

NO. 91056-1
COA NO. 43076-2-II

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

KITSAP COUNTY, a political subdivision of the State of Washington,

Respondent,

vs.

KITSAP RIFLE AND REVOLVER CLUB, a not-for-profit corporation
registered in the State of Washington, and JOHN DOES and JANE ROES
I-XX, inclusive

Petitioner,

and

IN THE MATTER OF NUISANCE AND UNPERMITTED
CONDITIONS LOCATED AT One 72-acre parcel identified by Kitsap
County Tax Parcel ID No. 362501-4-002-1006 with street address 4900
Seabeck Highway NW, Bremerton, Washington

KITSAP COUNTY'S MOTION TO REVISE ORDER GRANTING
LEAVE TO FILE AMENDED PETITION FOR REVIEW

TINA R. ROBINSON
Kitsap County Prosecuting Attorney

NEIL R. WACHTER
Special Deputy Prosecuting Attorney
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I. IDENTITY OF MOVING PARTIES

The Respondent, KITSAP COUNTY (the “County”), by and through its attorney, Neil R. Wachter, Special Deputy Prosecuting Attorney, asks this Court for the relief designated in Part II of this Motion.

II. RELIEF REQUESTED

KITSAP COUNTY respectfully moves pursuant to RAP 17.4(c) that this Court revise its January 13, 2015 Notation Ruling granting Petitioner KITSAP RIFLE AND REVOLVER CLUB (“KRRC” or the “Club”)’s Motion for Leave to File Amended Petition for Review (the “Motion”) by amending the deadline for filing any amended petition for review after the Court of Appeals (Division II) rules upon KRRC’s Motion for Reconsideration (“MFR”), from 30 days to 10 days.

III. FACTS RELEVANT TO MOTION

A. Procedural History Dating From October 28, 2014

KRRC’s Motion cited the case’s history dating from October 28th, which can be reduced to a timeline:¹

Filing Date ²	Event
Oct. 28, 2014	Division II issues published opinion.
Nov. 18, 2014	KRRC files MFR (e-filed at 6:30 p.m. on 11-17-14).

¹ See Motion, at 3-5 (III.A. Procedural Facts Relevant to Motion).

² Dates drawn from Division II’s docket for COA Case No. 43076-2 (online at <http://dw.courts.wa.gov/index.cfm?fa=home.casesearch&terms=accept&flashform=0&tab=clj> (last visited 1-16-15)).

Filing Date ²	Event
Nov. 19, 2014	Div. II Clerk Ponzoha issues letter notifying parties that MFR was untimely per RAP 12.4(b).
Nov. 21, 2014	KRRC files motion to extend deadline for MFR.
Nov. 24, 2014	County files response opposing motion to extend MFR deadline.
Dec. 1, 2014	KRRC files petition for review.
Dec. 18, 2014	Division II grants motion to extend MFR deadline.
Dec. 31, 2014	County files answer to MFR.

As KRRC notes, the County has not filed an Answer to the Petition for Review. Motion, at 6.

B. Events of January 13, 2015

KRRC filed its Motion on January 13, 2015 with Division II. That same day, Division II forwarded the Motion to the Supreme Court and the Court granted it by notation ruling. As granted, the Motion included KRRC's request for 30 days to file an amended petition after Division II rules on the MFR. Motion, at 3.

IV. GROUND FOR RELIEF AND ARGUMENT

KRRC filed its petition for review on December 1, 2014 to preserve its opportunity for RAP 13.4(a) discretionary review if Division II did not ultimately extend the MFR deadline. KRRC's petition provides the Opinion as an appendix.

KRRC's Motion cites RAP 13.4(c)(9) as requiring KRRC to file an

amended petition to supply Division II's MFR ruling to the Court. Motion, at 6. The Motion also contemplates updating KRRC's arguments within the scope of issues under reconsideration:

Granting this motion for leave to amend will also give the Club an opportunity to amend its arguments in the petition to reflect the results of the motion for reconsideration.

