

Honorable Ronald Castleberry  
KING COUNTY  
SUPERIOR COURT CLERK  
Noted on Motion Calendar:  
E-FILED  
Date: April 29, 2011  
CASE NUMBER: 10-2-41119-4 SEA  
Time: 1:00 p.m.  
Department 9

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SUPERIOR COURT OF WASHINGTON  
FOR SNOHOMISH COUNTY

MARTIN RINGHOFER,	)	No. 10-2-41119-4 SEA
	)	
Petitioner,	)	
	)	
v.	)	<b>PETITIONER’S OPPOSITION TO</b>
	)	<b>RESPONDENT’S MOTION FOR</b>
LINDA K. RIDGE, in her official capacity as	)	<b>SUMMARY JUDGMENT</b>
Deputy Chief Administrative Officer of the King	)	<b>DISMISSAL</b>
County Superior Court,	)	
	)	
Respondent.	)	
_____	)	

**INTRODUCTION**

This case is about the constitutional and common law right of the public to access court records. Petitioner Martin Ringhofer is a concerned citizen and registered voter who requested access to court records from Respondent Ridge concerning persons who have been called for jury duty, but who were disqualified for statutory reasons. Persons disqualified as jurors are often disqualified for reasons that would also disqualify them from registering to vote. Nevertheless, disqualified voters are on the State voter registration list. Petitioner seeks

1 access to this Court’s disqualified juror records in the interest of ensuring government and  
2 judicial transparency, as well as the integrity of the juror selection and voter registration  
3 processes.

4 Respondent has blocked Petitioner’s efforts to access the requested court records and  
5 has now moved for summary judgment arguing (1) that Petitioner does not meet the “entitled  
6 to judgment as a matter of law” standard of summary judgment; (2) that GR18(d) and RCW  
7 2.36.072(4) disallow dissemination of juror qualification responses; (3) that Petitioner cannot  
8 obtain non-juror information under GR31(j) because that rule only applies to information  
9 regarding jurors who were called to serve for that trial, not disqualified jurors; and (4) that  
10 state law restrictions on the disclosure of preliminary juror qualification information are  
11 constitutional.

12 The Court should deny the Respondent’s motion for the reasons addressed below.<sup>1</sup>

13 **STATEMENT OF FACTS**

14 On February 10, 2010, Petitioner requested the King County Department of Judicial  
15 Administration access to certain information about non-jurors: The term “non-juror” refers to  
16 all individuals who were potential jurors that were not impaneled on the jury because they  
17 were disqualified pursuant to RCW 2.36.070. *See* Ringhofer Decl., Ex. A. Non-jurors have  
18 no stake in the outcome of the trial for which they were summoned.

19 By letter dated March 5, 2010, Petitioner was notified by the King County Department  
20 of Judicial Administration that he should contact Respondent Ridge about his request.

21 Ringhofer Decl., Ex. B.

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<sup>1</sup> Respondent argues that it does not appear that Petitioner has served the attorney general with a copy of the  
Petition and that constitutional questions are barred by RCW 7.24.110. Respondent’s assumption is incorrect.

1 On October 16, 2010, Petitioner requested from Respondent access to documents  
2 containing the following:

- 3 a. Names and addresses of all non-jurors in the King County Superior  
4 Court from January 1, 2009, through December 31, 2009.
- 5 b. The date of each non-juror's disqualification.
- 6 c. Reasons for disqualification: (1) less than eighteen years of age; (2) not  
7 a citizen of the United States; (3) not a resident of the county in which he or she has been  
8 summoned to serve; (4) not able to communicate in the English language; (5) convicted of a  
9 felony and has not had his or her civil rights restored; or (6) other self-disqualifications. *See*  
10 RCW 2.36.070. Ringhofer Decl., Ex. C.

11 On October 26, 2010, Petitioner received a letter from Respondent stating that the  
12 Public Records Act does not apply to the judicial branch. Ringhofer Decl., Ex. D. The letter  
13 also indicated that pursuant to GR 31(k) information relating to the master jury source list is  
14 presumed to be private, other than names and addresses. *Id.* Respondent stated that a copy of  
15 the master jury source list was available for public viewing at the King County courthouse,  
16 but that pursuant to RCW 2.36.072(4) and GR 18(d), juror information may only be used by  
17 the court for the term such person is summoned and may not be used for any other purpose.

