

No. 76321-6

**SUPREME COURT
OF THE STATE OF WASHINGTON**

**DAVID T. MCDONALD, RONALD TARO
SUYEMATSU, et al.
Petitioners**

v.

**SECRETARY OF STATE SAM REED, et al.,
Respondents**

PRAECIPE

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I. PETITIONER'S MOTION AND BRIEF IN SUPPORT OF EMERGENCY PARTIAL RELIEF

Petitioner Electors amend the Petitioners' Motion and Brief in Support of Emergency Partial Relief, filed December 3, 2005, as follows:

1. Page 1, paragraph 2 line 11, the word "state" is corrected to read "State."
2. Page 3, paragraph 1, lines 2 and 3, the words "Franklin, Pend and Oreille Counties" are corrected to read "Franklin and Pend Oreille Counties."
3. Page 3, paragraph 2, line 2, the words "hand recount all ballots" are corrected to read "hand recount of all ballots."
4. Page 3, paragraph 2, line 5, the word "latter" is corrected to read "later."
5. Page 3, paragraph 3, lines 1 and 2, the words "First, he has indicated that votes that the rules will not require the recount of ballots excluded in the prior counts," are corrected to read "First, he has indicated that ballots excluded in the prior counts."
6. Page 4, paragraph 2, line 11, the words "at least 24 these validation..." are corrected to read "at least 24 of these validation."
7. Page 4, paragraph 3, line 3, the words "Sanford Sidell" are corrected to read "Brent Campbell."
8. Page 4, paragraph 3, line 8, the word "has" is corrected to read "his."

9. Page 5, paragraph 1, line 3, the word "discovery" is corrected to read "discover."

10. Page 6, paragraph 1, lines 2 and 3, the words "will be required to work six-day, 10 hour weeks" are corrected to read "and will be required to work six-day, 10 hour a day weeks."

11. Page 13, paragraph 2, line 2 the word "mistake" is corrected to read "a mistake."

12. Page 15, paragraph 2, line 7, the word "state" is corrected to read "State."

13. Page 21, paragraph 2, line 1, the words "Petitioners respectfully requests" are corrected to read "Petitioners respectfully request."

Petitioners' Amended Motion and Brief In Support of Emergency Partial Relief, reflecting the corrections identified above, is filed and served herewith.

II. PETITIONERS' CONSOLIDATED REPLY BRIEF IN SUPPORT OF EMERGENCY PARTIAL RELIEF

Petitioner Electors amend the Petitioners' Consolidated Reply Brief in Support of Emergency Partial Relief ("Reply Brief"), filed December 3, 2005, as follows:

1. A Table of Authorities has been added.
2. Page 1, paragraph 1, line 1, the word "sate" is corrected to read "State."

3. Page 1, paragraph 1, line 5, the word “Goldendale,” is corrected to read “Goldendale.”
4. Page 1, paragraph 1, line 6, the word “state” is corrected to read “State.”
5. Page 1, paragraph 1, line 7, the word “county” is corrected to read “County.”
6. Page 1, paragraph 3, line 1, the words “...Rick Leavitt made sure...” are corrected to read “...Rick Leavitt that he made sure...”
7. Page 2, paragraph 2, line 2, the word “(WSRP)” is corrected to read “(“WSRP”).”
8. Page 2, paragraph 2, lines 8 and 9, the word “Rossi” is corrected to read “Intervenor Rossi.”
9. Page 5, paragraph 1, line 1, the words “...are a Washington voters whose vote...” is corrected to read “...are Washington voters whose votes...”
10. Page 7, paragraph 2, line 13, “X” is corrected to read ““x”.”
11. Page 9, paragraph 2, line 3, the words “voting machine” is corrected to read “ballot box.”
12. Page 9, paragraph 2, lines 9-14, sentences beginning “Whatcom County has stated...” and “King County informed him...” were inverted and are corrected to read “King County informed him that it had received his ballot from Whatcom County, but that King County did not count it because King County had previously received a notice of cancellation of his registration from Whatcom County. Whatcom County

has stated it will request the ballot be returned, but that it would only be counted if Petitioners were successful in this action.”

