

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

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WASHINGTON ELECTION	)	
INTEGRITY COALITION	)	
UNITED, et al.,	)	Washington State
	)	Supreme Court Case
Plaintiffs,	)	No. 102174-7
	)	
vs.	)	King County
	)	Superior Court Case
JULIE WISE, et ano.,	)	No. 21-2-12603-7 KNT
	)	
Defendants.	)	
	)	

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TRANSCRIPT OF PROCEEDINGS

VOL. 3

Monday, June 5, 2023

Transcribed from Audio Recording

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HEARD BEFORE:

THE HONORABLE LEROY MCCULLOUGH  
MALENG REGIONAL JUSTICE CENTER  
401 Fourth Avenue North  
Kent, Washington 98032

TRANSCRIBED BY: DOUGLAS ARMSTRONG, RPR  
Washington CCR No. 3444

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1 (Recording begins at 3:01 p.m.)

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3 THE BAILIFF: Court is now in session, the  
4 Honorable LeRoy McCullough presiding.

5 THE COURT: Thank you. Please be seated.  
6 Good afternoon.

7 Let me have the moving party on the case, the  
8 plaintiff, identify herself and identify the cause  
9 number for the record, and then I'll have the other  
10 parties identify themselves.

11 ATTY. SHOGREN: Thank you, Your Honor.  
12 Virginia Shogren for Washington Election Integrity  
13 Coalition United, acronym pronounced "we see you," in  
14 Cause Number 21-2-12603-7 KNT. And with me at  
15 plaintiff's table is Lawrence Hutt, my legal assistant.

16 THE COURT: Thank you and good afternoon.  
17 All right. And other counsel, please.

18 ATTY. SUMMERS: Your Honor, Ann Summers on  
19 behalf of King County defendants.

20 THE COURT: Thank you.

21 ATTY. HACKETT: David Hackett on behalf of  
22 King County defendants.

23 THE COURT: Thank you.

24 ATTY. ISAACSON: And Mari Isaacson on behalf  
25 of King County.

1 THE COURT: Thank you.

2 ATTY. HYATT: Good afternoon, Your Honor.

3 Heath Hyatt on behalf of the Washington State  
4 Democratic Central Committee.

5 THE COURT: Thank you very much.

6 Anything else other than the argument that we  
7 heard last week from any party before the Court makes  
8 some preliminary remarks? Ms. Shogren, anything?

9 ATTY. SHOGREN: Unless the Court would like  
10 me to comment on the proposed orders that came in this  
11 morning, I have -- or on the Waste Systems, Inc., case  
12 cited during oral argument on Friday?

13 THE COURT: No. That won't be necessary.  
14 I've not reviewed those orders because I haven't made a  
15 decision yet.

16 ATTY. SHOGREN: All right. Thank you.

17 THE COURT: And from the county, from the  
18 respondents, is there anything else?

19 ATTY. SUMMERS: No, Your Honor.

20 THE COURT: Okay. So let me begin by  
21 expressing my appreciation to all counsel. Welcome to  
22 all of you that are here.

23 You know that this is the opportunity for the  
24 Court to give its decision on the several issues that  
25 were before it, and in this situation, of course, some

1 people may be happier than others. That's the nature  
2 of what we do, but it's a very important matter.

3 I've been on the bench long enough to know  
4 that on occasion, there can be some very inappropriate  
5 exchanges between attorneys. So I want to state for  
6 the record my appreciation to all counsel for your  
7 professionalism during this very important session.

8 I would also like to thank the members of the  
9 public who were here last week, especially those of who  
10 you honored protocol requests.

11 Now, I need to tell you that some of you  
12 violated -- somebody violated the Court's orders. I  
13 asked that there not be cell phones. I asked that  
14 there not be transmissions. We did have some anyway.  
15 I found out about it afterwards, which is why we're not  
16 proceeding by Zoom because some of you or somebody --  
17 maybe not you in the room -- ignored the Court's  
18 orders. So that's why we're here in person. That's  
19 why we're ramping up on the protocol. I asked some  
20 people not to chat back and forth because it was  
21 distracting to the lawyers. Some people continued to  
22 chat anyway. So we're here in person, and so we're  
23 going to ask you to honor what the Court is asking you  
24 to do.

