Supreme Court No. 1038879
Court of Appeals Division III, No. 400115

SUPREME COURT
OF THE STATE OF WASHINGTON

ANSON BARTRAND

Plaintiff-Respondent,

v.

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY

Defendant-Petitioner.

RESPONDENT'S ANSWER TO PETITION FOR REVIEW

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TABLE OF AUTHORITIES

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Cases

I. Identity of Respondent and Introduction

Anson Bartrand replies to the Grant County Public Utility District's Petition for Review of the opinion and order of the Court of Appeals, Division Three, in Bartrand v. Public Utility District No. 2 of Grant County, No. 40011-5-III. Mr. Bartrand files this answer to the Petition for review under RAP 13.4(d).

This is a case seeking a declaration of the rights and responsibilities of the parties to the 1962 Pole and Wire Agreement. A prior judgment of the Grant County Small Claims District Court awarded the Petitioner a prescriptive easement over Respondent's property in violation of the terms of the 1962 Agreement. The Grant County Superior Court dismissed a subsequent attempt to clarify the rights and responsibilities of the respective parties under the Pole and Wire Agreement in the present case on appeal based on res judicata. The Court of

Appeals Division Three reversed the decision of the Superior Court.

II. Citation to Court of Appeals Decision

Mr. Bartrand seeks affirmation of the opinion issued by the Court of Appeals, Division Three, in Anson Bartrand v. Public Utility District No. 2 of Grant County, No. 40011-5-III, https://www.courts.wa.gov/opinions/pdf/400115_pub.pdf ("slip op." or "opinion") and the order denying reconsideration https://www.courts.wa.gov/opinions/pdf/400115_ord.pdf ("order"). See Appendix, Exhibits A and B.

III. Issues Presented for Review

1) Is there an already recognized process in Washington State for refiling and litigating Small Claims suits in Superior Court? **Yes.**

2) Is Mr. Bartrand entitled to litigate a real estate issue in Superior Court because he was statutorily denied an appeal under RCW 12.36.010? **Yes.**
3) Does the Small Claims District Court have subject matter jurisdiction over matters pertaining to real estate? **No.**

IV. Statement of the Case

The Statement of the Case provided by the Petitioner is largely an accurate reflection of the factual and procedural history. However, a few additions are included below for a more accurate and precise portrayal.

A. First lawsuit: 2021, Small Claims Court

In response to the claim sought by Mr. Bartrand under the expressly assignable and appurtenant 1962 *Pole and Wire Agreement*, the Petitioner filed an answer to the claim on January

5, 2022 alleging that the agreement was terminated as an "operation of law" and that the Petitioner was entitled to a prescriptive easement. *Answer to Small Claim Attachment*. Small Claims district courts do not present opportunities for rebuttal and are not equipped to address matters relating to real estate.

B. Mr. Bartrand's Appeal

Mr. Bartrand did argue that applying res judicata to a judgment he was precluded by statute from appealing works an injustice. *Appellant's Amended Brief* 6. The Petitioner was correct, however, in stating that Mr. Bartrand did not cite *State Farm Mut. Auto. Ins. Co. v. Avery*, 114 Wn. App. 299, 57 P.3d 30 (2002). Instead, Mr. Bartrand cited other authority to support his argument.

V. Argument

A. There is an already recognized process in Washington State for refiling and litigating Small Claims suits in Superior Court.

Under Washington law, Mr. Bartrand is entitled to relief from the small claims judgment under Civil Rule (CR) 60 and the principles articulated in *Banowsky v. Backstrom*. CR 60 provides a mechanism for relief from a judgment or order in cases where a judgment is void or any other reason justifying relief from the operation of the judgment. *CR 60 (b)(5,11)*. This rule is particularly relevant where the application of res judicata would work an injustice, as is the case here. Courts in Washington have consistently held that CR 60(b) is an equitable remedy designed to prevent injustice. For example, in State v. Santos,

the Washington Supreme Court emphasized that trial courts have discretion to grant relief under CR 60(b) to ensure fairness and equity.

In this case, Mr. Bartrand was statutorily barred from appealing the small claims judgment under RCW 12.40.120 because the amount in controversy was less than $250. See *State Farm Mut. Auto. Ins. Co. v. Avery*, 114 Wn. App. 299, 57 P.3d 300 (2002). This statutory bar effectively denied him the opportunity to challenge the judgment on its merits. The application of res judicata to preclude his superior court action compounds this injustice, as it prevents him from obtaining a fair adjudication of his claims in a competent court. CR 60(b) provides the appropriate mechanism to address this inequity and grant Mr. Bartrand relief from the small claims judgment.

