

# WASHINGTON STATE COURT OF APPEALS DIVISION THREE

## CASE SUMMARIES FOR ORAL ARGUMENT

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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.

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**Date of Hearing: Tuesday, January 26, 2021**

**Location: Spokane, 500 North Cedar**

**Video Oral Argument**

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**9:00 a.m.**

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**1) No.: 37042-9-III**

**Case Name: City of Ritzville v. Kirby-Hunt Construction, Ltd., e al.**

**County: Adams**

**Case Summary:** The Ohio Casualty Insurance Company insured the City of Ritzville for work that the city had contracted Kirby-Hunt Construction to perform. After the city declared Kirby-Hunt in default, the city sought to collect on the performance bond and was denied. This court accepted discretionary review to determine whether the city's lawsuit seeking enforcement of the bond is time-barred.

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9:30 a.m.

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2) **No.: 37057-7-III**

**Case Name: In re Pers. Restraint of Joseph A. Richmond**

**County: Kittitas**

**Case Summary:** A jury convicted Joseph Richmond of murder in the second degree. In this personal restraint petition, Mr. Richmond raises claims of prosecutorial misconduct, improper jury instructions, and related claims of ineffective assistance of trial and appellate counsel.

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10:00 a.m.

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3) **No.: 36213-2-III**

**Case Name: State of Washington v. Jeremiah Smith, a.k.a. Glenn A. Akers**

**County: Spokane**

**Case Summary:** A jury convicted Jeremiah Smith of murder in the first degree, and related offenses, resulting in a life sentence under the Persistent Offender Accountability Act (POAA). On appeal, Mr. Smith challenges the sufficiency of the evidence of his murder and burglary convictions. He also raises an Eighth Amendment challenge to including declined juvenile offenses as prior convictions under the POAA, and other issues relating to the constitutionality of the POAA.

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10:30 a.m.

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4) **No.: 36816-5-III**

**Case Name: State of Washington v. Victor James Mathis**

**County: Klickitat**

**Case Summary:** A judge convicted Victor Mathis of perjury in the first degree, following a bench trial. On appeal, Mr. Mathis challenges the sufficiency of the evidence, the admission of evidence relied on by the State's expert, and matters relating to his sentencing.

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11:00 a.m.

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5) **No.: 36999-4-III**

**Case Name: State of Washington v. Joshua James Mobley**

**County: Spokane**

**Case Summary:** A jury convicted Joshua Mobley of murder in the second degree. Mr. Mobley appeals the exclusion of other suspect evidence, the constitutionality of a warrant issued to search his house, the competency of a seven-year-old to testify, and the admission of a 9-1-1 call. Mr. Mobley also raises issues of prosecutorial misconduct at trial and judicial misconduct at sentencing.

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11:30 a.m.

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6) **No.: 37027-5-III**

**Case Name: Diane Christian, et vir. v. Antoine Tohmeh, MD, et al.**

**County: Spokane**

**Case Summary:** After developing complications from a spinal surgery, Diane Christian filed a medical negligence action against her treating physician. In this court's

second interlocutory review of this case, we accepted review to determine whether Ms. Christian is procedurally barred from arguing that Dr. Tohmeh negligently and proximately caused her injuries

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**1:30 p.m.**

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**7) No.: 37124-7-III**

**Case Name: State of Washington v. Haven M. Scabbyrobe**

**County: Yakima**

**Case Summary:** A jury convicted Haven Scabbyrobe of theft of a motor vehicle. On appeal, Ms. Scabbyrobe challenges as impermissibly suggestive the “show up” procedure used by law enforcement to have the victim identify her.

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