25 We have some people here that will be

1 assisting us with maintaining that particular protocol.  
2 Be reminded that we are using two courtrooms, this  
3 courtroom and then Judge Allred's, in case there are  
4 others that want to come in and need to be seated.

5 By further way of preliminary remarks, I'll  
6 indicate that no cell phones are to be in the  
7 courtroom, and there's to be no unauthorized  
8 transmission. If you feel the need to use your cell  
9 phone, feel free to leave the courtroom to retrieve it.  
10 Use it outside, and we'll go from there. Having said  
11 that, let me just share that note-taking is absolutely  
12 permissible, but no video or audio recording without  
13 prior permission of this Court.

14 As I understand it from plaintiff's counsel's  
15 closing arguments, some of the fundamental concerns  
16 before the Court today are, in this matter: addressed  
17 concerns about vote-flipping, party preference  
18 tracking, improper certification of the 2020 voting  
19 results. And there was some concern that some of the  
20 ballots might have been bound by loose zip ties, which  
21 might have, in the minds of some people, made it easier  
22 for those ballots to be compromised.

23 However, let me just share with you the  
24 specific purpose today. It is to offer the Court's  
25 decision on the several issues that were presented to

1 the Court. One was the plaintiff's motion for the  
2 declaratory judgment. Second was the plaintiff's  
3 motion for an order to show cause. Third item was the  
4 defendants' motion for summary judgment and related  
5 requests.

6 And we'll note for this record that the  
7 intervenor's status was previously granted, and counsel  
8 is present. They've already identified themselves.

9 For those of you who weren't here, I will  
10 tell you that the oral argument was had on Friday.  
11 Again, the arguments as well as the briefing were very  
12 professional. Thank you again for that. And today's  
13 decision will be reducing in writing -- to writing by  
14 the respective counsel. And then, when the amendments  
15 are made, it will come back to me for my signature.

16 Usually in these kinds of situations, the  
17 lawyers will tell you that there's a brief decision  
18 that's made. Sometimes it's five minutes; sometimes  
19 it's ten, depending on what the issues are. Today's  
20 decision is going to be a little bit longer because I  
21 believe that the topic is really important.

22 Historically, I will remind all of us that as  
23 of yesterday, we had an anniversary as it pertains to  
24 voting. June 4, 1919, Congress passed the 19th  
25 Amendment, which would legally guarantee the right of



1 American women to vote. Of course, following that and  
2 before that, we had decades of struggle to make sure  
3 that those rights were, in fact, secured.

4 Before the 19th Amendment, we had the 15th  
5 Amendment that was ratified February 3, 1870. It was a  
6 constitutional amendment that guaranteed the right of  
7 citizens to vote regardless of, quote, race, color, or  
8 previous condition of servitude. Just like the 19th  
9 Amendment, there were years of bitter struggle involved  
10 in actualizing and securing those rights.

11 The concept that each qualified person should  
12 have their right to vote protected and their votes  
13 properly considered is fundamental to this American  
14 democracy. So that the significance of the issues  
15 involved here today require a little bit more time than  
16 usual, I'm going to thank you in advance for your  
17 patience as we work through this particular case.

18 Now, the first item that we will cover is the  
19 motion to show cause on the public records claim. The  
20 plaintiffs request an order -- and this is a quote --  
21 "requiring the defendants, Julie Wise and King County,  
22 to permit the inspection, copying, testing, and/or  
23 photography of certain categories of public records  
24 requested by WEICU, namely original ballots, ballot  
25 images, spoiled ballots, and those ballots returned as

1 undeliverable concerning the November 3, 2020, general  
2 election."

3 According to plaintiffs, the relief requested  
4 is pursuant to RCW Chapter 42.56, the Public Records  
5 Act, specifically RCW 42.56.550(1), which reads as  
6 follows:

7 "Upon the motion of any person having been  
8 denied an opportunity to inspect or copy a public  
9 record by an agency, the superior court in the county  
10 in which a record is maintained may require the  
11 responsible agency to show cause why it has refused to  
12 allow inspection or copying of a specific public record  
13 or class of records."