The small claims court judgment against Mr. Bartrand was entered without the opportunity for appeal due to the statutory bar under RCW 12.40.120. Denying him relief under CR 60 would perpetuate an inequitable result, contrary to the principles articulated in *Banowsky*. The Washington Supreme Court has made clear that courts must balance the need for finality in judgments with the overarching goal of achieving justice. Here, the balance tips in favor of granting relief to Mr. Bartrand to prevent an unjust outcome. While res judicata serves the important purpose of promoting finality and judicial efficiency, it is not an absolute bar to relief. *Weaver v. City of Everett*, 450 P.3d 177, 186 (Wash. 2019). As the Washington Supreme Court has noted, res judicata is not to be applied so rigidly as to defeat the ends of justice, or to work

an injustice. *Id*. (Quoting *Henderson v. Bardahl Int'l Corp.*, 72 Wn.2d 109, 119, 431 P.2d 961 (1967)).

In this case, the application of res judicata would work an injustice by denying Mr. Bartrand any opportunity to challenge the small claims judgment on its merits. The statutory bar on appeals under RCW 12.40.120 should not be interpreted to preclude relief, particularly where the judgment was entered without a full and fair opportunity for review.

B. Mr. Bartrand is entitled to litigate a real estate issue in Superior Court because he was statutorily denied an appeal under RCW 12.36.010.

Mr. Bartrand is entitled to litigate his claim in Superior Court because he was statutorily

denied the right to appeal under RCW 12.36.010, and the application of res judicata in this context would work an injustice.

RCW 12.36.010 explicitly provides that no appeal is allowed in small claims actions unless the amount in controversy exceeds $250. Similarly, RCW 12.40.120 reinforces this limitation, barring appeals for claims under $250. Mr. Bartrands original claim in small claims court was for $120, which falls below this statutory threshold. Consequently, he was precluded from appealing the adverse judgment. This statutory bar on appeals is absolute and leaves no room for review of the small claims courts decision.

The doctrine of res judicata, while designed to promote finality and judicial efficiency, is an equitable doctrine and should not be applied rigidly to defeat the ends of justice. *Henderson*, 72

Wn.2d at 119. Washington courts have recognized that res judicata, like its sister doctrine collateral estoppel, must yield when its application would work an injustice. In *Weaver v. City of Everett*, the Washington Supreme Court emphasized that collateral estoppel should not be applied in a manner that contravenes public policy or results in inequity. *Weaver*, 450 P.3d at 185. Res judicata and collateral estoppel are sister doctrines, *id*. at 186, and the clear public policy against allowing small claims courts to make decisions on real estate matters should bar the application of res judicata.

In *State Farm Mutual Automobile Insurance Co. v. Avery*, the Court of Appeals held that collateral estoppel would not bar relitigation of an issue when the losing party in small claims court was statutorily denied the right to appeal. 114 Wn.

App. 299, 57 P.3d 300 (2002). The court reasoned that denying preclusive effect to the small claims judgment was necessary to avoid injustice, as the party had no opportunity to seek review of the decision. *Id*. Although Avery addressed collateral estoppel, its reasoning applies equally to res judicata because both doctrines are rooted in principles of fairness and equity.

Here, Mr. Bartrand was statutorily denied the right to appeal under RCW 12.36.010. Applying res judicata to bar his Superior Court claim would deprive him of any opportunity to litigate the merits of his case in a forum with broader procedural safeguards. This would work an injustice, as it would effectively render the small claims courts decision unreviewable and final, despite the statutory bar on appeals.

Washington courts have consistently recognized that the statutory limitations on small claims appeals are intended to promote the efficiency and informality of small claims court, but they do not preclude litigants from seeking justice in other forums when equity demands. In *State Farm Mutual Automobile Insurance Co. v. Avery*, the court explicitly declined to give preclusive effect to a small claims judgment when the losing party was denied the right to appeal ,. Similarly, in *Weaver v. City of Everett*, the court held that res judicata should not be applied in a manner that contravenes public policy or results in inequity.

Moreover, the Court of Appeals in this case correctly recognized that applying res judicata to Mr. Bartrand's claim would work an injustice, as he was statutorily denied the right to appeal. The

courts reliance on *Avery* was appropriate, as the principles of equity underlying collateral estoppel are equally applicable to res judicata in this context.

The statutory framework governing small claims courts is designed to provide a forum for the resolution of low-value disputes in a quick and cost-effective manner. However, the framework under *Avery* does not provide a free for all to anyone dissatisfied with a judgment. Allowing Mr. Bartrand to pursue his claim in Superior Court does not undermine the purpose of small claims court; rather, it ensures that litigants who are statutorily barred from appealing small claims judgments are not left without recourse.

Mr. Bartrand is entitled to litigate his claim in Superior Court because he was statutorily denied the right to appeal under RCW 12.36.010.