18 Respondent refused to provide Petitioner with the individual names, addresses, and  
19 associated reasons for disqualification or excuse from service from the term specified, as  
20 requested. Instead Respondent provided Petitioner with the total numbers of persons from  
21 January 1, 2008 to December 31, 2009, who sought disqualification due to the five statutory  
22

23 See Declaration of Richard M. Stephens in Opposition to Respondent's Motion for Summary Judgment  
Dismissal.

1 grounds provided by RCW 2.36.070. Ringhofer Decl, Ex. D. Because of Respondent's  
2 failure to provide the individualized information, Petitioner was not able to cross-check the  
3 voter registration list with the non-juror list to identify persons who claimed lack of  
4 citizenship status as a reason for disqualification but who had unlawfully registered to vote.

5 On November 22, 2010, Petitioner filed a Petition with this Court seeking redress for  
6 the Respondent's failure to provide all the information he requested. On March 31, 2011,  
7 Petitioner and Respondent filed cross-motions for summary judgment.

## 8 ARGUMENTS

### 9 I 10 PETITIONER MET HIS BURDEN OF SHOWING THAT HE IS 11 ENTITLED TO SUMMARY 12 JUDGMENT AS A MATTER OF LAW

12 In his motion for summary judgment, Petitioner Ringhofer established that there is no  
13 genuine issue as to any material fact and that he is entitled to judgment as a matter of law.  
14 Pet'r Mot. Summ. J. 4. Respondent Ridge disputes that Petitioner is entitled to judgment as a  
15 matter of law arguing that Petitioner does not meet the high burden for mandamus, injunctive  
16 or declaratory relief, or relief under GR 31. Resp't Mot. Summ. J. 6, 7. In the summary  
17 judgment section of her motion, the Respondent only expounds on the petitions for writ of  
18 mandamus and for declaratory relief. As such, Petitioner narrows his focus in this section to  
19 addressing only the petitions for writ of mandamus and for declaratory relief. The other  
20 grounds for relief; a petition under the common law, a petition based on the Federal and State  
21 Constitutions, and a Petition for Judicial Review under GR 31; are discussed in later sections.

1 **A. Petition for Writ of Mandate under RCW 7.16.150, et seq.**

2 Respondent argues that Petitioner is not entitled to summary judgment because he  
3 cannot meet the high burden required for mandamus. Resp't Mot. Summ. J. 7. Mandamus is  
4 an appropriate means to compel a state official to comply with the law when the claim is clear  
5 and there is a duty to act. *Paxton v. City of Bellingham*, 129 Wn.App. 439, 444-445, 119 P.3d  
6 373 (2005); RCW 7.16.160. An applicant for a writ of mandamus must satisfy three elements  
7 before a writ will issue: (1) the party subject to the writ is under a clear duty to act; (2) the  
8 applicant has no plain, speedy and adequate remedy in the ordinary course of law; and (3) the  
9 applicant is beneficially interested. RCW 7.16.160-170; *Eugster v. City of Spokane*, 118  
10 Wn.App. 383, 402, 76 P.3d 741 (2003). An applicant for a writ of mandamus is beneficially  
11 interested in the issuance of the writ if the applicant has an interest in the action beyond that  
12 shared in common with other citizens. *Id.* at 403 (finding that appellees were beneficially  
13 interested in the land at issue because of their stake and security interest in the land).

14 The writ must be issued in all cases where there is not a plain, speedy  
15 and adequate remedy in the ordinary course of law. It must be issued  
upon affidavit on the application of the party beneficially interested.

16 RCW 7.16.170.

17 Respondent cites *Walker v. Munro*, 124 Wn.2d 402, 410, 879 P.2d 920 (1994), where  
18 the Supreme Court of Washington dismissed the case and refused to issue a writ of mandamus  
19 because the law in dispute had not yet been enacted and the state officers' duties were  
20 discretionary. Respondent also cites *Brown v. Owen*, 165 Wn.2d 706, 725 (2009), where the  
21 Supreme Court of Washington dismissed the case and refused to issue a writ of mandamus  
22 mandating that the lieutenant Governor and President of the Senate forward a Senate bill to  
23

1 the House of Representatives because the officers' duties were discretionary and the matter  
2 concerned a political question.