14 RCW 42.56.550(1) is discretionary. It says  
15 that the court "may" order certain things as opposed to  
16 "shall."

17 It was undisputed in this hearing that the  
18 records sought fall within the definition of a public  
19 record, 42.56.010, parens (3) and (4).

20 I think it is undisputed further that under  
21 the judicial review dictates of Chapter 42.56 RCW, that  
22 the burden of proof shall be on the agency to establish  
23 that refusal to permit public inspection and copying is  
24 in accordance with a statute that exempts or prohibits  
25 disclosure and that said judicial review is to be

1 de novo, RCW 42.56.55(1) and (3). As I understand it,  
2 the plaintiff asserts that there is no statutory  
3 exemption for these voting records.

4 According to 42.56.550(3), courts shall  
5 consider the policy of Chapter 42.56; that is, that  
6 free and open examination of public records is in the  
7 public interest.

8 Under RCW 42.56.070(1), each agency, such as  
9 King County Records and Elections, "shall make  
10 available for public inspection and copying all public  
11 records unless the record falls within the specific  
12 exemptions of Subsection 8 of this section, this  
13 chapter, or other statutes which exempts or prohibits  
14 disclosure of specific information or records."

15 Again, the petitioner or plaintiff asserts  
16 that there is no statutory exception for election  
17 records. Respondents, however, assert that the records  
18 sought fall within the 42.56.070(1), quote, "other  
19 statute" exemption from disclosure, and that's what  
20 we're going to talking about.

21 Now, regarding ballots in particular, there's  
22 a section in the code, in the Revised Code of  
23 Washington, that addresses ballots. RCW 29A.60.110(1)  
24 requires that all ballots counted at a ballot-counting  
25 center must be sealed immediately after their

1 tabulation and be retained, quote, for at least 60 days  
2 or according to federal law, whichever is longer. The  
3 sealed containers, quote, may only be opened by the  
4 canvassing board as part of the canvass, to conduct  
5 recounts, to conduct a random check under RCW  
6 29A.60.170, to conduct an audit under RCW 29A.60.185,  
7 or by order of the superior court in a contest or  
8 election dispute.

9 This Court finds that none of those  
10 contingencies is present in this motion.

11 We'll also note that the Revised Code of  
12 Washington 434.261 -- I'm sorry -- 434-261-045 and  
13 WAC 434-250-110 are provisions that amplify the  
14 processes of 29A.60.110.

15 Specifically, RCW 29A.60.125 addresses  
16 ballots that are physically damaged or unreadable or  
17 uncountable by the tabulating system. According to  
18 that section, original and duplicate ballots must be  
19 sealed in secure storage at all times except during  
20 duplication, inspection by the canvassing board,  
21 tabulation, or to conduct an audit under 29A.60.185.

22 So that's the Revised Code of Washington.  
23 Let's now look at what the Constitution says of  
24 Washington State. Article 6, Section 6, Washington  
25 State Constitution requires that the legislature,

1 quote, provide for such method of voting as will secure  
2 to every elector absolute secrecy in preparing and  
3 depositing his ballot, unquote.

4 It has been suggested that this particular  
5 provision, the protections of this provision end at the  
6 deposit of the ballot. In this Court's opinion, that  
7 is a strained construction. It cannot be an absolute  
8 secrecy if the secrecy stops at the ballot, depositing  
9 the ballot. So it is this Court's reading that in  
10 preparing the ballot and depositing the ballot, the  
11 secrecy is maintained even after it is deposited.

12 The issue of where the ballots are to be  
13 exempted from public records disclosure was  
14 specifically addressed by a couple of cases in this  
15 jurisdiction or covering this jurisdiction. Court of  
16 Appeals Division 1, another show-cause hearing, there  
17 was a case of White vs. Skagit County decided July 13,  
18 2015. The White vs. Skagit County court made a couple  
19 of declarations that are relevant here.