The application of res judicata in this context would work an injustice, as it would deprive him of any opportunity to seek review of the small claims courts decision. Washington courts have consistently recognized that equitable considerations must guide the application of res judicata, particularly when a party is statutorily denied the right to appeal. Accordingly, the Mr. Bartrand should be allowed to proceed with his claim, which includes many issues not addressed in the small claims judgment.

C. **Small Claims District Court does not have subject matter jurisdiction over matters pertaining to real estate.**

Res judicata is "is based on the rationale that the relief sought in a subsequent action could have and should have been determined in a prior

action." *Landry v. Luscher*, 95 Wn. App. 779, 783 (Wash Ct. App. 1999). Under Washington law, the Small Claims District Court does not have subject matter jurisdiction over matters pertaining to real estate, including disputes involving prescriptive easements. While the small claims court initially had jurisdiction to decide whether a tenant owes rent pursuant to an agreement, small claims lost jurisdiction when the Petitioner responded by claiming a prescriptive easement, challenging the land owner's ownership of the property (in violation of the agreement previously signed.) Consequently, the small claims judgment is void for lack of jurisdiction.

"Subject matter jurisdiction is the indispensable foundation on which valid judicial decisions rest, and, in its absence, a court has no power to act." *Eugster v. Wash. State Bar Ass'n*,

198 Wn. App. 758, 774 (Wash. Ct. App. 2017). A judgment entered without subject matter jurisdiction is void and may be challenged at any time. Washington courts have consistently held that subject matter jurisdiction refers to a court's authority to adjudicate the type of controversy involved in the action. A court lacks subject matter jurisdiction when it attempts to decide a type of controversy over which it has no authority to adjudicate.

The jurisdiction of small claims courts in Washington is statutorily limited. RCW 12.40.120 explicitly governs the scope of small claims court jurisdiction and does not grant authority over matters involving real estate. Additionally, RCW 3.66.030 excludes district courts, including small claims courts, from hearing cases involving title to real property, foreclosure of mortgages, or

enforcement of liens on real estate. Matters involving prescriptive easements, which are inherently tied to real estate, fall outside the jurisdiction of small claims courts.

In *Marley v. Department of Labor & Industries*, the Washington Supreme Court adopted the Restatement (Second) of Judgments approach to subject matter jurisdiction, emphasizing that a court lacks jurisdiction when it attempts to decide a type of controversy it is not authorized to adjudicate. 125 Wn.2d 533, 539 (1994). Similarly, in *State v. Granath*, the court reaffirmed that district courts have limited jurisdiction, and their authority is strictly prescribed by the legislature. 190 Wn.2d 548, 551 (2018). These principles confirm that small claims courts cannot adjudicate disputes involving real estate, as such matters are beyond their statutory authority. The small claims

judgment in Mr. Bartrand's case involved a prescriptive easement defense raised by the Public Utility District. A prescriptive easement is a legal interest in real property, and adjudicating such a matter requires authority over real estate disputes. The small claims court's lack of jurisdiction over real estate matters renders its judgment void. As noted in *In re Marriage of Ortiz*, a judgment entered by a court without subject matter jurisdiction is void and has no legal effect, not merely voidable. 108 Wn.2d 643, 649 (1987).

In conclusion, the Small Claims District Court lacked subject matter jurisdiction over the prescriptive easement defense in Mr. Bartrands case. The judgment entered by the small claims court is therefore void under Washington law. Mr. Bartrand respectfully requests that the court

recognize the lack of jurisdiction and declare the small claims judgment void.

VI. Conclusion

Under Washington law, Mr. Bartrand is entitled to relief from the small claims judgment and the opportunity to litigate his claims in Superior Court. The application of res judicata in this case would work an injustice, as it would deny him a fair adjudication of his claims in a competent court. The small claims court lacked subject matter jurisdiction over real estate matters, rendering its judgment void. Washington courts have consistently emphasized the importance of equity and fairness in the application of legal doctrines, and the balance in this case tips in favor of granting Mr. Bartrand the opportunity to

proceed with his claims in Superior Court. The Court of Appeals decision should be affirmed.

VII. Appendix

An appendix containing a copy of the Court of Appeals decision, any order granting or denying a motion for reconsideration of the decision, and copies of statutes and constitutional provisions relevant to the issues presented has been included in the Petitioner's Petition for Review.

I certify that this document contains 2,428 words, in compliance with RAP 18.17.

Respectfully submitted this 2nd day of April, 2025.

By:

Anson Bartrand

Respondent Pro Se

ANSON BARTRAND

April 02, 2025 - 2:18 PM

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	103,887-9
Appellate Court Case Title:	Anson Bartrand v. Public Utility District No. 2 of Grant County
Superior Court Case Number:	23-2-00673-5

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