

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
7/30/2019 8:52 AM  
BY SUSAN L. CARLSON  
CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Petitioner,

vs.

DAVID EMERSON NICKELS,

Respondent.

NO. 96943-4

STATEMENT OF ADDITIONAL  
AUTHORITIES

COMES NOW the petitioner, State of Washington, by and through its attorney, Pamela B. Loginsky, Special Deputy Prosecuting Attorney for Grant County, and respectfully requests that the Court consider the following additional authority pursuant to RAP 10.8:

*Plein v. USAA Casualty Insurance Co.*, No. 78190-1-I, \_\_\_ Wn. App. 2d \_\_\_, \_\_\_ P.3d \_\_\_ (Wash. App. July 29, 2019) (official comments to the ethics rules guide the appellate courts in deciding conflict issues rather than appellate decisions issued before 2006)

*Wallace v. Evans*, 131 Wn.2d 572, 576-77, 934 P.2d 662 (1997) (the court need not expressly overrule old cases that have been superseded by a significant change in the relevant court rules)

*State v. Thomas*, 146 Wn. App. 568, 575-76, 191 P.3d 913 (2008) (amendment to court rule superseded Washington Supreme Court opinion issued prior to the amendment)

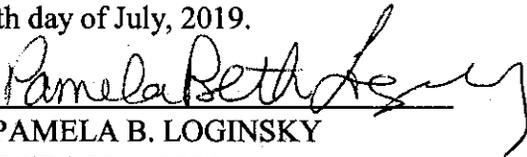
*State v. Miller*, 188 Wn. App. 103, 352 P.3d 236 (2015) (amendment to court rule superseded Washington Supreme Court opinion issued prior to the amendment)

*Splattstoesser v. Scott*, 159 Wn. App. 332, 246 P.3d 230 (2011) (amended version of court rule superseded Washington Supreme Court opinion issued prior to the amendment)

*Maynard Inv. Co. v. McCann*, 77 Wn.2d 616, 623, 465 P.2d 657 (1970) (“Courts should not be confined by the issues framed or theories advanced by the parties if the parties ignore the mandate of a statute or an established precedent. A case brought before this court should be governed by the applicable law even though the attorneys representing the parties are unable or unwilling to argue it.”)

*State v. Knighten*, 109 Wn.2d 896, 901-02, 748 P.2d 1118 (1988) ( (State’s concession that no probable cause to arrest rejected by the Court as an erroneous concession of the law)

Respectfully submitted this 30th day of July, 2019.

  
PAMELA B. LOGINSKY  
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PROOF OF SERVICE

I, Pamela B. Loginsky, declare that I have personal knowledge of the matters set forth below and that I am competent to testify to the matters stated herein.

On the 30th day of July, 2019, an electronic copy the document to which this proof of service is attached was, pursuant to the agreement of the parties and amici curiae, served upon the following individuals via the CM/ECF System and/or e-mail:

Jacqueline Walsh at [jackie@jamlegal.com](mailto:jackie@jamlegal.com)

Mark Larranaga at [mark@jamlegal.com](mailto:mark@jamlegal.com)

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Rita Griffith at [griff1984@comcast.net](mailto:griff1984@comcast.net)

Hillary Behrman at [hillary@defensenet.org](mailto:hillary@defensenet.org)

Signed under the penalty of perjury under the laws of the state of Washington this 30th day of July, 2019, at Olympia, Washington.



PAMELA B. LOGINSKY, WSBA No. 18096

**WASHINGTON ASSOC OF PROSECUTING ATTY**

**July 30, 2019 - 8:52 AM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 96943-4  
**Appellate Court Case Title:** State of Washington v. David Emerson Nickels  
**Superior Court Case Number:** 10-1-00322-6

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