20 What are some of those? One, the issue in  
21 this case is whether copies of ballots are exempt under  
22 a, quote/unquote, "other statute" delineation.

23 Another statement they made: An "other  
24 statute" exemption to public disclosure may be found  
25 even if it is not stated explicitly.

1           Third point they made: The statutory scheme  
2           controlling ballots in RCW Chapter 29A is very long and  
3           complex, and, therefore, how it expressly exempts  
4           ballots from public records disclosure cannot be found  
5           in just one quote from one statute. However, taken as  
6           a whole, RCW Chapter 29A expressly exempts election  
7           ballots from disclosures as public records.

8           Another point that they made in this White  
9           vs. Skagit County case: There is a constitutional  
10          mandate for, quote, absolute secrecy, unquote. They  
11          mention that ballots are exempt in their entirety, and  
12          they mention that the lack of statutory safeguards to  
13          protect the secrecy of the vote indicates the  
14          legislative -- that the legislature had no intention  
15          that ballots be subject to public disclosure. In other  
16          words, they determined in that particular case that  
17          ballots are exempt in their entirety.

18          The same issue was addressed by another case  
19          by our court of appeals. This is the superior court.  
20          Cases from this court go to the court of appeals, and  
21          we are bound by what the court of appeals decisions  
22          say. The same issue was addressed by Division II of  
23          the Court of Appeals' decision, July of 2017.

24          There, the plaintiff, White, submitted a PRA,  
25          Public Records Act, request that Clark County produce

1           ballots cast in the November 2013 election. White  
2           appealed the trial court's ruling that the ballots were  
3           exempt from disclosure under the Public Records Act.  
4           The court of appeals affirmed the trial court's denial  
5           of White's motion to show cause and dismissed White's  
6           Public Records Act action. This case, that is to say  
7           the Clark County case, addressed tabulated versus  
8           pretabulated ballots.

9                         After acknowledging the requirement for  
10           liberal construction of the PRA in favor of disclosure  
11           and after recognition that the agency bears the burden  
12           of establishing that an exemption to production  
13           applies, the Division II court determined, among other  
14           things, that whether a statute is an "other statute"  
15           exemption under RCW 42.56.070(1) is a question of law  
16           that, quote, we review de novo.

17                        They also stated that because RCW 29A.60.110,  
18           quote, is clear that tabulated ballots must remain  
19           sealed, there was no reason for the legislature to  
20           include an explicit exemption. They stated that  
21           RCW 29.60.110 requires that all ballots counted be  
22           sealed and retained.

23                        Now, the White vs. Clark County decision also  
24           noted that RCW 29A.60.110 includes unambiguous language  
25           that the sealed containers may only be opened in four

1           specific situations. It is that restriction on  
2           accessing the ballots, it says, that creates the  
3           exemption.

4                         In rejecting Plaintiff White's argument, that  
5           court ruled that administrative rule WAC 434-261-045  
6           could provide a PRA exemption. In fact, the court  
7           stated, "And we" -- and here's a quote. "We hold that  
8           WAC 434-261-045 constitutes an express, quote, other  
9           statute, unquote, exemption for tabulated ballots and  
10          ballot images."

11                        Regarding privacy such as would be suggested  
12          by the anonymous nature of the ballots -- and we talked  
13          about that at the very early stages of this hearing --  
14          the court held that 29A.60.110 and Washington  
15          Administrative Code 434-261-045 means that ballot  
16          exemptions apply to ballots in their entirety. And it  
17          says no amount of redaction will transform the ballots  
18          into some other type of record, unquote.

19                        This state's supreme court, which is higher  
20          than the court of appeals, declined review of both  
21          White vs. Skagit County and White vs. Clark County,  
22          both of those cases. Accordingly, the White trilogy of  
23          cases is precedential and would dictate the results  
24          herein. In contrast to other cases submitted by  
25          plaintiff, these White cases specifically and pointedly



1 address not some other issue, but they address the  
2 issue of voter and ballot privacy.

