

EXHIBIT I

FILED

SUPREME COURT
STATE OF WASHINGTON

1/4/2022

BY ERIN L. LENNON
CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

WASHINGTON ELECTION
INTEGRITY COALITION UNITED,

Petitioner,

v.

JAY INSLEE,

Respondent.

No. 1 0 0 3 0 3 - 0

RULING DISMISSING ORIGINAL
ACTION AGAINST STATE OFFICER

Petitioner Washington Election Integrity Coalition United urges this court to issue a writ of mandamus compelling Governor Jay Inslee to institute measures to combat what petitioner claims is widespread voter fraud by noncitizens. In particular, petitioner asks this court to compel the governor to verify the United States citizenship of every voter registered in Washington. This frivolous petition is dismissed for reasons explained below.

A person registering to vote in the State of Washington must verify that they are citizens of the United States and sign a declaration to that effect under penalty of perjury. RCW 29A.08.010(1)(d), (e); WAC 434-324-026. Knowingly providing false information on a voter registration form is a felony under state and federal law. RCW 29A.84.130; 18 U.S.C. § 1015(f). Furthermore, falsely claiming citizenship in order to register to vote could result in deportation. 8 U.S.C. § 1227(3)(D)(i).

The state must offer a person applying for a driver's license or renewal thereof the opportunity to register to vote. 52 U.S.C. § 20504(c)(1); RCW 29A.08.330(2), .340; RCW 46.20.155. Accordingly, an application for a driver's license automatically serves as a voter registration application "unless the applicant fails to sign the voter registration application." 52 U.S.C. § 20504(a)(1). The registration application requires the prospective voter to sign an attestation under penalty of perjury that they meet the citizenship requirement. 52 U.S.C. § 20504(c)(2)(C); RCW 29A.08.010(1), (3). Individuals who receive an enhanced driver's license—thus having provided proof of citizenship—are automatically registered to vote unless they opt out. RCW 29A.08.355, .357; RCW 46.20.202(3)(a). If an ineligible person becomes registered to vote through this automatic registration process, the person is removed from the voter registration database, and the Office of the Secretary of State and the Department of Licensing jointly investigate the situation. RCW 29A.08.370(1), (3)-(4).

A more traditional process applies to applications for regular driver's licenses: the Department of Licensing asks the applicant whether they want to register to vote or update their already existing registration. RCW 46.20.155(1). If the applicant wishes to register or update their registration, the department asks whether the applicant meets the citizenship and age requirements. *Id.* Applicants swear to the truth of the information provided. RCW 46.20.091(2).

In relation to the registration process, the Department of Licensing may collect only the minimum information necessary to prevent duplicate registrations and to enable state election officials to assess the applicant's eligibility and administer the registration and election process. 52 U.S.C. § 20504(c)(2)(B); RCW 43.17.425. For this purpose, the applicant must check a box confirming they are a United States citizen and provide a signature attesting to the truth of the information provided.

RCW 29A.08.010(1). Once the applicant has provided that information, they are registered to vote. RCW 29A.08.107(1).

This system is apparently not good enough for petitioner, a nonprofit corporation purportedly seeking to root out voter fraud. Without providing any competent evidence of a single instance of a noncitizen voting in a Washington State election, petitioner asserts there is widespread voter fraud by such individuals. In particular, petitioner alleges the Department of Licensing has been, among other things, actively registering voters who are not United States citizens, instructing its employees to pressure noncitizens to register to vote, and disciplining employees who question any applicant's citizenship eligibility to register to vote.

Petitioner, acting through one of its governing individuals, who is not an attorney, filed the instant petition for writ of mandamus. After petitioner was informed by the clerk of this court that a non-attorney may not represent a corporation, an attorney licensed in Washington filed a notice of appearance on petitioner's behalf. The governor filed an answer urging dismissal of the petition. Petitioner filed a reply through counsel. The parties presented oral argument at a videoconference hearing held on December 29, 2021.¹ Now before me for determination is whether to refer the petition to the court for a decision on the merits, transfer it to the Thurston County Superior Court for further proceedings, or dismiss it outright. RAP 16.2(d).

