

No. 84044-0

J.M. JOHNSON, J. (dissenting in part) – I join the majority in holding the “Supplemental Decree of Dissolution” entitled Kenneth Treiger to one-half of the proceeds of the Maplewood property sale before satisfaction of Bank of America’s lien. I dissent in part because I would also hold that under RCW 4.64.030(3), a judgment that fails to contain the summary required by RCW 4.64.030 lacks legal effect. Documents 1375 and 1376 do not comply.

As the majority accurately recognizes, a judgment is typically “entered” and effective from the time it is delivered to the clerk for filing. CR 58(b). The majority fails to acknowledge this general rule has specified exceptions. Under RCW 4.64.030(3), the effective date of a judgment is delayed if the written judgment does not contain a summary as required by the statute: “The clerk may not enter a judgment, *and the judgment does not take effect*, until the judgment has a summary

in compliance with this section.” RCW 4.64.030(3) (emphasis added). The majority holds Documents 1375 and 1376, which lack the statutorily required summaries, are valid judgments in spite of the clear language of this statute. I dissent because honoring the statute’s plain meaning requires holding Documents 1375 and 1376 never took effect as judgments.

In reaching its conclusion, the majority purports to follow established rules of statutory interpretation. Majority at 13. First and foremost, the process of statutory interpretation requires examination of the plain meaning of the text. *Bowie v. Dep’t of Revenue*, 171 Wn.2d 1, 10, 248 P.3d 504 (2011). The majority cites this proposition, and then adds language to the text of a statute adopted by the legislature. The majority concludes RCW 4.64.030(3) must be read as follows: “a clerk may not enter a judgment *in the execution docket*, and the judgment does not take effect *for purposes of the execution docket*, until a proper summary exists.” Majority at 15. By adding language to the statute, the majority disregards the cardinal canon of statutory interpretation: “[C]ourts must presume that a legislature says in a statute what it means and means in a statute what it says there.” *Conn. Nat’l Bank v. Germain*, 503 U.S. 249, 253-54, 112 S. Ct. 1146 (1992). By its terms, RCW 4.64.030(3) provides that a judgment does not become effective until it

contains the statutorily required summary. No additional text is needed to reach this conclusion, and only the legislature can amend the statute.

The majority focuses on RCW 4.64.030(1), which provides: “The clerk shall enter all judgments *in the execution docket* subject to the direction of the court . . . .” The majority claims a similar reference to the execution docket is necessary to interpret subsection (3). This reading may appear logical in relation to the directive, “the clerk may not enter a judgment . . . until the judgment has a summary.” RCW 4.64.030(3). This reading implies the clerk will not enter a judgment *in the execution docket* until it contains a summary. Yet, the majority’s reasoning unravels as it continues: “. . . **and the judgment does not take effect for purposes of the execution docket**, until a proper summary exists.” Majority at 15 (boldface added). This reading makes little conceptual sense.

The execution docket is a public record maintained by the county clerk that includes judgments, abstracts, and transcripts of judgments. RCW 4.64.060. The docket is kept open during business hours for members of the public who wish to inspect it. *Id.* Considering this context, the majority offers no explanation as to what “effect” a judgment may have in relation to the execution docket that is distinct from the binding effect of the judgment itself. A judgment “takes effect”

when it disposes of a judicial action and determines the rights of the the parties before the court. *See Reif v. LaFollette*, 19 Wn.2d 366, 369, 142 P.2d 1015 (1943) (quoting Rem. Rev. Stat. § 404). A judgment does not have a separate legal effect when placed on the execution docket for public inspection. Thus, the majority’s reading renders the phrase “judgment does not take effect” in RCW 4.64.030(3) superfluous. It is a well-established canon of statutory construction that a court should avoid interpretations of a statute that render certain provisions superfluous. *See Whatcom County v. City of Bellingham*, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996) (“Statutes must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous.”). The majority abandons this recognized guidepost of statutory interpretation.

The majority also asserts its reading reconciles RCW 4.64.030(3) with RCW 6.01.020. Majority at 15. In actuality, the majority’s reading gives priority to the latter statute, a statute worded in terms more general than those of RCW 4.64.030(3). *See* RCW 6.01.020 (“a judgment of a superior court is entered when it is delivered to the clerk's office for filing”). When facing a conflict, we should “give preference to the more specific and more recently enacted statute.” *Tunstall v. Bergeson*, 141 Wn.2d 201, 211, 5 P.3d 691 (2000), *cert. denied*, 532 U.S. 920

(2001). The majority's reading does just the opposite.

In the legislature's statutory scheme, chapter 6.01 RCW lays out general provisions and definitions. Among these provisions, RCW 6.01.020 generally describes what constitutes an entered judgment. With greater specificity than these general provisions, chapter 4.64 RCW promulgates the detailed requirements of entering a judgment. RCW 4.64.030 is among these provisions. Under our rules of construction, RCW 4.64.030(3) must receive interpretive priority over RCW 6.01.020 to carry out the legislature's intent. In enacting RCW 4.64.030(3), the legislature intended to provide a powerful incentive for the parties to submit accurate judgment summaries to assist the clerk's office in its filing responsibilities. *See* S.B. Rep. on Engrossed S.B. 5449, 53d Leg., Reg. Sess. (Wash. 1994) (Representatives testified the new statutory provision was "important to the staffs of the court clerks" and would "help to assure that information disseminated by courts is accurate."). To give interpretive priority to RCW 6.01.020 would nullify the legislature's action in adopting the statutory scheme that includes RCW 4.64.030. Due to our preference for specific and recent statutes, we should afford interpretive priority to RCW 4.64.030(3).

As Documents 1375 and 1376 lacked the summaries required by RCW

4.64.030, they were not effective as judgments. In holding otherwise, the majority fails to give meaning to the plain language of RCW 4.64.030(3) and ignores time-honored canons of statutory construction. Because I would give greater deference to these canons and the intent of the legislature as evidenced by the language it adopted, I respectfully dissent.

**AUTHOR:**

Justice James M. Johnson

---

**WE CONCUR:**

---

---

---

---

---

---