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VOTER REGISTRATION CHALLENGE OF JOHN LEY  
HEARING BEFORE GREG KIMSEY, CLARK COUNTY AUDITOR  
AMANDA MIGCHELBRINK,  
CLARK COUNTY PROSECUTING ATTORNEY'S OFFICE

June 28th, 2022  
10:00 A.M.

VOTER REGISTRATION CHALLENGE HEARING - 6/28/20

1           The voter registration challenge hearing  
2 was taken before Robin Reger, Registered  
3 Professional Reporter, on Tuesday, the 28th day of  
4 June, 2022, commencing at the hour of 10:00 a.m., at  
5 the Clark County Elections Office, 1408 Franklin  
6 Street, Conference Room 226, Vancouver, Washington.  
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9           APPEARANCES:

10          Carolyn Crain, representing herself

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12          John Ley, representing himself  
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Ms. Crain	21

1           MR. KIMSEY: Good morning. We are here           10:00:32  
2           today to conduct a hearing of voter  
3           registration challenge made by Carolyn Crain  
4           against John Ley's voter registration records,  
5           specifically the residential address on that           10:00:44  
6           record.

7           We are making a record, at least, of  
8           this hearing with a court reporter -- thank you  
9           again for being here -- that could be used for  
10          any appeal of my decision.                           10:00:56

11          Because we are making that record, I ask  
12          that there be no disruptions, that we not talk  
13          over each other in order that the court  
14          reporter can make a clear record.

15          For the record, introductions, I,                   10:01:12  
16          myself, I'm Greg Kimsey, Clark County Auditor.

17          MS. MIGCHELBRINK: My name is Amanda  
18          Migchelbrink, Deputy Prosecuting Attorney. I  
19          represent the auditor's office.

20          MR. LEY: John Ley, the person being, I           10:01:27  
21          guess, charged.

22          MS. CRAIN: If you don't mind, I'm  
23          Carolyn Crain, here is my voter registration,  
24          and there's my driver's license for  
25          identification purposes. Thank you.                   10:01:39

1                   MR. KIMSEY: In addition, for the                   10:01:46  
2                   record, we have approximately 15 members of the  
3                   public, including the elections director,  
4                   Cathie Garber with us today.

5                   This challenge is based on the question               10:01:54  
6                   of the residence of the challenged voter,  
7                   Mr. Ley, and was initiated pursuant to the  
8                   Revised Code of Washington, Chapter 29A.08.810.

9                   Because this challenge was filed more  
10                  than 30 days prior to an election, it will be           10:02:09  
11                  resolved by myself in my capacity as the Clark  
12                  County Auditor.

13                  This hearing is held in order to allow  
14                  the challenger and the challenged voter to  
15                  present arguments and evidence. Each party is       10:02:21  
16                  allowed to appear personally or through counsel  
17                  to call and cross-examine witnesses.

18                  For the purposes of this hearing, the  
19                  relevant time period in question is April of  
20                  2022 through the present. All parties are in       10:02:35  
21                  agreement that prior to April of 2022, Mr. Ley  
22                  resided and was domiciled in Camas, Washington,  
23                  outside of the 18th District, legislative  
24                  direct. Therefore, I do not need to hear  
25                  testimony or evidence related to the time           10:02:51

1 period prior to April of 2022. 10:02:54

2 All live testimony, including  
3 presentation of the facts and arguments in this  
4 matter shall be under oath, administered by the  
5 court reporter, and shall be recorded to create 10:03:06  
6 a clear record in the event my determination is  
7 appealed.

8 If the parties or witnesses move in to  
9 clearly immaterial areas, I will direct them to  
10 return to the issue at hand. The rules of 10:03:18  
11 evidence do not apply to this hearing, and as a  
12 result, evidence will be freely heard. My  
13 decision, however, will be based on the kind  
14 and type of evidence which a reasonably prudent  
15 person would find relevant to the question of 10:03:31  
16 domicile.

