLC

By 

Michael R. Kenyon
WSBA No. 15802
Attorney for Petitioner
City of Tukwila

I, Mary Eichelberger, certify that:

1. I am a citizen of the state of Washington, over the age of eighteen years and not a party to this action.

2. On the 23rd day of April, 2008, I sent for service a true copy of the foregoing Errata to the following party using the method of service indicated below:

Robert Charles Boruchowitz Ronald A. Peterson Law Clinic 1112 E. Columbia St. Seattle, WA 98122-4458	<input type="checkbox"/> First Class, U.S. Mail, Postage Prepaid <input checked="" type="checkbox"/> Legal Messenger <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Facsimile <input type="checkbox"/> E-Mail
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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 23rd day of April, 2008 at Issaquah, Washington.



Mary Eichelberger

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