

FILED  
July 15, 2015  
Court of Appeals  
Division I  
State of Washington

No. 71766-9-I

COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION I

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ROBIN D. MILLER,

Petitioner,

v.

CITY OF RENTON,

Respondent.

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RESPONDENT CITY OF RENTON'S BRIEF

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Eddie J. Aubrey, WSBA #26803  
Chief Prosecuting Attorney  
Attorney for Respondent City of Renton

Renton City Attorney  
1055 South Grady Way  
Renton, WA 98057-3232  
(425) 430-6480

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## **I. INTRODUCTION**

The City of Renton is the Respondent in this matter. Robin D. Miller is the Petitioner and was found committed for a parking infraction under the Renton Municipal Code (RMC). Petitioner appealed his committed finding to King County Superior Court pursuant to Rules of Appeals of Courts of Limited Jurisdiction (RALJ) 2.2 (a). In that proceeding, the Superior Court found that an insufficient record for review was transmitted by the lower court and dismissed the Superior Court matter. Discretionary Review was granted.

## **II. ISSUES PRESENTED**

- A. Has Petitioner provided sufficient facts to support his claim that the lower court did transmit all documents authorized by his designation of record?
- B. Should Petitioner be awarded costs after refusing the Respondent's offer to remand this case to the RALJ Superior Court?

## **III. STATEMENT OF THE CASE**

### **Factual Background**

On April 29, 2013, Petitioner's vehicle was parked in the City of Renton, Washington. Petitioner's vehicle was issued a parking infraction under RMC 10-10-3.F, Parking An Unlicensed Vehicle Prohibited. A contested infraction hearing was held on July 25, 2013. The Honorable Judge Terry Jurado found the Petitioner committed the infraction.

Procedural History

On August 13, 2013, Petitioner filed an appeal in Superior Court pursuant to RALJ 2.2 (a). On February 21, 2014, oral argument was held in that matter. The Superior Court found that an insufficient record for review was transmitted by the lower court and dismissed the Superior Court matter. Petitioner then filed a Motion for Reconsideration with the Superior Court and that motion was denied.

On April 22, 2014, Petitioner filed a Motion for Discretionary Review. On July 17, 2014, the Respondent filed a letter indicating that it was not taking a position on the motion and did not intend to file an answer. On August 4, 2014, Respondent received a letter from this court indicating it was required to file an answer. On November 19, 2014, Discretionary Review was granted.

On December 29, 2014, Respondent sent a Letter of Concession, attached hereto as Exhibit 1, to the Petitioner and offered to concede the appeal and remand this case to Superior Court, without costs or attorney's fees. Petitioner refused the offer and subsequent filings were submitted to the Court of Appeals.

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#### **IV. ARGUMENT**

***A. Petitioner has provided sufficient facts to support his claim that the lower court did transmit all documents authorized by his designation of record.***

The Renton Municipal Court's docket indicated that on September 12, 2013, the lower court had transmitted the designation of record to the King County Superior Court Clerk and it was received on September 13, 2013. The Transmittal Letter that was filed consisted of a transcript that indicated 25 pages of the lower courts record, complying with the designation of record and RALJ 6.2 (a). CP 3-28.

***B. Petitioner should not be awarded costs after refusing the Respondent's offer to remand this case to the RALJ Superior Court.***

RAP 14.1 allows for the Court of Appeals to determine costs of a decision terminating review. RALJ 9.3 (a) allows for the Superior Court to determine costs to a party that substantially prevails on appeal.

If this court follows the Respondent's argument, costs should not be awarded since the Respondent attempted to eliminate costs by not taking a position on the Motion for Discretionary Review. After the Court of Appeals granted Discretionary Review, the Respondent offered to concede the case and to remand it back to Superior Court. See, Ex. 1. Petitioner contacted Respondent by phone and refused to have the case remanded to Superior Court unless he received costs.

Even if costs are to be awarded, only reasonable costs incurred during this Court of Appeal proceedings up to Petitioner's filing of his Motion for Discretionary Review seem reasonable. Certainly no costs after Respondent's effort to foster an agreement to remand this case back to Superior Court should be awarded. Any costs incurred in Superior Court, if any, should be determined by the Superior Court pursuant to RALJ 9.3 (a).

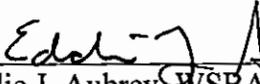
#### V. CONCLUSION

Respondent respectfully requests that this case is remanded to Superior Court and order the lower court to transmit the Designation of Records and all corresponding documents to Superior Court.

Any costs incurred in the Court of Appeals proceedings should not be granted. If granted, the costs should be reasonable and nominal up to filing of the Motion for Discretionary Review. Certainly no costs after Petitioner's refusal to agree to remand this case to Superior Court should be awarded.

RESPECTFULLY SUBMITTED, this 15<sup>th</sup> day of July, 2015.

CITY OF RENTON

By:   
Eddie J. Aubrey, WSBA #26803  
Attorney for Respondent

# **EXHIBIT 1**

Denis Law  
Mayor

City of  
**Renton**



Office of the City Attorney - Lawrence J. Warren

December 29, 2014

Robin D. Miller  
Pro Se Appellant  
1814 SE 21<sup>st</sup> Place  
Renton, WA 98055

Senior Assistant City Attorneys  
Mark Barber  
Zanetta L. Fontes  
Garmon Newsom II  
Prosecuting Attorneys  
Shawn E. Arthur  
Alex Tuttle  
Eddie J. Aubrey  
Iva Clark

**RE: Robin D. Miller v. City of Renton  
Washington State Court of Appeals, Division I Cause No. No. 71766-9-1**

Dear Mr. Miller:

This letter is an attempt to settle the above-mentioned case.

In order to come to a swift conclusion to the case, the City is willing to concede the appeal and ask that the Court of Appeals remand the case back to Superior Court. If you would be willing to draft a joint motion or stipulation for concession and remand to Superior Court without costs or attorney's fees charged to either party, the City will file the document with the Court of Appeals at its sole cost.

Please feel free to call me at 425-430-6489 or email me at [eaubrey@rentonwa.gov](mailto:eaubrey@rentonwa.gov) if you have any questions.

Very truly yours,

A handwritten signature in black ink that reads "Eddie J. Aubrey".

Eddie Aubrey  
Prosecuting Attorney

COURT OF APPEALS, DIVISION I  
STATE OF WASHINGTON

ROBIN D. MILLER,

Petitioner,

v.

CITY OF RENTON,

Respondent.

CERTIFICATE OF SERVICE:

I, Stephanie Rary, hereby certify under penalty of perjury pursuant to the laws of the State of Washington that on July 15, 2015, I caused to be mailed by U.S.P.S. mail, on this date, a true and correct copy of the following documents:

1. Respondent City of Renton's Brief; and
2. This Certificate of Service,

upon the following persons/parties to this action:

Robin D. Miller (Pro Se Appellant)  
1814 SE 21<sup>st</sup> Place  
Renton, WA 98055

DATED this 15<sup>th</sup> day of July, 2015.

  
Stephanie Rary