17 I will allow each side up to ten minutes  
18 to make a statement and present evidence. I  
19 would like to limit questioning and  
20 cross-examination of witnesses to ten minutes 10:03:47  
21 per side. If the parties do not believe that  
22 ten minutes is sufficient, they may ask for  
23 more time. If the party calling the witness  
24 wishes to reserve a portion of their ten  
25 minutes for additional questioning post 10:03:58

1 cross-examination, they may do so. 10:04:01

2 In determining this challenge I shall be  
3 guided by the principle that the registration  
4 of a person as a voter is presumptive evidence  
5 of their right to vote at any election as 10:04:11  
6 provided in RCW 29A.08-810.

7 The burden of proof otherwise is,  
8 therefore, upon the challenger. The challenger  
9 must do so by presenting clear and convincing  
10 evidence that the voter does not reside at the 10:04:27  
11 address on their registration record.

12 Clear and convincing evidence means that  
13 the element must be proved by evidence that  
14 carries greater weight and is more convincing  
15 than a preponderance of evidence. 10:04:41

16 Clear and convincing evidence exists  
17 when occurrence of the element has been shown  
18 by the evidence to be highly probable.  
19 However, it does not mean that the element must  
20 be proved by evidence that is convincing beyond 10:04:53  
21 a reasonable doubt.

22 The challenge in this matter is based  
23 upon the allegation that the voter does not  
24 reside at the address shown on their voter  
25 registration record. 10:05:06

1 Residence for the purpose of voter 10:05:07  
2 registration is defined by RCW 29A.04.151 as  
3 follows: "Residence for the purpose of  
4 registering and voting means a person's  
5 permanent address where he or she physically 10:05:21  
6 resides and maintains his or her abode."

7 After reviewing any evidence submitted  
8 by either side, the statute requires me to rule  
9 as to whether the voter registration is valid.  
10 I will do so by written order after reviewing 10:05:36  
11 the evidence. I intend to issue that order  
12 sometime in the next few weeks.

13 Because the burden of proof is on the  
14 challenging party, Ms. Crain will proceed  
15 first. Ms. Crain. 10:05:46

16 MS. CRAIN: Okay. Thank you very much.  
17 I do have some evidence packets, a copy for  
18 you.

19 MR. KIMSEY: And first we were going to  
20 administer the oath to the witnesses. 10:06:01

21 CAROLYN CRAIN,  
22 after having been first duly sworn on oath by the  
23 Certified Shorthand Reporter, was examined and  
24 testified as follows:  
25 10:06:03



1 MS. CRAIN: Do you want this or does 10:06:13  
2 she?

3 MR. KIMSEY: I'll take it.

4 MS. CRAIN: There you go.

5 MR. KIMSEY: And then we'll give them to 10:06:20  
6 her.

7 MS. CRAIN: In my opening statement, the  
8 issue we face here is the fact that we as a  
9 state want to make sure all persons legally  
10 able to vote are afforded the proper 10:06:32  
11 opportunity to do so. We have laws which make  
12 that somewhat of an honor system when an  
13 individual registers to become a voter.

14 I realize that it is very easy to change  
15 one's address at elections. You can go online 10:06:46  
16 and you can change it, or you can simply call  
17 the elections office and change it over the  
18 phone, which to me, frankly, is a little scary.

19 We do, however, also have the  
20 requirement to provide fair, impartial and 10:07:00  
21 clean elections free of fraud and ethical, our  
22 very system, and the voters count on this. The  
23 very foundation of our national and state  
24 constitution are based upon a republic form of  
25 government where the local district 10:07:16

1 constituents are able to vote for candidates 10:07:16  
2 which will represent them in passing laws and  
3 measures, which will impact their lives in  
4 their community.

5 Thus, it is inherent that the people 10:07:26  
6 have confidence in the system in place, and  
7 that they are reassured that their votes are  
8 not diluted by persons unqualified to be voters  
9 in their district.

10 To provide such, I believe that the 10:07:37  
11 systems in place to cross-check the voter  
12 registration address with the Washington state  
13 Department of Licensing must be frequently used  
14 as an appropriate audit tool, especially when  
15 we are holding our annual filing week and just 10:07:51  
16 prior to every election.