This court has original jurisdiction, concurrently with the superior court, in quo warranto, mandamus, and prohibition in relation to state officers. CONST., art. IV §§ 4, 6; RCW 7.16.160; RAP 16.2(a). Petitioner seeks a writ of mandamus, an extraordinary remedy that is available only when the responding state officer is under a clear and nondiscretionary duty to take a specific action; the petitioner has no plain, speedy, and adequate remedy at law; and the petitioner is beneficially interested. *Colvin, et al. v.*

¹ Livestreamed and archived at tvw.org.

Inslee, et al., 195 Wn.2d 879, 890-94, 467 P.3d 953 (2020). More specifically, a writ of mandamus is an extraordinary remedy that allows this court to direct a coordinate, equal branch of Washington's government to take specific actions, notwithstanding the constitutional doctrine of the separation of powers. *Walker v. Munro*, 124 Wn.2d 402, 407, 879 P.2d 920 (1994). The availability of mandamus is strictly limited because under separation of powers principles this court ordinarily "will not usurp the authority of the coordinate branches of government." *Id.* at 410. Consistent with these separation of powers principles, mandamus is available only when the law plainly requires a government official to take a particular action. *Freeman v. Gregoire*, 171 Wn.2d 316, 323, 256 P.3d 264 (2011). Stated another way, mandamus is an appropriate remedy only where the law defines the duty to be performed by the official with such precision that there is no room for discretion or judgment. *Walker*, 124 Wn.2d at 407. Thus, a writ of mandamus may not be employed to control an official's discretionary acts. *SEIU Healthcare 775NW v. Gregoire*, 168 Wn.2d 593, 599, 229 P.3d 774 (2010).

The governor's assertion that petitioner offers nothing more than a solution in search of a problem is well taken. Petitioner offers no competent evidence of voter fraud based on noncitizen voter registration. The individual who initially filed the petition signed a declaration describing a YouTube video of a political event at which an alleged retired Department of Licensing employee purportedly claimed to have witnessed noncitizens registering to vote through the driver's licensing process and was told by her supervisors not to interfere. Such hearsay (and hearsay within hearsay) is not admissible evidence. ER 801(c); ER 802; ER 805. Petitioner's reply proffers for the first time a purported transcript of the retired employee's statements during that political event, but the transcript is not an official certified document, the statements therein do not indicate they were made under penalty of perjury, and there is no indication the transcript was prepared by a qualified transcriptionist. ER 902; ER 1005. This is still

hearsay. In their reply, petitioner offers for the first time a writing entitled a “PRELIMINARY PARTIAL ANALYSIS OF NON-CITIZEN VOTER REGISTRATIONS” that alleges, among other things, that there are 34,637 noncitizen registered voters in King County alone. Apart from the impropriety of presenting this “analysis” for the first time in reply, petitioner provides no form of evidentiary foundation for the writing, such as the identity and qualifications of the author(s), their methodology, and the source of their data. ER 901; ER 902; ER 904. Again, petitioner fails to present competent evidence in support of their bald assertions of widespread noncitizen voter fraud.

Aside from lacking evidence, petitioner fails to identify a nondiscretionary duty on the part of the governor actionable in mandamus. Merely exhorting the governor to adhere to the constitution is not enough. *Walker*, 124 Wn.2d at 408-09. Furthermore, petitioner does not identify any legal authority, and none can be found, requiring the governor, either directly or by way of his staff, to verify the citizenship status of individual Washington voters, investigate claims of illegal voter registration, or remove registered voters who are not United States citizens from voter databases. *See Colvin*, 195 Wn.2d at 893 (“If the law does not require a government official to take a specific action, neither can a writ of mandamus.”).