3 Accordingly, the motion to show cause and to  
4 order the defendants to permit inspection of the  
5 ballots is denied. This result is mandated by  
6 consideration of Article 6, Section 6 of the Washington  
7 State Constitution; RCW 29A.60.110 requiring sealing  
8 except under circumstances; 29A.60.125; and the  
9 established precedent on these precise issues that have  
10 been considered by the State Court of Appeals,  
11 Divisions I and II.

12 As the petitioner's counsel accurately  
13 observed, accurately observed in its closing, the  
14 legislature passes the laws, and it's up to the courts  
15 to construe or interpret them.

16 Regarding the motion for declaratory  
17 judgment -- oh, let me just indicate also there was an  
18 argument about a bill that was passed in 2023, Senate  
19 Bill 5459. As to whether or not that was retroactive,  
20 I do not make that conclusion. I think it  
21 inferentially supports the conclusion that the PR A  
22 exemption includes the election records, but I am not  
23 convinced on the record that was made that that  
24 particular legislation is retroactive or that it  
25 defines the results to be followed.

1                   Moving on to the motion for declaratory  
2 judgment. It is stated in RCW 7.24.120 that the  
3 chapter is declared to be remedial. It is not to be  
4 given for or used for advisory opinions. Its purpose  
5 is to settle and afford relief, quote, with respect to  
6 rights, status, and other legal relations. Consistent  
7 with this -- and other relations.

8                   Consistent with this, the court may refuse to  
9 render or enter a declaratory judgment or decree where  
10 such, quote, would not terminate the controversy giving  
11 rise to the proceeding, unquote. I refer you to  
12 7.24.060.

13                   With that in mind, the petitioner's requested  
14 declaration that the tabulated Washington State ballots  
15 are anonymous public records pursuant to RCW 29A.08.161  
16 would not, quote, terminate the uncertainty or  
17 controversy giving rise to the proceeding because the  
18 issue is whether or not the ballot records are, in  
19 fact, exempt. This is especially so in light of the  
20 White vs. Clark County pronouncement that the issue of  
21 redaction -- i.e., privacy -- is immaterial.

22                   Tabulated ballots are exempt in their  
23 entirety from disclosure under the PRA and the cited  
24 RCW 29A.60.110. And the requested declaration does  
25 nothing to settle or afford relief with respect, as I

1           said, to the ultimate question, the absolute  
2           constitutional secrecy of the ballots.

3                         Accordingly, although the Court would agree  
4           that the ballots are anonymous -- and we made that  
5           determination preliminarily -- the Court exercises its  
6           option under RCW 7.24.060 to decline to enter the  
7           requested declaratory judgment. Plaintiff's fight, if  
8           you will, unquote, or remonstrance actually is with  
9           the rulings of the appellate courts of this state  
10          and/or with the legislature, and that's what needs to  
11          happen. So the motion by plaintiff for a declaratory  
12          judgment is denied. The PRA claims are accordingly  
13          dismissed.

14                        Let me go on to something else. As a second  
15          basis for dismissal, the parties have acknowledged that  
16          there was no attorney signature for this to the  
17          complaint was that filed in this court. This Court was  
18          presented with no persuasive or controlling authority  
19          that laches applies; in other words, that by proceeding  
20          through the courts, the respondents gave up their right  
21          to claim a CR 11 violation.

22                        The complaint filed by a corporate body must  
23          bear the signature of an attorney, and that's  
24          specifically laid out in CR 11. And to date, no such  
25          signature is attached to the complaint.

1           Relative to that provision, there's a case  
2           called Dutch Village Mall LLC vs. Pelletti,  
3           P-E-L-L-E-T-I [sic], 162 Wn. App. 531, a 2011 case,  
4           wherein the language appears as follows:

5           "CR 11 provides if a pleading is not signed,  
6           it shall be stricken unless it is signed promptly after  
7           the omission is called to the attention of the pleader.  
8           When a corporate entity presents a pleading not signed  
9           by an attorney, CR 11 is a proper basis for striking  
10          the pleading." And that's at page 539 of that  
11          particular case.

12          The absence of the signature was called to  
13          the attention of the pleader; that is to say the  
14          plaintiff in this case. However, as of Friday, there  
15          was no attorney signature attached to the complaint.