17 I was assured in the past that our  
18 auditor's office ran such checks, as it has  
19 access and authority over both branches of  
20 government. 10:08:03

21 RCW 29A.08.810 refers to voter  
22 challenges. It states that anyone may  
23 challenge and must meet certain requirements of  
24 proof. It states that the burden of proof is  
25 on me, the challenger. It lists several things 10:08:18

1           which a challenger must do. I have complied           10:08:21  
2           with everything legally I can do. There are a  
3           couple of things I cannot do under both federal  
4           and state laws which are written to protect  
5           identity.           10:08:33

6                        These things, however, do not preclude  
7           the person from being challenged from providing  
8           such evidence, and setting to rest any notions  
9           that he is perpetrating voter fraud and less  
10          than ethical.           10:08:45

11                       I sent a registered letter restricted  
12          delivery return receipt to John Ley at both  
13          addresses known to me. Please see the attached  
14          receipts for evidence of such.

15                       Of note is that despite restricted           10:08:58  
16          delivery, the letter was signed by Eileen  
17          Haggerty at the Battle Ground address, and the  
18          one sent to Camas was returned, never picked up  
19          at the post office, after no one answered the  
20          door from the postman and, thus, returned to me   10:09:14  
21          intact on June 17th, 2022.

22                       I visited both addresses on Thursday of  
23          filing week, and no one responded at the door  
24          of either home. I did some online searching  
25          for telephone listings and other possible           10:09:31

1 evidence of his actually having moved to Battle 10:09:33  
2 Ground. Nothing came up except for his Camas  
3 address, as seen by the Secretary of State  
4 documents I enclosed upon filing the challenge.

5 I searched the county property records, 10:09:44  
6 and it provided evidence that John Ley owns a  
7 home worth over \$1.2 million in Camas. The  
8 home in Battle Ground is owned by Phillip and  
9 Eileen Haggerty. There is a six-mile distance  
10 between these two properties, and it is, 10:09:58  
11 therefore, unreasonable to believe that John  
12 Ley would give up his luxury home for the  
13 longterm and instead reside at a friend's home  
14 in their spare bedroom.

15 The only listing for John Ley at this 10:10:12  
16 time in the voter records is the one he made  
17 and changed to from his Camas registration to  
18 the Battle Ground address.

19 I checked the PDC filings and found a  
20 copy of his current F1, which states his 10:10:24  
21 address, and includes his business, listed as  
22 permanently closed administratively by the  
23 Secretary of State. It is at, on this form,  
24 located at his house in Camas, which is zoned  
25 and coded a single-family residence. It is 10:10:43



1 under administrative law, it is not mandatory 10:11:56  
2 and my request was denied.

3 I bring this statement forward in case  
4 this should be challenged, as all evidence must  
5 come from the basis of this hearing when it's 10:12:09  
6 presented to the superior court. And I will  
7 request the superior court bring those  
8 subpoenas should that happen.

9 I filed the documents to challenge his  
10 registration after watching him on 10:12:24  
11 May 20th give testimony from his home office in  
12 Camas via Zoom stating Clark County in his self  
13 identification rather than his normal  
14 introduction with a Camas, Washington  
15 statement, after he had already filed to run 10:12:40  
16 for office in the district in which he does not  
17 live.

18 He did not state a Battle Ground  
19 address. In my opinion, under oath he knows he  
20 doesn't reside in Battle Ground. I remind him 10:12:52  
21 that this hearing is also under oath.

22 In closing, I would state that the last  
23 piece of evidence I have, which is the OPB  
24 article in which both myself and John Ley were  
25 interviewed by Troy Brynelson -- I believe is 10:13:06

1 the way you pronounce his name -- published on 10:13:10  
2 May 27th, 2022. In this article John is  
3 extremely vague about his rental agreement for  
4 the room, saying he wasn't sure about it, but  
5 it stated quite clearly that he doesn't live in 10:13:21  
6 the Battle Ground home he has listed on his  
7 voter registration, which is a prerequisite for  
8 a voter registration when someone is not exempt  
9 from the law due to either homelessness,  
10 living on a Native American Indian reservation 10:13:35  
11 or serving in the military.

12 I find it odd that someone who signed an  
13 agreement a month before doesn't have the  
14 ability to be clear about the conditions of  
15 that agreement. I can't recall -- he couldn't 10:13:47  
16 recall if he'd ever even slept there. Then he  
17 admits he doesn't live there, but believes he's  
18 within the letter of the law.

