

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, March 14, 2019
Location: Okanogan County Commissioner's Hearing Room
123 5th Avenue North, Room 150
Okanogan, Washington

9:30 a.m.

1) **No.: 35530-6-III**

Case Name: State of Washington v. Julia Elizabeth Tucker

County: Kittitas

Case Summary: In February 2016, Julia Tucker and an accomplice broke into a cabin in Kittitas County in an area where heavy snow made roads accessible only by foot or snowmobile. Tucker stole the cabin owner's snowmobile. She was ultimately convicted of first degree criminal trespass and theft of a motor vehicle. She appeals the theft of a motor vehicle conviction, contending a snowmobile is not within the definition of motor vehicle under the theft of a motor vehicle statute, RCW 9A.56.065.

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2) **No.: 35869-1-III**

Case Name: William E. Moorman v. Clear Recon Corp., et al,

County: Chelan

Case Summary: In 2005, HSBC Mortgage Corp. loaned funds to William Moorman for the purchase of waterfront property on Lake Chelan, secured by a deed of trust against the property. The original trustee was Chicago Title Insurance Co. HSBC Mortgage sold the loan to U.S. Bank, N.A., but retained servicing rights on the loan through the entity HSBC Bank USA. Moorman fell behind on payments and HSBC Mortgage Corp. initiated non-judicial foreclosure proceedings in 2010. The parties entered into a loan modification agreement in 2011 and the foreclosure did not occur. In 2013, HSBC Bank assigned servicing of the loan to PHH Mortgage Corporation (PHH). Moorman again fell behind on payments. In 2015, U.S. Bank appointed Clear Recon Corp. as successor trustee under the deed of trust. This appointment was made by PHH acting as U.S. Bank's attorney-in-fact. Clear Recon Corp., as successor trustee, issued a notice of default with a scheduled foreclosure sale that did not occur. Moorman filed suit against several defendants, seeking a temporary restraining order and preliminary injunction and damages for alleged violations of the Consumer Protection Act, chapter 19.86 RCW. The parties stipulated to stay of the foreclosure sale. Defendants HSBC Bank USA and PHH moved for summary judgment dismissal of the lawsuit in its entirety. The court granted the motion. Moorman appeals.

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10:30 a.m.

3) **No.: 34898-9-III**

Case Name: State of Washington v. Jonathan Brook Hawkins

County: Grant

Case Summary: Ashlynn Obermeyer exchanged Facebook messages with Jonathan Hawkins in which Hawkins described his family's "open lifestyle" involving children participating in sex acts. Obermeyer reported Hawkins to Child Protective Services. He was arrested and charged with two counts of first degree child rape and one count of first degree child molestation. He was convicted of all three counts in a bench trial. He appeals.

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4) **No.: 355071-III (Anchor Case)**

Consolidated: 35655-8-III

Case Name: State of Washington v. Larry Edward Siltman

County: Okanogan

Case Summary: Larry Siltman was charged with four counts of violating a no contact order and one count of resisting arrest. After he completed a competency evaluation, the parties entered into a stipulated order of continuance for two years. During the continuance period, Siltman was charged with second degree rape in a separate cause number. The rape charge was dismissed but he was convicted of fourth degree assault. He moved for a new trial based on newly discovered evidence after the victim appeared for the first time at the sentencing hearing and told defense counsel she did not believe she was assaulted. The court denied the motion for new trial. Siltman appeals that ruling. The trial court subsequently granted the State's motion to revoke the stipulated order of continuance in the first cause number. In a stipulated facts bench trial, the court declined Siltman's request to admit the competency evaluation in evidence. The court convicted him of one count each of violating a no contact order and resisting arrest. Siltman appeals from the judgment and sentence. The court has consolidated the two appeals.

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11:30 a.m.

5) **No.: 35199-8-III**

Case Name: Crown Resources, Corp. v. State of Washington, Dept. of Ecology, et al

County: Ferry

Case Summary: Crown Resources Corp. (Crown) appeals the Ferry County Superior Court's final order and judgment denying Crown's petition for review under the Administrative Procedure Act, chapter 34.05 RCW, and affirming the order of the Pollution Control Hearings Board (Board) that affirmed the Modified 2014 Permit the State of Washington Department of Ecology issued to Crown for water discharges associated with its operation of the Buckhorn Mine near Chesaw. Crown contends the superior court's final order is error on grounds the Board's findings of fact, conclusions of law, and order relating to the Modified 2014 Permit's (1) new final water quality effluent limits, (2) interim limits and 10-month interim compliance period before the final

limits took effect, and (3) definitions and boundary of the “capture zone” requiring Crown to capture all mine-impacted water for treatment at the mine’s wastewater treatment plant are contrary to law, unsupported by substantial evidence, or arbitrary and capricious. Crown also contends the court erred in upholding the Board’s determination that the effective date of the Modified 2014 Permit was not stayed during Crown’s appeal to the Board.

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