

Honorable Ronald Castleberry
Department 9 COURT CLERK
April 29, 2011; 4:00 p.m.
CASE NUMBER: 10-2-41119-4 SEA
WITH ORAL ARGUMENT

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

MARTIN RINGHOFER,)	
)	
)	Petitioner,
)	No. 10-2-41119-4 SEA
vs.)	
)	
LINDA K. RIDGE, in her official capacity as)	RESPONDENT'S REPLY IN
Deputy Chief Administrative Officer of the King)	SUPPORT OF MOTION
County Superior Court,)	FOR SUMMARY JUDGMENT
)	DISMISSAL PURSUANT TO CR 56
)	
)	Respondent.

I. SUMMARY OF REPLY

Petitioner's response brief (and corresponding summary judgment motion) discusses at length that the preliminary juror disqualification information provided to the superior court is relevant to his private investigation into the accuracy of voter registration records. He then states that respondent has frustrated his efforts, contrary to the common law, state and federal constitution, and GR 31.

The law does not support petitioner's position; the law does support the respondent's. On closer examination, there is a court rule and state statute that prohibits respondent from releasing the requested information to the petitioner. In addition, neither the common law nor GR 31 apply to the information requested let alone trump the prohibition in the statute and court rule. Finally, the constitutional provisions relied on by petitioner are simply not triggered by the

1 submittal of preliminary disqualification information wholly unconnected with any judicial
2 proceeding.

3 Accordingly, this case must therefore be dismissed with prejudice.

4 **1. The preliminary juror disqualification information is not available under**
5 **the Public Records Act or the common law right of access to court records.**

6 In his response, petitioner concedes that he is not entitled to the requested records under
7 the Public Records Act ("PRA") and states that the rationale for excluding such records from the
8 PRA is that court records are available under the common law right of access. He argues that he
9 should therefore have access to preliminary juror disqualification records under the common law.

10 Petitioner's argument fails for two reasons.

11 **First**, although there is a common law right of access to court case files, *see Nast v.*
12 *Michels*, 108 Wn.2d 300, 305-07, 730 P.2d 54 (1986)), that does not mean that all judicial branch
13 records are subject to disclosure under the common law. Certainly, *Nast* does not so hold. Nor
14 does other case authority support such a far-reaching assertion. For example, in *Beuhler v.*
15 *Small*, 115 Wn.App. 914, 918, 64 P.3d 78 (2003), the Court of Appeals held that a judge's notes
16 regarding his sentencing decisions, although work related, were not subject to disclosure under
17 the PRA or the common law right of access.¹ Accordingly, this case negates the proposition that
18 because court-related information is not subject to disclosure under the PRA, it must be available
19 under the common law.

20 The **second** reason petitioner's common law theory of access fails is that he did not
21 request court records. GR 31(c)(4)(i) and (ii) define "court records" to include documents,
22 information, exhibits, calendars, dockets and numerous other records that are connected to or

23 ¹ Notably, the Court also held that the judge's work file did not constitute a case record or transcripts of
criminal proceedings or exhibits that would trigger the presumption of openness under article I, section 10

1 related to a judicial proceeding. It is undisputed that the preliminary juror disqualification
2 information in this case is not connected to or related to any judicial proceeding and they are
3 therefore not "court records." At the point in time the information required by the summons is
4 provided to the court², the person responding has not even appeared at court. Petitioner himself
5 refers to the information as "non-juror" information.

6 As a result, petitioner's arguments related to the common law right of access to court
7 records are inapplicable to this case.

8 **2. GR 31(j) and (k) do not apply.**

9 Petitioner also argues that he is entitled to the preliminary juror disqualification
10 information under GR 31. As respondent already explained at page 9 of her motion, GR 31(j)
11 does not apply in this case because that rule only applies to information regarding jurors who
12 were called to serve for a trial, not jurors who were preliminarily disqualified under RCW
13 2.36.072. Petitioner does not provide any argument to rebut this fact. Instead, he tries to
14 demonstrate his good cause for requesting the information. In this case good cause is irrelevant
15 because GR 31(j) does not cover the records he seeks.

16 GR 31(k) also does not apply. This section governs access to the master jury source list,
17 which in King County is the same as the jury source list.³ The jury source list is defined by GR
18 18(b) to mean the list of all registered voters of a county, merged with a list of licensed drivers
19 and identicard holders who reside in that county. The rule provides that:

20 The list shall specify each person's first and last name, middle initial, date of birth, gender
21 and residence address. When legally available for jury selection use, each such list shall
also specify each person's Social Security number.