3 In contrast to *Walker* and *Brown*, in the present case, both RCW 2.36.072(4) and the  
4 constitutional provisions are well-established. A writ of mandamus could issue because the  
5 constitutional question is ripe to be decided. Respondent Ridge has a nondiscretionary duty  
6 under the United States and Washington Constitutions and common law to provide access to  
7 court records to members of the public who properly seek them, and who have constitutional  
8 and common law rights to access the court records, such as Petitioner. Respondent has failed  
9 to perform such duties in compliance with the law.

10 Petitioner has no other plain, speedy and adequate remedy in the ordinary course of  
11 law. If a writ of mandate is not issued, Petitioner will continue to be deprived of his right to  
12 access court records.

13 Petitioner is beneficially interested in the relief sought because he is the person who  
14 has requested court records protected by federal and state constitutional and common law  
15 open courts provisions and as a voter in King County who seeks to ensure that ineligible  
16 voters are unable to influence elections in the County. Petitioner has met all three elements  
17 for a writ of mandamus to issue. The Court should compel Respondent to provide the  
18 requested non-juror records.

19 **B. Complaint for Declaratory Relief under RCW 7.24.010, et seq.**

20 Respondent argues that Petitioner does not meet the high burden for declaratory relief.  
21 Resp't Mot. Summ. J. 7. For her argument that Petitioner must prove beyond a reasonable  
22 doubt that the state statute is unconstitutional, Respondent relies solely on *Clements v.*  
23 *Fashing*, 457 U.S. 957, 963 (1982) and *Miller v. United States*, 73 F.3d 878, 881 (9th Cir.

1 1995). However, nowhere in either opinion does the court state nor even insinuate that a  
2 party challenging a statute must show beyond a reasonable doubt that the statute is  
3 unconstitutional. *Clements* and *Miller* are easily distinguished and not relevant to the facts or  
4 law in the case at hand. *Clements* dealt with a state statute that was challenged based on the  
5 Equal Protection Clause of the Fourteenth Amendment. *Miller* dealt with an Act of Congress  
6 that was challenged based on the Equal Protection Clause of the Fifth Amendment. The  
7 *Miller* citation that Respondent relies on states, “With respect to plaintiff’s equal protection  
8 claim, we note first that ‘an act of Congress comes to us clothed with a presumption of  
9 constitutionality, and the burden is on the plaintiff to show that it violates due process.’”  
10 *Miller v. United States*, 73 F.3d 878, 881 (9th Cir. 1995) (citing *In re Consolidated United*  
11 *States Atmospheric Testing Litig.*, 820 F.2d 982, 990 (9th Cir. 1987)). Again, *Miller* is not  
12 relevant because in the present case, Petitioner is not challenging an Act of Congress.  
13 Petitioner is also not seeking relief based on an equal protection claim.

14       The widely-recognized four part test for declaratory relief requires that a party must  
15 establish (1) an actual, present, and existing dispute, (2) between parties having genuine and  
16 opposing interests, (3) involving direct and substantial interests, and (4) where a judicial  
17 determination will be final and conclusive. *City of Spokane v. County of Spokane*, 158 Wn.2d  
18 661, 678 n. 7, 146 P.3d 893 (2006). The interest that the petitioner seeks to protect must also  
19 be “‘arguably within the zone of interests to be protected or regulated by the statute or  
20 constitutional guarantee in question.’” *Snohomish County Prop. Rights Alliance*, 76 Wn.App.  
21 44, 52, 882 P.2d 807 (1994) (internal quotation marks omitted) (quoting *Trepanier*, 64  
22 Wn.App. 380, 382, 824 P.2d 524 (1992)).

1           Petitioner meets the four-part test for declaratory relief. Petitioner and Respondent  
2 have genuine and opposing interests. Petitioner contends that he has a constitutional and  
3 common law right to access the non-juror records he requested from Respondent on October  
4 16, 2010. Respondent's letter of denial from October 26, 2010 evidences her opposing  
5 interest and refusal to grant Petitioner access to the court records sought. Ringhofer Decl.,  
6 Ex. D.

