

No. 82531-9

SANDERS, J. (dissenting)—The majority correctly holds Lorena Contreras, as guardian of Jesus Jaime Torres, Jr., is entitled to attorney fees under RCW 69.50.505(6), having received substantial relief – i.e., something more than nominal relief – after challenging the seizure of private property. *See* majority at 9.

I dissent, however, because the majority artificially limits her remedy. The City of Sunnyside sought forfeiture of a car and several amounts of money *in a single proceeding*. Because Contreras did not prevent the city’s forfeiture of *all* the money, the majority limits attorney fees for only the car and amount of money that Contreras recovered. *See* majority at 12. But RCW 69.50.505(6) makes no such distinction:

In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys’ fees reasonably incurred by the claimant.

Parsing attorney fees for item-by-item recovery is inconsistent with the language of RCW 69.50.505(6). The statute awards attorney fees where the claimant “substantially prevails” in the proceeding. *Id.* Yet the majority grants

attorney fees only for the portions of the proceedings dealing with the items the claimant successfully recovered. Majority at 12. This has the same effect as viewing the claimant's success item by item. But the text of the statute does not permit such a result. If we view success item by item, the question of whether the claimant "substantially prevails" is simply whether he or she successfully recovered *that* item. This renders "substantially" meaningless, RCW 69.50.505(6), because prevailing in the recovery of an individual item will *always* be substantial – since one recovers 100 percent of that item. We do not interpret statutes to render portions of their language meaningless. *See, e.g., State v. J.P.*, 149 Wn.2d 444, 450, 69 P.3d 318 (2003) (quoting *Davis v. Dep't of Licensing*, 137 Wn.2d 957, 963, 977 P.2d 554 (1999) (quoting *Whatcom County v. City of Bellingham*, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996))).

The language of Washington's seizure and forfeiture statute, RCW 69.50.505, is materially different from the corresponding federal statute, the Civil Asset Forfeiture Reform Act of 2000 (CAFRA), 28 U.S.C. § 2465. CAFRA, with respect to federal seizures, expressly provides, "If the court enters judgment in part for the claimant and in part for the Government, the court shall reduce the award of costs and attorney fees accordingly." 28 U.S.C. § 2465(b)(2)(D). RCW 69.50.505 contains no such language limiting recovery in a proceeding where the claimant "substantially prevails." The majority's perfunctory addition of such a limitation is

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inconsistent with the language of the statute.

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I dissent.

AUTHOR:

Justice Richard B. Sanders

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WE CONCUR:

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