16          As a matter of law, the corporate entity is  
17          obligated to have its legal claims presented in court  
18          through a licensed attorney, and that Dutch Village  
19          Mall case talks about why we need to do this. They  
20          state that a major reason for prohibiting the conduct  
21          of litigation by a nonlawyer is because it creates  
22          burdens for everybody involved. And so they want to  
23          make sure that the pleadings, the arguments, and so  
24          forth are done in accord with the rules.

25          Accordingly, the defense motion to strike the

1 pleadings is granted, and the plaintiff's counsel's  
2 representation in court pursuing the claim that was not  
3 signed cannot alter the result dictated by Dutch  
4 Village vs. Pelletti.

5 The defendants have asked the Court to  
6 dismiss the case on the basis of standing. The Court  
7 is declining to do so. The defendants presented a  
8 Rhode Island case as precedent. I don't believe that  
9 that's enough for me to state that people who are  
10 concerned about voting shouldn't have the opportunity  
11 to at least bring their matters to court.

12 Now we go to RCW 29A.68.013. This has to do  
13 with timeliness. This says that "Any judge of the  
14 superior court in the proper county shall, by order,  
15 require any person charged with error, wrongful act, or  
16 neglect forthwith" -- that's that formal language that  
17 they love to use, "forthwith"/immediately -- "correct  
18 the error whenever it is made to appear to such judge  
19 by affidavit or an elector -- affidavit of an elector  
20 that an error" -- and this is paren (3) -- "or omission  
21 has occurred or is about to occur in the official  
22 certification of any primary or election, including a  
23 challenge to the certification of any measure.

24 "An affidavit of an elector under this  
25 subsection shall" -- not "may" -- "shall be filed with

1 the appropriate court no later than ten days following  
2 the official certification of the primary or election  
3 as provided in the relevant statutes or, in the case of  
4 a recount, ten days after the official certification."

5 At its core, the issue before the Court is  
6 the 2020 election. Plaintiff's claim herein was filed  
7 in 2021, more than, quote, ten days following the  
8 official certification. Based on this statute as well,  
9 the plaintiff's claim may not be considered and would  
10 be appropriately dismissed.

11 Let's go now, finally, to the motion for  
12 summary judgment. I told you this was going to be a  
13 long hearing, a long reading.

14 The respondents request that the Court  
15 dismiss the pro se plaintiffs' claims because there's  
16 been no response, no competent evidence to support the  
17 summary judgment. And I have received nothing from the  
18 petitioners, from the pro se plaintiffs. And that  
19 being the case, that would be granted.

20 But the summary judgment dismissal of the  
21 WEICU is going to require a little bit more  
22 conversation. The respondents have requested that the  
23 Court strike the petitioner's Exhibit D. They are  
24 saying that it was an anonymous -- by an anonymous  
25 declarant. At the hearing, I heard about why that

1 person's signature was not there and why that person  
2 might have remained anonymous. This is concerning  
3 Exhibit D.

4 The summary judgment proceedings are governed  
5 by Civil Rule 56. A summary judgment is to be, quote,  
6 rendered forthwith -- that word again, immediately --  
7 if the pleadings, together with the affidavits, if any,  
8 show that there is no genuine issue as to any material  
9 fact and that the moving party is entitled to judgment  
10 as a matter of law.

11 Civil Rule 56(e) requires that supporting and  
12 opposing affidavits shall -- not "may" or "should" --  
13 shall be made on personal knowledge and shall -- not  
14 "maybe" -- set forth such facts as would be admissible  
15 in evidence. In other words, the idea is if you're  
16 asking for summary judgment or if you're responding to  
17 a summary judgment, what is it that would be presented  
18 in trial?

19 And, C, the supporting and opposing  
20 affidavits shall show affirmatively that the affiant is  
21 competent to testify to the matters stated within that  
22 particular document.

