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SUPREME COURT OF WASHINGTON

DAVID T. MCDONALD, ET AL.,

Petitioners,

v.

SECRETARY OF STATE SAM REED, ET AL.,

Respondents.

NO.

DECLARATION OF CHRIS
GRANTHAM IN SUPPORT OF
PETITION FOR WRIT OF
MANDAMUS

I, Chris Grantham, declare under penalty of perjury of the laws of the State of Washington that the following is true and correct:

1. I am over the age of 18, am competent to be a witness herein, and make this declaration based on my own personal knowledge.

2. Since November 17, 2004, I have worked with the Democratic Party along with two other staff members and volunteers to collect and analyze data from each county in

DECLARATION OF CHRIS GRANTHAM IN
SUPPORT OF PETITION FOR WRIT OF
MANDAMUS - 1

[DOCUMENT 01]

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1 the state of Washington relating to the tallies of votes in the November 2, 2004 election for
2 Governor. We have collected this information during both the initial canvassing of ballots,
3 the results of which were certified November 17, 2004, and during the machine recount of
4 ballots, the results of which were certified November 30, 2004.
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8 3. We have sought to collect from each county in the state a precinct-level
9 breakdown of vote tallies in the Governor's race among both absentee voters and among
10 poll voters. By collecting and analyzing this data, we have been able to compare the results
11 of the initial count of ballots with the results of the statewide machine recount for most
12 counties. The comparisons allow us to identify areas of potential machine or operator error.
13 This comparative analysis has produced substantial empirical evidence that both the initial
14 count of the Governor's race and the machine recount, as certified by the Secretary of State,
15 are likely inaccurate.
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18 4. One such example of evidence of inaccuracies is the data from Grant County.
19 The data from the machine recount indicate that in the recount, fifty-two ballots were
20 tabulated that were not tabulated in the initial count. In reviewing the precinct breakdowns
21 of this discrepancy and discussing this matter with a member of the elections staff, and our
22 observer, in Grant County, the distribution among precincts strongly suggests that an
23 operator mistakenly ran a batch of ballots (approximately 50) twice in the machine recount.
24 In a related issue, the Auditor's Office in Cowlitz County acknowledged in a conversation
25 with me that their initial count likely included a batch of ballots that had been run twice.
26 The comparative data reflect that 99 fewer ballots were run in the machine recount as were
27 run in the initial count. The data also reflect a similar pattern of precinct distribution for the
28 additional ballots in the initial count as are found in the machine recount totals from Grant
29 County, lending support to our analysis of the Grant County results. I have considered the
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DECLARATION OF CHRIS GRANTHAM IN
SUPPORT OF PETITION FOR WRIT OF
MANDAMUS - 2

[DOCUMENT.01]

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1 verbal reports of our observer in Grant County and believe it more likely than not that
2 conditions in the tabulation center in Grant County caused an error in the machine recount
3 rather than the initial count.
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6 5. Another issue of significant concern is found in Franklin County. In both
7 counts, the tabulating machine has been unable to produce a count of ballots tabulated that
8 equals the sum of the tally of votes cast in the Governor's race in Franklin County for
9 Christine Gregoire, for Dino Rossi, for Ruth Bennett, and the number of undervotes,
10 overvotes, and write-in ballots. I have seen email conversations with the County Auditor
11 and am aware that she has communicated with her software vendor concerning these issues,
12 but to my knowledge has been unable to resolve them. The inability to reconcile the number
13 of tabulated ballots with the tallies for each category strongly indicates that there can be no
14 confidence that either the initial count or the recount reflected accurate tallies of the number
15 of votes for each candidate from Franklin County.
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18 6. The analysis of data from Adams County also raises concern. That data
19 indicates a substantial likelihood of machine error. An interim report of the tabulation
20 observed by one of our field staff members indicated that in the machine recount, the same
21 machines counted an additional 14 votes in the recount that had not been counted in the
22 initial count, without any enhancement or duplication by humans. This number of additional
23 votes tabulated (that is, without human enhancement of undervotes or overvotes), is
24 unlikely, especially considering the relatively small number of ballots cast in Adams
25 County. In my opinion, this suggests an unexplained error in either the initial count or
26 machine recount.
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29 7. Another source of concern is that in some counties the comparative analysis
30 is not possible to complete because these counties either used different procedures in the
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DECLARATION OF CHRIS GRANTHAM IN
SUPPORT OF PETITION FOR WRIT OF
MANDAMUS - 3

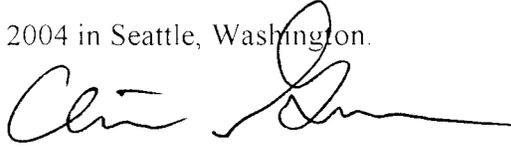
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1 machine recount than those used in the initial count or they changed the way that they
2 reported the number of ballots cast. Kittitas County is one example. By reviewing the
3 comparative data and speaking with the staff in the Kittitas County Auditor's office,
4 members of my team were able to identify that approximately 1,000 absentee ballots were
5 mistakenly tabulated as poll ballots in the initial count. During the machine recount, these
6 ballots were correctly indicated to the tabulating machines as absentee ballots. Because the
7 recount had a 1,000 ballot difference across nearly all precincts in the county in both
8 absentees and provisional ballots, it is not possible to make a meaningful comparison
9 between the absentee tallies from the initial count as against the recount and thereby identify
10 potential human or machine errors in Kittitas County as our comparative analysis allowed
11 for other counties, as described above. The problem described in Kittitas County, or a
12 similar difference in procedures or reports of counting, also occurred in Clark, Douglas,
13 Pend Oreille, and Whitman counties.
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28 DATED this 3rd day of December, 2004 in Seattle, Washington.
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Chris Grantham

DECLARATION OF CHRIS GRANTHAM IN
SUPPORT OF PETITION FOR WRIT OF
MANDAMUS - 4

[DOCUMENT.01]

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