Motion, at 3. In this vein, KRRC intends to

modify the petition to reflect the Court's MFR decision, such as by eliminating the issue raised in the MFR if this Court grants the MFR.

Motion, at 6. KRRC has not asked leave to revise or add to its RAP 13.4(c)(5) statement of issues presented for review.

KRRC writes that Division II's "decision to allow the filing of the MFR creates a new deadline for a petition for review . . .", citing RAP 13.4(a)'s 30-day deadline for filing a petition after "an order is filed denying a timely motion for reconsideration[.]" Motion, at 5. This is not correct because KRRC's MFR was not timely.³ Cf. *Schaeferco, Inc. v. Columbia River Gorge Comm'n*, 121 Wn.2d 366, 849 P.2d 1225 (1993) (a motion for reconsideration not filed and served within 10 days as required by the court rules does not extend the period for filing a notice of appeal).

Amending KRRC's petition for review will be a task limited in

³ GR 30(c)(1) provides "[a]n electronic document is filed when it is received by the clerk's designated computer during the clerk's business hours; otherwise the document is considered filed at the beginning of the next business day."

scope, consisting of adding Division II's MFR ruling as an appendix, adding citations to the MFR ruling, and updating the arguments to reflect the ruling. Whatever the ruling, the task does not justify imputing a 30-day deadline.

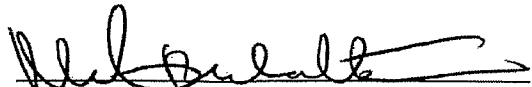
Put another way, KRRC has already had its 30 days in which to prepare and file a petition for review. By filing its MFR late, KRRC both created the predicament of having to file its petition for review on December 1, 2014 and prolonged Division II's time needed to process the MFR. By its Motion to this Court, KRRC added 30 more days to the appeal, which is approaching its third birthday.⁴ The Court should adjust its ruling on the Motion accordingly, to provide KRRC with a shortened and yet reasonable deadline for filing its amended petition for review.

V. CONCLUSION

KITSAP COUNTY respectfully requests that this Court grant the relief identified in Part II of this Motion.

Respectfully submitted this 22nd day of January, 2015.

TINA R. ROBINSON
Kitsap County Prosecuting Attorney


NEIL R. WACHTER, WSBA No. 23278
Special Deputy Prosecuting Attorney,
Attorney for Respondent Kitsap County

⁴ Notice of Appeal (Feb. 15, 2012).

CERTIFICATE OF SERVICE

I, Batrice Fredsti, declare, under penalty of perjury under the laws of the State of Washington, that I am now and at all times herein mentioned, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the above document in the manner noted upon the following:

Brian D. Chenoweth	<input checked="" type="checkbox"/>	Via U.S. Mail
Brooks Foster	<input checked="" type="checkbox"/>	Via Email: As Agreed by the Parties
The Chenoweth Law Group	<input type="checkbox"/>	Via Hand Delivery
510 SW Fifth Ave., Ste. 500		
Portland, OR 97204		

David S. Mann	<input checked="" type="checkbox"/>	Via U.S. Mail
Gendler & Mann LLP	<input checked="" type="checkbox"/>	Via Email
936 N. 34 th St. Suite 400	<input type="checkbox"/>	Via Hand Delivery
Seattle, WA 98103-8869		

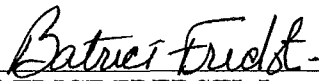
Matthew A. Lind	<input checked="" type="checkbox"/>	Via U.S. Mail
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Goodstein Law Group	<input checked="" type="checkbox"/>	Via Email
501 S G St	<input type="checkbox"/>	Via Hand Delivery
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C.D. Michel
Michel & Associates, P.C.
180 E. Ocean Blvd, Ste 200
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☒ Via U.S. Mail
☒ Via Email
☐ Via Hand Delivery

SIGNED in Port Orchard, Washington this 22nd day of January,
2015.



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