23 A party adverse to the summary judgment  
24 motion may not rest upon mere allegations or denials,  
25 but must -- not "maybe" -- but must set forth specific

1 facts showing that there is a genuine issue for trial.  
2 So not only must there be some issue of fact, but it  
3 has to be a genuine issue, and it has to be material or  
4 it needs to make a significant difference.

5 With the foregoing in mind, the respondents'  
6 motion, then, to strike the plaintiff's Exhibit D is  
7 granted. The submittal is not signed. The signature  
8 block is, in fact, redacted. The submittal purports to  
9 delineate the respondents' errors in certifying the  
10 2020 election results. As such, the Exhibit D  
11 submittal fails to show that its anonymous affiant is  
12 competent to testify to the matters presented in that  
13 submittal, nor does it sufficiently show personal  
14 knowledge of the matters asserted therein, Civil  
15 Rule 56. So the State's -- the defendants' motion is  
16 granted.

17 Further, the plaintiff's fundamental concerns  
18 are with what they have talked to me about:  
19 vote-flipping, tracking, party preference, improper  
20 certification. To prove its concerns, the petitioner  
21 is asking this Court to order the election ballots  
22 released to it under the Public Records Act so that the  
23 plaintiff can review those things. There is nothing of  
24 record to show that the concerns about vote-flipping,  
25 party preference, and so forth would be revealed by the



1 release of the records sought.

2 More importantly, the dispute over the  
3 process of managing and counting the ballots does not  
4 rise to the level of a genuine issue of material fact  
5 as it pertains to the request for release of ballot  
6 records. In other words, the courts have already  
7 said -- the appellate courts have already said that the  
8 ballots are exempt from public disclosure.

9 That means that these, then, facts that have  
10 been presented to the Court as disputed facts are not  
11 material. They do not change the ultimate question  
12 before the Court as to whether or not there is a PRA  
13 exemption of voting records.

14 In addition, as we talked about the claim,  
15 the pleading is not signed by the attorney. In  
16 addition, I would note that the claims do not comply  
17 with 29A.68.013 in terms of the time that we talked  
18 about earlier.

19 So there is no genuine issue of material fact  
20 under CR 56(e) or CR 56(c). And the plaintiff simply  
21 must -- may not rest or rely on the pleadings  
22 themselves, but there needs to come -- they need to  
23 come forward with some proof that would be admissible  
24 as if we were in a trial.

25 Accordingly, the respondents' motion for

1 summary judgment is granted as to all claims and  
2 plaintiffs. Respondents' requested declaratory relief  
3 is granted per 7.24.020, 7.24.060, and 7.24.120.

4 As a matter of law, the Court is ruling that  
5 the respondents may not release ballots, ballot images,  
6 or voter signatures for public inspection or copying  
7 under the PRA. In contrast to the plaintiff's claim  
8 for a different declaratory relief, this Court believes  
9 that the respondents' claims do terminate,  
10 quote/unquote, the uncertainty or controversy giving  
11 rise to the proceeding, which is a requirement under  
12 7.24.060.

13 And in light of the prior rulings in this  
14 case, the plaintiffs -- the respondents' request for  
15 relief for permanent injunction is not necessary and is  
16 declined.

17 That's the Court's ruling. I will allow the  
18 parties to prepare the order and/or to refer,  
19 incorporate by reference the Court's oral rulings.

20 On the motion for summary judgment, is there  
21 anything from the moving party?

22 ATTY. SUMMERS: No, Your Honor.

23 THE COURT: On the other motions, is there  
24 anything from the moving party?

25 ATTY. SHOGREN: No, Your Honor.

1 THE COURT: Thank you very much. This matter  
2 is adjourned.

3 THE BAILIFF: All rise.

4 (Recording ends at 3:40 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON )  
 )  
COUNTY OF KING )

I, a Reporter and Washington Certified Court Reporter, hereby certify that the foregoing audio-recorded proceeding was transcribed under my direction; that the transcript of the proceeding is a full, true and correct transcript to the best of my ability; that I am neither attorney for nor a relative or employee of any of the parties to the action or any attorney or counsel employed by the parties hereto nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of August, 2023.

Douglas Armstrong, RPR

\_\_\_\_\_  
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