Petitioner has a potentially adequate remedy at law in any event. The statutes and regulations discussed above govern the voter registration process in considerable detail, including violations. In particular, a registered voter or a county prosecuting attorney may challenge a person’s right to vote. RCW 29A.08.810; WAC 434-324-115.² Also, the governor has identified numerous actions in Washington superior courts and in federal district courts alleging election fraud, including several filed by petitioner. *See*,

² At oral argument, petitioner admitted it had not yet referred for prosecution any suspected cases of noncitizens registering to vote.

e.g., *Wash. Election Integrity Coal. United v. Kimsey*, No. 21-2-01775-06 (Clark County Super. Ct., Wash.), removed to W.D. Wash., No. 3:21-cv-01354. None of them has succeeded thus far, but that is beside the point: petitioner has other and more appropriate avenues for seeking relief for the perceived voter fraud problem. *See Riddle v. Elofson*, 193 Wn.2d 423, 436, 439 P.3d 647 (2019).

Finally, nothing petitioner has submitted suggests they may be beneficially interested for purposes of a mandamus action. This requires a showing that petitioner has an interest in this matter more compelling than what it shares in common with the public. *Retired Pub. Emps. Council of Wash. v. Charles*, 148 Wn.2d 602, 616, 62 P.3d 470 (2003). Petitioners argue their votes may be diluted and their constitutional rights may be affected by noncitizens registering for and voting in elections. But petitioner's concerns about alleged voter fraud are no more compelling than that of the general public. And petitioner has not presented competent evidence that the outcome of any election in this state has been affected by this alleged problem in any event.

In sum, this frivolous petition for a writ of mandamus merits no further consideration in this court or transfer to the superior court. RAP 16.2(d).

The original action is dismissed.



COMMISSIONER

January 4, 2022

EXHIBIT J

THE SUPREME COURT OF WASHINGTON

WASHINGTON ELECTION INTEGRITY)	
COALITION UNITED,)	
)	CLERK’S RULING SETTING
Petitioner)	AMOUNT OF ATTORNEY FEES
)	AND EXPENSES
v.)	No. 100303-0
JAY INSLEE,)	
)	
Respondent.)	
)	

By Order filed on March 2, 2022, a Department of the Court granted the Respondent Jay Inslee’s Motion for Sanctions and imposed sanctions against both Petitioner, Washington Election Integrity Coalition United, and its counsel. The Court awarded the Respondent reasonable attorney fees and expenses incurred in this matter pursuant to RAP 18.9(a).

On March 11, 2022, the Court received the “DECLARATION OF KARL D. SMITH DETAILING REQUEST FOR ATTORNEYS’ FEES (RAP 18.1)” and the “DECLARATION OF CAMILLE MCDORMAN DETAILING REQUEST FOR ATTORNEYS’ FEES (RAP 18.1)” which requests that a total of \$28,384.70 be awarded to the Respondent for attorney fees and expenses incurred in this matter. On March 21, 2022, the Petitioner filed an objection to the attorney fees entitled “ANSWER AND OBJECTIONS TO DECLARATIONS REQUESTING ATTORNEYS’ FEES (RAP 18.1(e)).” On March 28, 2022, the Respondent filed a “REPLY IN SUPPORT OF FEE APPLICATION.”

In its objection the Petitioner and Petitioner's counsel argue generally that 1) The Respondent is in violation of RAP 18.1 because they did not add a section to their opening brief regarding fees; 2) Sanctions should not be awarded because the Court's Order was void of findings; 3) That the hourly rates charged by the Petitioner's counsel are unsupported; and 4) That the time expended by the Petitioner was excessive and unreasonable.

