

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

JOHN J. CRUZ,

Plaintiff-Appellee,

v.

CITY OF SPOKANE;
WASHINGTON STATE CRIMINAL
JUSTICE TRAINING
COMMISSION, a state commission;
RICK BOWEN, Commander of the
Washington State Criminal Justice
Training Commission Basic Law
Enforcement Academy; JOHN
EVERLY, Police Officer at the
Spokane Police Department and
Assistant Commander of the
Washington State Criminal Justice
Training Commission Basic Law
Enforcement Academy; ART
DOLLARD, Police Officer at the
Spokane Police Department and TAC
Officer at the Washington State
Criminal Justice Training Commission
Basic Law Enforcement Academy;
JAKE JENSEN, Police Officer at the
Spokane Police Department and TAC

No. 21-35912

D.C. No. 2:20-cv-
00250-SAB

ORDER
WITHDRAWING
CERTIFIED
QUESTION

Officer at the Washington State
Criminal Justice Training Commission
Basic Law Enforcement Academy;
TODD BELITZ, Police Officer at the
Spokane Police Department and TAC
Officer at the Washington State
Criminal Justice Training Commission
Basic Law Enforcement Academy;
SUE RAHR, Executive Director of the
Washington State Criminal Justice
Training Commission,

Defendants-Appellants,

and

FERRY COUNTY; CITY OF
REPUBLIC, a municipal corporation;
RAY MAYCUMBER, Ferry County
Sheriff; AMY ROOKER, Ferry
County Chief Civil Deputy; AUSTIN
HERSHAW, Police Officer at the
Black Diamond Police Department;
PATRICK RAINER, Detective at the
Ferry County Sheriff's Office,

Defendants.

Appeal from the United States District Court
for the Eastern District of Washington
Stanley A. Bastian, Chief District Judge, Presiding

Argued and Submitted March 30, 2023
Submission Withdrawn April 28, 2023

Resubmitted December 26, 2023
Seattle, Washington

Filed December 26, 2023

Before: Jacqueline H. Nguyen and Andrew D. Hurwitz,
Circuit Judges, and Dean D. Pregerson, * District Judge.

SUMMARY**

Voluntary Dismissal

The panel granted the parties' joint stipulated motion to voluntarily dismiss the appeal, withdraw a question that the panel had certified to the Washington Supreme Court relating to the scope of immunity provided by RCW 43.101.390, and remand to the district court for dismissal of all claims against State Appellants.

COUNSEL

Heidi S. Holland (argued), Attorney; Taylor Hennessey, Acting Assistant Attorney General, Tort Claims Division; Robert W. Ferguson, Washington Attorney General; Washington Attorney General's Office, Spokane,

* The Honorable Dean D. Pregerson, United States District Judge for the Central District of California, sitting by designation.

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

Washington; Julie A. Turley, Assistant Attorney General, Washington Attorney General's Office, Olympia, Washington; for Defendant-Appellant.

Nathan J. Arnold (argued) and Emanuel F. Jacobowitz, Arnold & Jacobowitz PLLC, Redmond, Washington, for Plaintiff-Appellee.

ORDER

On April 28, 2023, we certified to the Washington Supreme Court a question relating to the proper scope of immunity provided by RCW 43.101.390. Dkt. No. 45. The Washington Supreme Court accepted the certified question on May 1, 2023. Dkt. No. 52. Thereafter, both the Washington Supreme Court and our court stayed proceedings while the parties engaged in mediation. Dkt. Nos. 55, 56.

On December 14, 2023, the parties filed a joint Stipulated Motion to Voluntarily Dismiss Appeal, Withdraw the Certified Question, and Remand for Dismissal. Dkt. No. 63. The Motion is hereby GRANTED.

Therefore, we now withdraw the prior certified question to the Washington Supreme Court. The matter is remanded for the district court to dismiss all claims against State Appellants. The Clerk of Court is ordered to transmit to the Washington Supreme Court, under official seal of the Ninth Circuit, this order. A copy of this order served on the district court shall act as and for the mandate of this court.

Each side shall bear their own costs.

It is so **ORDERED**.