13. Page 10, paragraph 1, line 12, the words “...ballot, indicate...” are corrected to read “...ballot indicate....”

14. Page 12, paragraph 1, line 10, the words “...her vote must have...” are corrected to read “...her registration must have...”

15. Page 13, paragraph 3, line 3, the words “...neglect of their...” are corrected to read “...neglect their...”

16. Page 13, paragraph 3, line 4, the word “court” is corrected to read “Court.”

17. Page 14, paragraph 1, line 2, “Wash.” is corrected to read “Wn.”

18. Page 14, paragraph 1, line 4, a space is inserted following “manner.”

19. Page 14, paragraph 2, line 2, a space is inserted following “duties.”

20. Page 14, paragraph 2, line 9, a space is inserted following, “remedy.”

21. Page 16, paragraph 1, line 4, “...favor.”) quoting...” is corrected to read “...favor.”) (quoting....”

22. Page 16, paragraph 1, line 5, “Wash.” is corrected to read “Wn.” and “(1897)” is corrected to read “(1897)).”

23. Page 16, paragraph 2, line 4, “(1)(emphasis added)” is corrected to read “(1) (emphasis added).”

24. Page 17, paragraph 2, line 14, the words "...Petitioner Electors..." are corrected to read "...Petitioner-electors..."
25. Page 17, footnote 2, line 2, "*State ex rel. Orr v. Fawcett*" is corrected to read "*Fawcett*."
26. Page 17, footnote 2, line 3, "17 Wash. 188, 189 (1897)" is corrected to read "17 Wn. at 189" and the word "[C]ertain" is corrected to read "[C]ertain."
27. Page 17, footnote 2, line 4, the words "...him..."(emphasis..." are corrected to read "...him..." (emphasis..."
28. Page 18, paragraph 2, line 3, "Wash." is corrected to read "Wn."
29. Page 19, paragraph 2, line 2, the words "...disenfranchisement by..." are corrected to read "...disenfranchisement of..."
30. Page 19, paragraph 2, line 3, the words "...Petitioner-Electors..." are corrected to read "...Petitioner-electors..."
31. Page 19, paragraph 2, line 9, "¶6" is corrected to read "¶ 6."
32. Page 19, paragraph 2, line 13, "¶6" is corrected to read "¶ 6."
33. Page 19, footnote 3, line 8, the word "vote" is corrected to read "votes."
34. Page 20, paragraph 2, line 8, the words "'cast'," is corrected to read "'cast,'."

35. Page 20, paragraph 2, line 10, the word “...disenfranchised,...” is corrected to read “...disenfranchised....”
36. Page 21, paragraph 2, line 8, a space is inserted following “canvassing.”
37. Page 21, paragraph 2, line 12, “Wash.” is corrected to read “Wn.”
38. Page 21, paragraph 2, line 17, the words “*Superior County*” are corrected to read “*Superior Court*” and “Wash.” is corrected to read “Wn.”
39. Page 22, paragraph 2, line 9, the word “*infra*” is corrected to read “*supra*.”
40. Page 22, paragraph 3, line 6, “...country.”)(emphasis...” is corrected to read “...country.”) (emphasis....”
41. Page 22, paragraph 3, line 9, the words “King County Br. At. 18” are corrected to read “King County Br. at 18.”
42. Page 24, paragraph 1, line 2, “Wash.” is corrected to read “Wn.”
43. Page 24, paragraph 2, line 8, the words “...and not allowed...” is corrected to read “...and were not allowed....”
44. Page 24, paragraph 2, line 9, “*See, e.g.,*” is corrected to read “*See, e.g.,.*”
45. Page 25, paragraph 1, line 6, the words “Petitioner-Electors” are corrected to read “Petitioner-electors.”