The Order entered by this Court on March 2, 2022, awards attorney fees and expenses as sanctions pursuant to RAP 18.9 not RAP 18.1. RAP 18.9 does not require that a party must devote a section of its opening brief to the request for fees as required in RAP 18.1(b). Therefore, I do not find that the Respondent is in violation of RAP 18.1. The Petitioner also argues that sanctions should not have been awarded because the Court's Order was void of findings. The Supreme Court already made the decision to award fees as a sanction in the case. As Deputy Clerk, my role is only to determine the amount of fees that will be awarded. Therefore, this ruling determines the amount of fees to be awarded in accordance with the Court's order. The Petitioner further argues that the State attorneys will get paid regardless of how much they bill and therefore should not be awarded their requested fees. The Respondent correctly argues in its reply to the objection that attorney fees may be awarded regardless of whether the Respondent's attorneys are private counsel or state attorneys. *Blair v. Wash. State Univ.*, 108 Wn.2d 558, 740 P.2d 1379 (1987). Therefore, the Petitioner's argument that fees should not be awarded because the Respondent's counsel are public attorneys does not hold merit.

This Court employs the "lodestar" method to determine the amount of attorney fees to award. Under that method, the Court first determines whether the hourly rates claimed by the counsel for the prevailing party were reasonable and then whether the number of hours expended

by counsel were reasonable. *Bowers v. Transamerica Title Ins., Co.*, 100 Wn.2d 581, 593-94, 675 P.2d 193 (1983). The party requesting the attorney fees must provide basic documentation of the work performed sufficient to inform the Court of the number of hours worked, the type of work, and the category of the attorneys or other professionals who performed the work. *Id.*, 597.

The affidavits indicate an hourly rate of \$284 per hour was charged for the time expended by the Deputy Solicitor General of the State of Washington, Karl Smith, and \$333 per hour was charged for time expended by Assistant Attorney General, Camille McDorman. In light of both counsel's years of experience, I find that the hourly rate for appellate work is reasonable. Regardless of what matrix was used to determine the hourly rates, the fees charged by both attorneys in the case are reasonable rates for any appellate attorneys practicing in Washington State.

The Petitioner objects to several charges included by the Respondent including expenses associated with briefing the client, conducting moot court, and the drafting of the motion for sanctions. Briefing the client is an essential role of counsel in any case. The fact that the Respondent's counsel are state attorneys do not change their obligations as attorneys to their client, Governor Inslee. The affidavit filed by Respondent counsel provided appropriate documentation of the work performed. The lodestar method only requires that basic documentation of work performed is provided in its affidavit. *Bowers*, 597. The drafting of the motion for sanctions and oral argument preparation are also inherent to the representation of their client.

It is noted that the motion for sanctions filed by the Respondent requests that the Petitioner be ordered to pay attorney fees incurred prior to Petitioner's counsel's appearance in

the case, and that counsel be ordered to pay attorney fees incurred after she appeared. The Petitioner's counsel did not appear in the case until December 10, 2021. Therefore, fees and expenses incurred prior to that date shall be paid by the Petitioner and not counsel. Fees and expenses incurred after that date shall be paid by Petitioner's counsel.

Accordingly, the Respondent, Jay Inslee, is awarded reasonable attorney fees and expenses in the total amount of \$28,384.70. \$9,588.80 of that amount shall be paid by the Petitioner, WA Election Integrity Coalition United. The remaining amount of \$18,795.90 shall be paid by Petitioner's counsel, Virginia Shogren.

A party aggrieved by this ruling may file a motion to modify the ruling not later than 30 days after this date; see RAP 17.7.

DATED at Olympia, Washington, this 17th day of May, 2022.



Sarah R. Pendleton
Supreme Court Deputy Clerk

EXHIBIT K



Bob Ferguson

ATTORNEY GENERAL OF WASHINGTON

Administration Division

PO Box 40100 • Olympia, WA 98504-0100 • (360) 753-6200

June 3, 2022

Office of Disciplinary Counsel
Washington State Bar Association
1325 Fourth Ave., Suite 600
Seattle, Washington 98101-2539

RE: Virginia Shogren Grievance

Counsel:

I am writing on behalf of the Attorney General's Office, in my role as Co-Chair of our Office's Ethics Committee, to inform you of violations of the Rules of Professional Conduct by attorney Virginia Shogren, WSBA No. 33939. These violations occurred in an original action in the Washington Supreme Court, *Washington Election Integrity Coalition United v. Inslee*, No. 100303-0 (*WEICU*). In violation of RPC 3.1, Ms. Shogren advanced baseless claims to undermine confidence in Washington's elections. The Washington Supreme Court Commissioner characterized the petition as "frivolous," *see* Attachment A at 1, 6, and the Court entered an order awarding sanctions against Ms. Shogren personally, *see* Attachment B.