7           This case involves direct and substantial interests. Petitioner is a person whose rights  
8 and legal relations depend upon the construction of GR 31, RCW 7.16.150 RCW 7.24.010 in  
9 accordance with Article I, Section 10 of the Washington Constitution and the First and Sixth  
10 Amendments to the U.S. Constitution. Petitioner is entitled to a declaration of rights and  
11 obligations because of the United States Supreme Courts' strong presumption favoring the  
12 public's common law right to inspect and copy judicial records in absence of improper  
13 purpose. He also has a clear legal right to access court records according to the open court  
14 doctrine established under Article I, Section 10 of the Washington Constitution and the First  
15 and Sixth Amendments to the U.S. Constitution. Respondent's decision to deny Petitioner's  
16 request impinged on these rights. In addition, Petitioner's request is in the public interest  
17 because it promotes transparency and insures the integrity of the juror selection and voter  
18 registration processes. A declaration of rights by this Court will terminate the controversy  
19 between Petitioner and Respondent.

20           Finally, RCW 7.24.120 has a remedial purpose. The statute states,

21                     This chapter is declared to be remedial; its purpose is to settle and to  
22                     afford relief from uncertainty and insecurity with respect to rights,  
23                     status and other legal relations; and is to be liberally construed and  
                      administered.



1 This Court should enter a declaratory judgment in favor of Petitioner’s request for  
2 non-juror records.

3 As argued in detail *infra*, there is no genuine issue as to any material fact and the  
4 Petitioner is entitled to judgment as a matter of law. This case depends solely on the  
5 interpretation of common law, the federal and State constitutions, two court rules and several  
6 statutes—GR 31, GR 18(d), RCW 2.36.072(4), RCW 7.16.150 and RCW 7.24.010. This case  
7 is one of statutory construction; thus, resolution by summary judgment is appropriate. *City of*  
8 *Pasco v. Pub. Employment Relations Comm'n*, 119 Wn.2d 504, 507, 833 P.2d 381 (1992).  
9 However, it is Petitioner’s, and not Respondent’s, that should be granted.

10  
11 **II**  
12 **RESPONDENT WAS NOT WITHIN RIGHT TO WITHHOLD**  
13 **REQUESTED COURT RECORDS PURSUANT TO**  
14 **GR 18(D) & RCW 2.36.072(4)**

15 **A. PETITIONER’S LEGAL RIGHT TO THE REQUESTED RECORDS**

16 Respondent states that Washington courts do not recognize a Public Records Act  
17 (“PRA”) right to inspect court records. Resp’t Mot. Summ. J. 7. Respondent neglects to  
18 mention that the courts’ rationale for not recognizing court records under the PRA is because  
19 courts widely-recognize the common law right of access to court records. *Nast v. Michaels*,  
20 107 Wn.2d 300, 304, 730 P.2d 54, 56-57 (1986) (the court affirmed the trial court’s decision  
21 based on the fact that the common law provided a right of access to court case files); *see also*  
22 *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978) (holding, “[i]t is clear that  
23 the courts of this country recognize a general right to inspect and copy public records and  
documents, including judicial records and documents.”) (emphasis added).

1           Aside from his initial PRA request, Petitioner has also sought the requested court  
2 records by a petition under the common law, petition based on the Federal and State  
3 Constitutions, a Petition for Judicial Review under GR 31, a Complaint for Declaratory  
4 Relief, and a Petition for a Writ of Mandate under RCW 7.16.150, et seq. Pet'r Mot. Summ.  
5 J. 5; *see also* Pet. & Compl.

6       **B.       RESTRICTIVE APPLICATION OF GR 18(D) AND RCW 2.36.072(4) IN**  
7       **LIGHT OF GR 31 IS UNCONSTITUTIONAL**

8           Respondent argues that pursuant to GR 18(d) and RCW 2.36.072(4), the requested  
9 records can only be used for the purpose of preliminarily determining juror qualification.  
10 Resp't Mot. Summ. J. 7. However, Respondent's interpretation of GR 18(d) and RCW  
11 2.36.072(4) would unconstitutionally restrict Petitioner's access and proposed use of the non-  
12 juror records.

13           According to RCW 2.36.072(4), information provided to the court for preliminary  
14 determination of statutory qualification for jury duty may only be used for the term such  
15 person is summoned and cannot be used for any other purpose, "except that the court, or  
16 designee, may report a change of address or nondelivery of summons of persons summoned  
17 for jury duty to the county auditor." RCW 2.36.072(4).

