

No. 76321-6

**SUPREME COURT
OF THE STATE OF WASHINGTON**

**DAVID McDONALD, RONALD TARO
SUYEMATSU, et al.,**

Petitioners,

v.

SECRETARY OF STATE SAM REED, et al.,

Respondents.

**[PROPOSED] ORDER GRANTING PETITIONER'S
MOTION AND BRIEF IN SUPPORT OF
EMERGENCY PARTIAL RELIEF**

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Attorneys for Petitioners

THIS MATTER having come before the Court upon Petitioners' Motion and Brief in Support of Emergency Partial Relief,

IT IS HEREBY ORDERED that Respondents will take such actions as are reasonably necessary to assure that in the hand recount of the 2004 gubernatorial election all Washington counties will count every vote cast by lawful voters, under rules and procedures that are consistent in every county. At a minimum, every county canvassing board shall:

1. Consider and, if valid, include in the manual recount all previously-excluded ballots brought to the attention of the canvassing board prior to its final meeting on the manual recount, where such ballots were previously excluded by staff because of governmental mistake or error, such as a mistake in coding registration status, transmission of provisional ballot to another county, or maintaining signature information.

2. Review at the canvassing board all absentee, vote-by-mail, and provisional ballots previously excluded by staff as a result of questioned or missing signatures and, as to those where it appears likely that the signature was not that of the voter, provide notice, if not already done, by mail to the putative voter's registered address that the ballot will be excluded unless the voter provides proof to the canvassing board within one week of the date of mailing of the notice that the voter did in fact subscribe to the oath on the ballot envelope.

3. If not already done, provide notice by mail to voters whose ballot was rejected on the grounds that their registration had been

cancelled. The notice shall be sent to the address provided on the ballot envelope or absentee ballot request form or, if unavailable, the address on their driver's license or last voter registration. The notice shall identify the reason for the cancellation and provide one week from the date of mailing for the voter to provide proof to the canvassing board that the registration was wrongfully cancelled and that the voter's ballot should be counted. If not already done, the canvassing board shall investigate the propriety of the cancellation even if the voter does not respond to the notice and shall count the vote if the cancellation was in error.

4. Make copies of the individual notices, or lists of the same, available to the political parties, candidates, and public at the time the notices are sent.

5. Consider all verification information previously received or received under the notices set forth in paragraphs 2 and 3 and, if satisfied with the verification, include the involved ballots in the manual recount.

6. Conduct the hand recount under procedures that provide at least:

a. for observers representing the political parties or candidates and not employed by the county;

b. that observers can see the basis for each decision made with respect to a ballot as that decision is being made and can see that the decision is accurately recorded;

c. that observers can verbally note, in a concise manner and without argument, any perceived errors; and

d. that observers can make a record of any questioned decisions of the counters that, if not resolved immediately, can be matched up with the ballot or envelope at issue for presentation to the canvassing board.

7. The parties will meet with the Commissioner at ___ a.m./p.m. on December ___, 2004 to discuss the status of implementation of this Order and any issues that remain from the Petition and the scheduling of any further proceedings that might be necessary.

RESPECTFULLY SUBMITTED this 13th day of December, 2004.

By



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