46. Page 25, paragraph 2, line 3, the word “reflect” is corrected to read “reflects.”

47. Page 25, paragraph 2, line 7, the word “...circumstances, and...” is corrected to read “...circumstances and....”

48. Page 25, last line, the words “...problems, have...” are corrected to read “...problems have....”

49. Page 26, paragraph 1, line 6, the word “*infra*” is corrected to read “*supra*.”

50. Page 26, paragraph 1, line 14, “—RCW” was corrected to read “-- RCW.”

51. Page 27, paragraph 1, line 3, the word “Petitions” is corrected to read “Petitioners.”

52. Page 27, paragraph 2, line 8, the words “*See supra* § C” are corrected to read “*See infra* § III.C.”

53. Page 27, paragraph 2, line 9, the words “...exist, in...” are correct to read “...exist; in...”

54. Page 28, paragraph 1, line 5, “Wash.2d” is corrected to read “Wn.2d.”

55. Page 28, paragraph 1, line 6, “811(1988)” is corrected to read “811 (1988).”

56. Page 28, paragraph 2, line 3, a space is inserted following “right.”

57. Page 28, paragraph 2, line 10, the words “...government objective...” are corrected to read “...government’s objective....”

58. Page 28, footnote 4, line 3, the words “See also” are corrected to read “*see also*.”
59. Page 28, footnote 4, line 3, “Wash.2d” is corrected to read “Wn.2d.”
60. Page 28, footnote 5, line 5, “C.f.” is corrected to read “*C.f.*”
61. Page 28, paragraph 1, line 2, “Wash.2d” is corrected to read “Wn.2d.”
62. Page 29, paragraph 2, line 7, the words “... persons” .
Stone...” are corrected to read “... persons.” *Stone...*” and “Wash.2d” is corrected to read “Wn.2d.”
63. Page 29, paragraph 3, line 1, a space is removed following “that.”
64. Page 30, paragraph 1, line 1, a space is removed following “*Compare.*”
65. Page 30, paragraph 1, line 5, “...intervention.)...” is corrected to read, “...intervention.)...”
66. Page 30, paragraph 1, line 9, “...procedures.)...” is corrected to read “...procedures.)....”
67. Page 30, paragraph 2 through page 32, paragraph 1 were inadvertently inserted twice. Those paragraphs have been removed.
68. Page 32, paragraph 2, line 1, the words “In response Respondent Reed maintains that maintains that...” are corrected to read “Respondent Reed maintains that....”

69. Page 33, paragraph 1, line 2, the words "...irrelevant to mandamus..." are corrected to read "...irrelevant to a mandamus...."
70. Page 33, paragraph 2, line 11, "...proceedings...")(emphasis..." is corrected to read "...proceedings..." (emphasis...."
71. Page 34, paragraph 2, line 11, "...)(emphasis added)(..." is corrected to read "...) (emphasis added) (...."
72. Page 34, paragraph 3, line 2, the word "and" is corrected to read "an."
73. Page 35, paragraph 2, line 8, the word "error" is corrected to read "errors."
74. Page 37, paragraph 2, line 1, the word "concern" is corrected to read "concerns."
75. Page 37, paragraph 2, line 8, "*Id.* at 350" is corrected to read "*Id.* at 350 (emphasis in original)."
76. Page 38, paragraph 2, line 6, the words "...mandates to regarding..." are corrected to read "...mandates regarding...."
77. Page 39, paragraph 2, line 7, "9th" is corrected to read "9th." and "...2003)(denying..." is corrected to read "...2003) (denying...."
78. Page 39, footnote 12, line 1, a space is removed before "The...."

An amended copy of the Reply Brief is filed and served herewith.

**III. PETITIONER'S RESPONSE BRIEF IN OPPOSITION TO
RESPONDENT FRANKLIN COUNTY AUDITOR'S
MOTION TO DISMISS**

Petitioner Electors amend the Petitioners' Response Brief in Opposition to Respondent Franklin County Auditor's Motion to Dismiss Petition by Electors and Petition for Writ of Mandamus and Other Relief, filed December 7, 2004, as follows:

1. Page ii, a Table of Authorities has been added.
2. Page 1, paragraph 2, line 5, the word "motion" is corrected to read "Motion."
3. Page 1, paragraph 3, line 1, the word "Petitioner's" is corrected to read "Petitioners."
4. Page 1, paragraph 3, line 6, the words "Petion has" are corrected to read "Petitioners have."
5. Page 4, paragraph 1, line 4, the word "overvotes" is corrected to read "blank votes/overvotes."
6. Page 5, paragraph 1, line 3, the word "motion" is corrected to read "Motion."

An amended copy of the Petitioners' Response Brief is filed and served herewith.

RESPECTFULLY SUBMITTED this 9th day of December, 2004.

By



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