

THE SUPREME COURT

STATE OF WASHINGTON

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July 29, 2008

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Re: Supreme Court No. 81857-6 - Community Care Coalition of Washington et al. v. Sam Reed

Counsel:

Enclosed please find the RULING ON ORIGINAL ACTION, signed by the Supreme Court Commissioner, Steven Goff, on July 29, 2008, in the above entitled cause.

Sincerely,


Ronald R. Carpenter
Supreme Court Clerk

RRC:alb
Enclosure

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

COMMUNITY CARE COALITION OF WASHINGTON; HOME CARE OF WASHINGTON, INC.; THE FREDRICKSON HOME; CYNTHIA O'NEILL, a Washington Citizen and Taxpayer; RON RALPH and LOIS RALPH, husband and wife and Washington Citizens and Taxpayers,

Petitioners,

v.

SAM REED, Secretary of State,

Respondent.

NO. 81857-6

RULING ON ORIGINAL ACTION

FILED
SUPREME COURT
STATE OF WASHINGTON
2008 JUL 29 P 1:40
BY RONALD R. BARRETT
CLERK

This original action, in the nature of a petition for a writ of mandamus and prohibition, seeks to compel the Secretary of State to accept the initiative petitions submitted for Initiative Measure No. 1029 as petitions for an initiative to the legislature rather than as petitions for an initiative to the people. The matter came before me on an emergency basis to determine whether to grant a motion by the initiative proponents to intervene and whether, pursuant to RAP 16.2(d), the petition should be decided by this court, transferred to the superior court, or dismissed. If the case is retained by this court, I must also determine the schedule for the remaining steps in the proceedings, including time for filing briefs. *Id.*

Initiative proponents Linda Lee and People for Safe Quality Care move to intervene in the matter to defend the secretary's decision to treat the initiative as one to the people. The parties have stipulated to this proposed intervention, and the motion to intervene is granted.

Having considered the various pleadings filed so far in the case, I conclude that the petition should be considered, at least in the first instance, by this court. Petitioners seek to invoke the original jurisdiction of this court under article IV, section 4 of the Washington Constitution. The secretary contests the legal positions advanced by petitioners, including petitioners' assertion that this court has jurisdiction over the matter. But in the interest of providing certainty to voters and the accuracy of the ballot, the secretary supports expediting disposition of the petition in this case. Interveners oppose having this court decide the case, and plan to bring a motion to dismiss or transfer the case. They will be permitted to do so in their brief to this court, for consideration along with the other arguments raised by the parties. The matter is retained for a decision by this court, with the court to ultimately determine whether the petition should be granted, denied, transferred, or dismissed.

The parties disagree somewhat as to the necessary timing of the remaining steps in the proceedings relative to the upcoming election. Because the secretary is the chief elections officer of the state, this court relies on his representations concerning the timing of steps in the election process. The secretary says that the last day election officials could remove the initiative from the voters' pamphlet would be September 8, 2008, whereas the last day election officials could insert a statement into the voters' pamphlet explaining that the initiative will not appear on the ballot would be September 12, 2008. While petitioners suggest that this court hear oral argument during the week of September 8, 2008, the secretary suggests that the court hear argument during the week of September 1, 2008. An argument slot is available September 11, 2008, but it is not yet clear whether the court could hear argument on an earlier date.

Given these considerations, the following partial schedule is adopted: an agreed statement of facts will be due July 31, 2008, petitioners' opening brief will be

due August 8, 2008, respondents' briefs (including interveners' brief and any included motion) will be due August 22, 2008, and petitioners' reply brief (including any answer to a motion) will be due August 27, 2008. As soon as practicable, the court will inform the parties of the date set for oral argument.


COMMISSIONER

July 29, 2008