18           Similarly, GR 18(d) states, "Information so provided to the court for preliminary  
19 determination of qualification for jury duty may only be used for the term such person is  
20 summoned and may not be used for any other purpose." Wash. GR 18(d) (2010).

21           For the reasons that follow, Petitioner contends that GR 18(d) and RCW 2.36.072(4)  
22 cannot be used to unlawfully inhibit his use of non-juror records in contravention of federal  
23 and state constitutions' open court provisions.

1  
2 **1. Court rules cannot be interpreted to circumvent or supersede  
constitutional mandates or deprive one of constitutional rights.**

3 Court rules cannot be interpreted to circumvent or supersede constitutional mandates  
4 or deprive one of constitutional rights. *State v. Coleman*, 151 Wn.App. 614, 622, 214 P.3d  
5 158, 161 (2009).

6 The First and Sixth Amendments of the U.S. Constitution and Article I, Section 10 of  
7 the Washington Constitution expressly guarantee Petitioner a right to open proceedings. *See*  
8 *Coleman*, 151 Wn.App. at 619 (citing *State ex rel. Beacon Journal Publ'g Co. v. Bond*, 781  
9 N.E.2d 180, 190 (Ohio 2002) (court held that the First Amendment qualified right to open  
10 proceedings extends to prospective juror questionnaires) (footnote omitted) (emphasis added);  
11 *see also State v. Duckett*, 141 Wn. App. 797, 803 (2007). The public has a right to be present  
12 whether or not any party has asserted their Sixth Amendment right to a public trial. *See*  
13 *Presley v. Georgia*, --- U.S. ----, 130 S.Ct. 721, 724-25(2010). In recognizing the public's  
14 right to an open proceeding, the Court of Appeals relies upon the U.S. Supreme Court's  
15 interpretation of the Sixth Amendment. *State v. Paumier*, 155 Wn. App. 673, 230 P.3d 212  
16 (2010). The Sixth Amendment is intended to foster public understanding and trust in the  
17 judicial system and to apply the check of public scrutiny on judges. *Coleman*, 151 Wn.App.  
18 at 619-620 (finding that the trial court violated the public's right to an open proceeding after it  
19 closed a portion of *voir dire*). *Id.*

20 The Washington Constitution expressly guarantees that “[j]ustice in all cases shall be  
21 administered openly, and without unnecessary delay.” W.A. Const. art. I, § 10 (emphasis  
22 added); *see also State v. Easterling*, 157 Wn.2d 167, 174, 137 P.3d 825 (2006); *State v. Vega*,

1 144 Wn. App. 914, 916-17 ( 2008); *Seattle Times Co. v. Ishikawa*, 97 Wn.2d 30, 36, 640 P.2d  
2 716 (1982).

3 In this case, Respondent states in her denial letter that GR 18(d) restricts Petitioner's  
4 access to and use of the non-juror information. *See* Ringhofer Decl., Ex. D. Given the  
5 *Coleman* holding that the First Amendment qualified right to open proceedings extends to  
6 prospective juror questionnaires, GR 18(d) cannot be interpreted to deprive Petitioner of his  
7 constitutional right to access the court records under the open court doctrine.

8 **2. Statutes that are in derogation of the common law are to be construed**  
9 **narrowly.**

10 A standard principle of statutory construction calls for statutes that are in derogation of  
11 the common law are to be construed narrowly. *Estate of Haselwood v. Bremerton Ice Arena,*  
12 *Inc.*, 166 Wn.2d 489, 498, 210 P.3d 308 (2009). There is a strong presumption in favor of the  
13 common law right of the public to inspect and copy judicial records. *United States v. James,*  
14 663 F. Supp. 2d 1018, 1020 (W.D. Wash. 2009); *see also In re Application of National*  
15 *Broadcasting Co.*, 653 F.2d 609, 612 (D.C. Cir. 1981) (stating that the existence of the  
16 common law right to inspect and copy judicial records is indisputable); *Foltz v. State Farm*  
17 *Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003); *Nast*, 107 Wn.2d at 303-304.