The underlying litigation was initially filed on behalf of a nonprofit corporation and signed by its director. After the Governor pointed out that a corporation must be represented by an attorney, *see* Attachment C at 9-10, Ms. Shogren appeared on behalf of the Coalition. In her reply brief and at oral argument, Ms. Shogren advanced frivolous legal arguments and made allegations of voter fraud with no basis in fact. In effect, Ms. Shogren's actions improperly used the legal system to lend a veneer of credibility to baseless claims of election fraud.

There is no meaningful dispute that Ms. Shogren's legal arguments were frivolous in violation of RPC 3.1. The Washington Supreme Court Commissioner twice recognized this in his ruling terminating review. Attachment. A at 1, 6. The reasons that the legal arguments were frivolous are set forth in detail in the Governor's motion for sanctions. Attachment D at 4-8. Moreover, Ms. Shogren had specific knowledge that the legal arguments about certain essential elements were frivolous. Shortly before the *WEICU* litigation, Ms. Shogren had filed a *pro se* original action in the Washington Supreme Court, making substantially similar arguments, that the Commissioner also determined was frivolous. Attachment E at 1, 6.

ATTORNEY GENERAL OF WASHINGTON

Office of Disciplinary Counsel

June 3, 2022

Page 2

Even more troublingly, Ms. Shogren made factually baseless claims in her reply brief and at oral argument. In the reply brief, Ms. Shogren stated that the accompanying appendix “reflects preliminary findings of the number of registered non-citizens in sample counties” Attachment F at 14. Under the heading “NON-CITIZEN REGISTRATIONS IDENTIFIED TO DATE,” the Appendix claimed to have identified over 50,000 non-citizens registered to vote in Washington. *Id.* at RA-7. It also identified a list of BallotID numbers alleged to be a sample of non-citizens who had voted in the 2020 General Election in Spokane County. *Id.* at RA-8. Ms. Shogren repeated her allegations at the televised oral argument. *State ex rel. Wash. Election Integrity Coal. United v. Inslee*, No. 100303-0 (Dec. 29, 2021), at 3:50 through 11:30, and 22:30 through 22:50, *audio recording by* TVW, Washington State’s Public Affairs Network, <http://www.tvw.org>. At no time—in the reply brief, at oral argument, or even in response to a motion for sanctions—did Ms. Shogren identify any basis or methodology for her assertions. To the best of our office’s understanding, there is no such basis.

Further, a casual review of the documents in the appendix would indicate to a reasonable attorney that the information was not reliable or, at a minimum required further investigation before presentation in court as unqualified fact. One BallotID (88730622) is included twice. For another BallotID, a basic Google search¹ reflects that the individual in question had posted to Twitter in 2019 that he became a naturalized U.S. citizen, well in advance of the 2020 General Election. *See* <https://tinyurl.com/34x3myyf> (related to BallotID 936204). These red flags would cause any reasonably diligent attorney to investigate further before affirmatively making unqualified allegations of voter fraud in court filings and hearings. Unfounded and baseless allegations, like those made by Ms. Shogren have the predictable effect of undermining the public’s faith in our democratic institutions.

The Attorney General’s Office asks that you look into this matter and take further action as you deem appropriate.

Sincerely,

s/ Noah G. Purcell

NOAH G. PURCELL

Solicitor General

(360) 753-2536

Noah.Purcell@atg.wa.gov

¹ Through publicly available data, the BallotIDs can be matched to individual voters. *See* <https://www.sos.wa.gov/elections/research/2020-general-election.aspx>. We have included, as Appendix G, a spreadsheet identifying the names of voters associated with each BallotID for any appropriate consideration as part of your investigation.