

WASHINGTON STATE COURT OF APPEALS DIVISION THREE

CASE SUMMARIES FOR ORAL ARGUMENT

The following summaries are drawn from briefs and lower court judgments. The summaries have not been reviewed for accuracy by the judges and are intended to provide a general idea of facts and issues presented in the cases. The summaries should not be considered official court documents. Facts and issues presented in these summaries should be checked for accuracy against records and briefs, available from the Court, which provide more specific information.

Date of Hearing: Thursday, June 14, 2012
Location: Spokane, 500 North Cedar

9:00 a.m.

1) **No.: 30381-1-III**

Case Name: Ellensburg Cement Products, Inc. v. Kittitas County

County: Kittitas

Case Summary: Homer Gibson owns property zoned "Agriculture-20" in Kittitas County. He sought permission to mine and crush rock on his property. Ellensburg Cement Products objected to Gibson's application for a conditional use permit. Eventually the County issued Gibson a determination of nonsignificance and a conditional use permit. Ellensburg Cement Products appeals.

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[DIVISION THREE BRIEFS](#)

- 2) **No.: 29210-0-III, consolidated with 29746-2-III**
Case Name: Bette L. Kelly v. Peter Moesslang
County: Spokane

Case Summary: Bette Kelly and Peter Moesslang began cohabiting in 1984 and lived in a house in Liberty Lake from 1986 to 2006. Kelly then moved into a Spokane house titled in Moesslang's name, where she lived alone. In 2009, Kelly filed a complaint seeking a declaration that she and Moesslang were in a meretricious relationship and seeking an equitable division of the property acquired during the relationship. Moesslang moved for summary dismissal, arguing the complaint was barred by the three-year statute of limitations. The superior court agreed with Moesslang, dismissed the action, and awarded attorney fees and sanctions to Moesslang based on Kelly's intransigence. Kelly appeals.

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[DIVISION THREE BRIEFS](#)

- 3) **No.: 29885-0-III**
Case Name: State of Washington v. Scott Que Shupe
County: Spokane

Case Summary: Spokane police became aware after reading a May 2009 online news story that Scott Shupe grew, possessed, and sold marijuana to people with medical marijuana prescriptions. Based on this information and months of investigation, the police obtained a search warrant for three Spokane addresses and arrested Shupe. The State charged him with delivery, possession with intent to deliver, and manufacture of a controlled substance. Shupe's motion to suppress the evidence was denied and the jury found him guilty of all charges. He appeals.

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[DIVISION THREE BRIEFS](#)

4) **No.: 30657-7-III**

Case Name: Venkataraman Sambasivan v. Kadlec Medical Center

County: Benton

Case Summary: Venkataraman Sambasivan is a cardiologist who had staff privileges to practice interventional cardiology and other procedures at Kadlec Medical Center in Richland. At some point, Sambasivan began to suspect he was being treated differently than his colleagues. He sued Kadlec in 2008, alleging breach of contract, unjust enrichment, intentional interference with a business expectancy, and retaliation. Soon after he filed suit, Kadlec's board of directors adopted a new proficiency standard and revoked Sambasivan's privileges to perform interventional cardiology due to his failure to meet the new standard. Sambasivan then amended his complaint to request an injunction to reverse the revocation of his privileges. The superior court denied the motion. Eventually the court summarily dismissed the claims for breach of contract, tortious interference, and retaliation. After a bench trial, the court ruled in Sambasivan's favor on the unjust enrichment claim. The court awarded attorney fees to each party for prevailing on their respective claims. Sambasivan appeals.

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[DIVISION THREE BRIEFS](#)

11:00 a.m.

5) **No.: 29727-6-III**

Case Name: State of Washington v. Israel Morfin

County: Grant

Case Summary: Israel Morfin was charged in Grant County Superior Court with first degree murder, second degree murder, second degree unlawful possession of a firearm, possession with intent to manufacture or deliver marijuana, and attempting to elude police. Four hours into jury deliberations, the presiding juror sent a note to the trial judge stating that a juror had decided he was no longer interested in participating. The judge reinstructed the jury. An hour later, the presiding juror sent another note stating that a juror refused to deliberate. When questioned further, the presiding juror told the judge that the juror in question refused to discuss the case, but that he would vote because he had already made up his mind. Morfin requested removal of the reticent juror as unfit. The judge decided not to remove the juror. The jury found Morfin guilty as charged. He appeals.

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[DIVISION THREE BRIEFS](#)

6) **No.: 29857-4-III**

Case Name: State of Washington v. Jerry D. Sheehan

County: Pend Oreille

Case Summary: A jury found Jerry Sheehan guilty of two counts of second degree child molestation, two counts of third degree child molestation, and one count of incest. The jury also found that on all five counts, Sheehan abused a position of trust to facilitate the crimes. The court imposed exceptional sentences, to run consecutively. Additionally, the court imposed community custody conditions, including the requirements that Sheehan submit to mental health and chemical dependency evaluations and that he not date or form relationships without prior approval. He appeals.

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[DIVISION THREE BRIEFS](#)

7) **No.: 29532-0-III**

Case Name: State of Washington v. Pamela Deskins

County: Stevens

Case Summary: After multiple complaints by neighbors, Stevens County sheriff's deputies served a warrant on Pamela Deskins's property and seized 39 dogs. A district court jury found Deskins guilty of willful failure to confine domestic animals, second degree animal cruelty, harassment, and tampering with physical evidence. On appeal, the superior court affirmed only the convictions for unlawful confinement and second degree animal cruelty. This court denied the State's motion for discretionary review, but granted Deskins's cross-motion for discretionary review.

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