18 The United States Supreme Court recognizes the importance of a citizen's desire to  
19 keep a watchful eye on the workings of public agencies and a publisher's intention to publish  
20 information concerning the operation of government. These interests are sufficient to compel  
21 disclosure of judicial records. *In re McClatchy Newspapers, Inc.*, 288 F.3d 369, 371 (9th Cir.  
22 Cal. 2002) (citing *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978)). As  
23

1 such, RCW 2.36.072(4) is in derogation of the common law, so it must be construed  
2 narrowly, which leads to the release of court records.

3 To the extent RCW 2.36.072(4) and GR 18(d) prohibit disclosure of the information  
4 sought by Petitioner, they both conflict with the Washington Court of Appeals' interpretation  
5 of Article I, Section 10 as protecting and ensuring the right of public access to court records  
6 and court proceedings. *Coleman*, 151 Wn.App. at 620.

7 Whether this court rule or RCW 2.36.072(4) are unconstitutional on their face or  
8 unconstitutional in every factual scenario is beyond the scope of this case. Neither the rule  
9 nor the statute provides a valid defense to the infringement of Petitioner's constitutional right  
10 to access these specific court records at issue.

11 **C. Respondent's assumptions are without merit.**

12 Respondent argues, "Had the Legislature intended that a permissible use of the  
13 preliminary juror disqualification information be for research into voter registration eligibility,  
14 it would have listed that in RCW 2.36.072." Resp't Mot. Summ. J. 8. What the Legislature  
15 intended by not including something in the statute is pure speculation.

16 Respondent also argues, "[h]ad the Legislature intended that preliminary juror  
17 disqualification information be available upon request by members of the public, it would not  
18 have stated that the information could be used only for the term for which the person is  
19 summoned." *Id.* Lastly, Respondent argues, "If the Legislature intended for the information  
20 to be available to the public, it would not have allowed for such prompt destruction of it." *Id.*  
21 However, the question here is not what the Legislature intended in regard to RCW 2.36.072,  
22 but what the constitutional provisions require.

1 Douglas County provided the requested court records for non-jurors from January 1,  
2 2009, through December 31, 2009. If Douglas County can provide such information, then  
3 other counties should be able to provide such information. Ringhofer Decl., Ex. E. The fact  
4 that Respondent Ridge provided Petitioner with summary information from January 1, 2008  
5 to December 31, 2009, shows that King County Superior Court has the information Petitioner  
6 requests but has wrongfully denied Petitioner access. *See* Ringhofer Decl., Ex. D.

7 **D. GR 31 provides Petitioner with a means for getting the requested court records.**

8 Notably, Respondent does not contend that GR 31(k) is inapplicable. Instead,  
9 Respondent argues that Petitioner cannot obtain non-juror information under GR 31(j),  
10 because that rule only applies to information regarding jurors who were called to serve for  
11 that trial, non-disqualified jurors. Resp't Mot. Summ. J. 9. Respondent's October 25, 2010  
12 denial email states, "Access to information relating to the master jury source list is governed  
13 by court rule. GR 31(k) states that master jury source list information, other than name and  
14 address, is presumed to be private." *See* Ringhofer Decl., Ex. D.

15 GR 31(k) provides that upon a showing of good cause the Court may permit a  
16 petitioner to have access to information on jury source lists. Good cause is a legal  
17 determination made by the court. *See* GR 31 (2010); *see also State v. Sponburgh*, 84 Wn.2d  
18 203, 209 (1974). The Court of Appeals has held that GR 31 is subject to the constitutional  
19 mandate of open records. *Coleman*, 151 Wn.App. at 623.

20 Petitioner has good cause for requesting limited non-juror information. Voters are  
21 placed on juror source lists either by registering to vote or by obtaining a driver's license or  
22 state identification card. RCW 2.36.054. In King County, the County elections agency  
23 allows persons to register online to vote via the Washington Secretary of State's website.

1 This practice increases the potential for fraud by creating a voter eligibility verification  
2 problem since the online registration process relies on self-verification of voting eligibility.  
3 <http://www.kingcounty.gov/elections/registration.aspx> (last visited on October 25, 2010); *see*  
4 *also* <https://wei.secstate.wa.gov/osos/secure/pages/Onlinevoterregistration.aspx> (last visited  
5 on October 25, 2010). No one checks the applicant's photo identification or the validity of  
6 their documents when they register online. Furthermore, in Vote-By-Mail counties, such as  
7 Douglas and King Counties, ballots are mailed each election to registered voters. Thus, the  
8 likelihood of persons ineligible to vote actually voting is enhanced by the fact that all that is  
9 required of the voter is that they vote their ballot and sign and date the Voter Affidavit on the  
10 envelope, declaring that they are eligible to vote.