22 of the Washington Constitution. *Buehler*, 115 Wn.App. at 920-21.

23 ² A copy of sample jury summons used by King County superior court is included as Exhibit A to the
Declaration of Linda Ridge, attached hereto and incorporated by this reference.

³ RCW 2.36.020(9) provides that the master jury list can either be randomly selected from the jury source
list or it can be an exact duplicate.

1 The preliminary juror disqualification information sought by petitioner is not included on this list
2 and regardless of any showing of good cause, the relief he seeks is therefore not available to him
3 under GR 31(k).⁴

4 **3. The statute and court rule are clear.**

5 Petitioner argues RCW 2.36.072 and GR 18(d) cannot be interpreted in way that restricts
6 his access to the preliminary juror disqualification records because that, he argues, would be an
7 unconstitutional restriction of his right of common law access to court records. As has been
8 explained above and in respondent's motion for summary judgment, the preliminary juror
9 disqualification records are not court records. They are not connected to or related to any
10 judicial proceeding. Moreover, the statute and rule clearly prohibit release of the requested
11 information. Petitioner has not presented any other possible interpretation of the statute and rule
12 that would allow access.

13 **4. Petitioner is not entitled to mandamus or declaratory relief.**

14 Petitioner fails to demonstrate that respondent had a clear duty to release the requested
15 information to him. In fact, the law is clear that the opposite is true and respondent fulfilled her
16 duty in denying petitioner's request. Mandamus is therefore not appropriate. Additionally, as
17 discussed in respondent's opening brief and response to petitioner's motion for summary
18 judgment, the constitutional provisions are not triggered because the preliminary juror
19 disqualification information is not connected with any judicial proceeding. Petitioner therefore
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22 ⁴ GR 31(k) states that other than the name and address, the information contained in the master jury
23 source list is presumed to be private and may be released by the court only on a showing of good cause.
In this case, the names and addresses on the master jury source list were made available to petitioner. *See*
Kuffel Dec. at Exhibit 4 (Linda Ridge response letter).

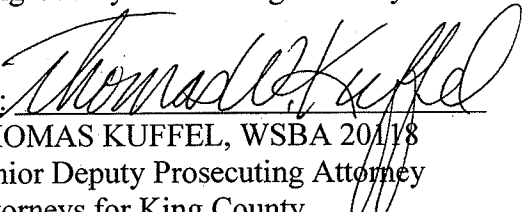
1 fails to show that RCW 2.36.072 and GR 18(d) are unconstitutional and as a result, he is not
2 entitled to declaratory relief.

3 Respondent respectfully requests that petitioner's motion for summary judgment be
4 denied, that hers be granted and that this case be dismissed with prejudice.

5 DATED this 25th of April, 2011.

6 Respectfully submitted,

7 DANIEL T. SATTERBERG
8 King County Prosecuting Attorney

9 By: 
10 THOMAS KUFFEL, WSBA 20118
11 Senior Deputy Prosecuting Attorney
12 Attorneys for King County
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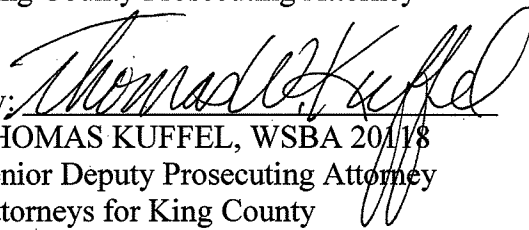
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7 DANIEL T. SATTERBERG
8 King County Prosecuting Attorney

9 By: 
10 THOMAS KUFFEL, WSBA 20118
11 Senior Deputy Prosecuting Attorney
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Respondent.

No. 10-2-41119-4 SEA

CERTIFICATE OF SERVICE

I, Gail E. Behan, hereby certify and declare under penalty of perjury under the laws of the state of Washington as follows:

1. I am a paralegal employed by King County Prosecutor's Office, am over the age of 18, am not a party to this action and am competent to testify herein.

2. On April 25, 2011, I did cause to be delivered by Legal Messenger a true copy of Respondent's Reply in Support of Motion for Summary Judgment Dismissal Pursuant to CR 56 and this Certificate of Service to:

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Richard M. Stephens
Groen Stephens & Kling LLP
11100 NE Eighth Street, Suite 750
Bellevue, WA 98004.

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First Class U.S. Mail
 Electronic Mail

DATED this 25th day of April, 2011 at Seattle, Washington.

DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: Gail E. Behan
Gail E. Behan, Paralegal to
THOMAS KUFFEL, WSBA #20118
Senior Deputy Prosecuting Attorney
Attorneys for King County