

**SUPERIOR COURT OF WASHINGTON
COUNTY OF KING**

Washington Election Integrity Coalition
United, et. al,

Plaintiffs,

v.

Julie Wise, et al.,

Defendants,

and

Julie Wise, King County,

Counter-claimants,

v.

Washington Election Integrity Coalition
United,

Counterclaim Defendant.

Case No. 21-2-12603-7 KNT

**MOTION FOR DECLARATORY JUDGMENT
ON THE MEANING AND APPLICATION OF
RCW 29A.08.161 TO THE INSTANT ACTION**

RCW 7.24.020; CR 57

Pursuant to RCW 7.24.020 and CR 57, Plaintiff Washington Election Integrity Coalition United (“WEiCU”) brings the following Motion for Declaratory Judgment on the Meaning and Application of RCW 29A.08.161 to the Instant Action to terminate the uncertainty and controversy as to whether tabulated ballots are anonymous public records by law. The controversy is at the heart of WEiCU’s Public Records Action Claim (“PRA Claim”) and Defendants Julie Wise and King County’s (collectively “King County”) counterclaims against WEiCU.

**MOTION FOR DECLARATORY JUDGMENT
ON THE MEANING AND APPLICATION OF
RCW 29A.08.161 TO THE INSTANT ACTION**

Virginia P. Shogren, P.C.
961 Oak Court
Sequim WA 98382
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RELIEF REQUESTED

Pursuant to RCW 7.24.020 and CR 57, WEiCU respectfully requests a declaratory judgment from this Court, to wit: tabulated Washington State ballots are anonymous public records pursuant to RCW 29A.08.161, which provides in relevant part:

No record may be created or maintained by a state or local governmental agency or a political organization that identifies a voter with the information marked on the voter’s ballot

RCW 29A.08.161 (emphasis added).

STATEMENT OF FACTS

On September 22, 2021, WEiCU filed a PRA Claim against King County to compel the disclosure of public records in the form of original ballots, ballot images, spoiled ballots and returned [as undeliverable] ballots for the November 3, 2020 General Election. Verified Complaint, ¶¶49-56.

On October 13, 2021, King County removed the action to federal court, Western District of Washington, Case No. 2:21-cv-01394. On October 22, 2021, WEiCU filed a Motion to Sever and Remand the matter back to state court under 28 USC § 1441(c)(2).

On November 4, 2021, despite the pending Motion to Sever and Remand, King County filed a motion to dismiss WEiCU’s PRA Claim in federal court on grounds that, *inter alia*, Washington state case law exempts ballots from disclosure.

On November 8, 2021, King County further filed counterclaims in federal court against WEiCU on its PRA Claim seeking declaratory and injunctive relief against release of the 2020 General Election ballots and ballot images.

1 On September 30, 2022, the Federal Court denied King County’s motion to dismiss and re-
2 manded the action back to King County Superior Court, citing the state-law counterclaims filed by
3 King County as the basis for remand.

4 On January 6, 2023, King County re-filed its amended answer and counterclaims against
5 WEiCU in the remanded state court action. On January 25, 2023, WEiCU replied to King County’s
6 counterclaims.
7

8 King County contends in their counterclaims that cast ballots and ballot images may not be
9 examined because: 1) voter registration information is “considered confidential” (Counterclaim ¶ 12);
10 2) records relating to “election security” are not subject to public disclosure (Counterclaim ¶ 14); 3)
11 release of ballot records would “irreparably damage . . . person[s]” (Counterclaim ¶ 14); and, 4) re-
12 lease of voter signatures would “clearly not be in the public interest and would substantially and ir-
13 reparably damage voters” (Counterclaim ¶¶17-19).
14

15 Thus, a controversy has manifested that relates to the legal rights of WEiCU and also the legal
16 duties of King County, in that WEiCU contends that Washington state tabulated ballots are anony-
17 mous *by law* (RCW 29A.08.161), whereas King County contends inspection of ballots would violate
18 the privacy interests of King County voters, would “clearly not be in the public interest,” and would
19 “substantially and irreparably damage voters.” Counterclaim ¶¶25, 21, 14.
20

21 It is necessary and proper for the Court at this time to ascertain, determine and declare that
22 tabulated Washington State ballots are anonymous public records by law. RCW 29A.08.161.

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1 **STATEMENT OF ISSUE**

2 Question: Are tabulated Washington State ballots anonymous public records?

3 Answer: Yes, by statutory law, no record may be created or maintained by a state or local
4 governmental agency or a political organization that identifies a voter with the information marked on
5 the voter’s ballot. *See* RCW 29A.08.161.

6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7
8 Courts of record have the power to declare rights, status and other legal relations whether or
9 not further relief is or could be claimed. RCW 7.24.010. The declaration may be either affirmative or
10 negative in form and effect; and such declarations shall have the force and effect of a final judgment
11 or decree. *Id.*

12 The procedure for obtaining a declaratory judgment pursuant to the Uniform Declaratory
13 Judgments Act, RCW 7.24, shall be in accordance with the Civil Rules. The existence of another ad-
14 equate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate.
15 The court may order a speedy hearing of an action for a declaratory judgment and may advance it on
16 the calendar. Civil Rule 57.

17
18 A person whose rights or other legal relations are affected by a statute, may have determined
19 any question of construction or validity arising under the statute and obtain a declaration of rights,
20 status or other legal relations thereunder. RCW 7.24.020.

21
22 Tabulated ballot public records are anonymous:

23 *No record may be created or maintained by a state or local governmental agency or*
24 *a political organization that identifies a voter with the information marked on the*
25 *voter’s ballot*

26 RCW 29A.08.161 (emphasis added).

CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2023, I electronically filed the following documents with the Clerk of the Court using the King County Superior Court E-Filing System and caused a copy to be served upon the parties listed below via the method indicated:

NOTICE FOR HEARING

MOTION FOR DECLARATORY JUDGMENT ON THE MEANING AND APPLICATION OF RCW 29A.08.161 TO THE INSTANT ACTION

DECLARATORY JUDGMENT ON THE MEANING AND APPLICATION OF RCW 29A.08.161 TO THE INSTANT ACTION [PROPOSED]

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Via email: ABeane@perkinscoie.com

The foregoing documents were also served via email provided by the following *pro se* plaintiffs:

Doug Basler

Timofey Samoylenko

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: May 2, 2023

s/ Virginia P. Shogren

Virginia P. Shogren

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