11         Petitioner would like to use non-juror information from King County in the public  
12 interest to identify and quantify the incidence of unauthorized voter registration and voting in  
13 King County. Ringhofer Decl. at ¶3. Petitioner's proposed uses of the court records would  
14 promote transparency and the integrity of the juror selection and voter registration processes.  
15 If the non-juror records are disclosed, Petitioner would cross-check non-juror names with the  
16 Washington Help America Vote Act (HAVA) Voter Registration List, a public record, to  
17 determine the number of ineligible persons who are registered to vote and are voting in King  
18 County. Petitioner intends to release this information to Secretary Reed and his counsel. He  
19 also intends to release summary reports of his findings to local King County public officials to  
20 educate them about the incidence of ineligible voters influencing elections in King County.

21         In the past, Petitioner has used non-juror information from other Washington counties  
22 in the public interest to identify and quantify the incidence of unauthorized voter registration  
23 and voting in those jurisdictions. In December 2010, the Douglas County Prosecutor Steven

1 Clem provided Petitioner with a list of individual names and addresses for persons summoned  
2 for juror service from 2008 to 2010, who were disqualified based on the five statutory  
3 grounds under RCW 2.36.070. Ringhofer Decl., Ex. E. A total of 1,361 potential jurors self-  
4 disqualified, of which, 381 were ineligible to vote: Two were under 18 years of age, 141 were  
5 convicted felons, and 238 were not U.S. citizens. *Id.* Of the 238 non-citizen disqualified  
6 jurors, seven were nonetheless listed as registered to vote in the statewide Help America Vote  
7 Act (“HAVA”) voter database. Petitioner notified the Douglas County Prosecutor. Petitioner  
8 has also been in contact with Secretary Reed’s office. *Id.*

9 On February 16, 2011, Shane Hamlin, Co-Director of Elections for the Office of the  
10 Secretary of State sent Petitioner an emailing stating that he would ask his team in the Voter  
11 Registration program to double-check if the seven ineligible individuals were in fact  
12 registered to vote. Ringhofer Decl., Ex. F. Mr. Hamlin also informed Petitioner that he had  
13 no authority to ask the suspected ineligible voters to prove their citizenship status. *Id.*

14 On March 15, 2011, Mr. Hamlin sent Petitioner an email stating that Secretary Reed  
15 did not have the authority or obligation to cross check voter registrations against disqualified  
16 juror data. Ringhofer Decl., Ex. G. He further stated, “[M]y voter registration team  
17 researched the seven individuals you identified as registered voters, but who declined jury  
18 service due to citizenship status. Our research confirms that these seven individuals are, in  
19 fact, registered to vote in Douglas County.” (emphasis added). *Id.* The email record between  
20 Petitioner and Hamlin shows that Secretary Reed does not intend to cross check voter  
21 registrations against disqualified juror data without a factual basis to suspect unlawful action  
22 provided by a complaint from the public. The fact that Secretary Reed’s office responds to  
23 inquiries from constituents regarding non-jurors’ voter registrations, shows the important



1 function that Petitioner has in identifying and bringing to the Secretary Reed's attention, non-  
2 jurors who might be unlawfully influencing the elections in King County and Washington  
3 State.

4 Solely because of Petitioner's vigilance and Secretary Reed's confirmation of the non-  
5 juror's on the voter rolls, the Douglas County Prosecutor is currently investigating the seven  
6 ineligible voters to ensure that they are not able to vote in any elections.

7 Petitioner's proposed uses of the court records are lawful and in the public interest  
8 because they promote transparency and integrity of the juror selection and voter registration  
9 processes, and would complement Secretary Reed's efforts in ensuring that only lawful voters  
10 participate in elections. As such, Petitioner has shown good cause sufficient to allow the  
11 release of the requested court records

12 **CONCLUSION**

13 For the reasons set forth above, the Petitioner respectfully requests the Court to enter  
14 Summary Judgment in his favor, declaring that he has a right to access non-juror records and  
15 to issue a writ compelling Respondent to immediately release the requested non-juror records.

16 DATED this 18<sup>th</sup> day of April, 2011.

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