19 My question is, whose law? He thinks he  
20 hasn't done anything wrong. We are a republic 10:14:03  
21 with the right of representation by our own  
22 fellow citizens who reside within our district,  
23 pursuant to our state constitution, and to the  
24 RCWs, and I say that for his sake. Thank you.

25 MR. KIMSEY: Mr. Ley. 10:14:21





1 an airline pilot was spent in hotel rooms 10:16:03  
2 around the world. That is a life similar to  
3 salesmen or other people who travel the  
4 majority of their life, away from home,  
5 oftentimes spending five days on the road and 10:16:17  
6 two days at home.

7 There are other citizens, like my  
8 friends the Haggertys, they are what we often  
9 refer to as snowbirds. They spend over half  
10 the year in Arizona enjoying a home down there. 10:16:33  
11 I have other friends who are retired. They  
12 have a motor home, and they spend a significant  
13 amount of their time traveling America seeing  
14 our beautiful country and meeting people. They  
15 are not in Clark County a majority of their 10:16:51  
16 time as they are enjoying their well-earned,  
17 well-deserved retirement.

18 I would like to share a brief story. I  
19 received a phone call on election day 2021. A  
20 certified election observer called. A homeless 10:17:11  
21 person had walked into these offices here  
22 asking to register to vote. There was some  
23 discussion between the staff and the homeless  
24 individual that the certified election observer  
25 observed. 10:17:32



1 on April 1st, the day I changed my voter 10:19:04  
2 registration, and it remained in effect as of  
3 the date he signed his affidavit, which was, I  
4 believe, the 31st of May.

5 My next bit of evidence was a precedent. 10:19:18  
6 Don Orange was a candidate for the Port of  
7 Vancouver. The evidence I offered was a  
8 Columbian news article. His candidacy and his  
9 registration was contested. He was allowed to  
10 remain on the ballot, and was subsequently 10:19:39  
11 elected by the people. Of note was alleged  
12 evidence, according to the news article, that  
13 he had a lease which was signed in June but  
14 backdated to March. Again, he was allowed to  
15 remain on the ballot. 10:19:55

16 My final piece of evidence in the packet  
17 is my vehicle registration in June showing that  
18 I have a car registered at the Battle Ground  
19 address.

20 Thank you very much. 10:20:10

21 MR. KIMSEY: Thank you. Mr. Ley, just a  
22 couple questions. The affidavit from  
23 Mr. Haggerty speaks to renting a bedroom. It  
24 does not speak to you residing in that bedroom.  
25 Do you have an explanation of that? 10:20:42

1           MR. LEY: Those were the words he chose           10:20:43  
2           to use in his affidavit, and he is not present  
3           to add clarification.

4           MR. KIMSEY: Secondly, Ms. Crain offered  
5           up a transcript of the interview with Oregon           10:20:59  
6           Public Broadcasting in which she says that --  
7           references comments where allegedly that you  
8           were quoted by saying -- where the article  
9           says, the interview says, "'I don't know off  
10          the top of my head,' when asked if he had slept       10:21:26  
11          there within the last month." Do you have any  
12          further explanation of that?

13          MR. LEY: That's what he reported. I  
14          have spent the night at that address, and that  
15          was accurate at the time. I did not recall how       10:21:42  
16          many nights or specifics. My intention in  
17          renting the room was they are snowbirds, they  
18          live out of state, and, therefore, I could  
19          freely access that location per our agreement  
20          any time I desired, but when they returned           10:22:01  
21          home, I would allow them the use of their home  
22          to the maximum extent possible.

23          MR. KIMSEY: So just to try to clarify  
24          in my head, what I believe you said, Mr. Ley,  
25          is that at the time of the interview the quote       10:22:38

1           was correct, that you don't recall -- as you           10:22:43  
2           said, 'I don't know off the top of my head,'  
3           when asked if he slept there within the last  
4           month," so that's an accurate representation of  
5           what you said to the reporter?           10:22:56

6                   MR. LEY: Well, I'm not recalling at  
7           this moment. I think the nature was how many  
8           times I had slept there within the last month,  
9           and I did not recall.

10                   MR. KIMSEY: Okay. I think we have time           10:23:09  
11           for cross-examination; is that right?

12                   MS. MIGCHELBRINK: Well, there's no  
13           witnesses, so there's no one to cross-examine.

14                   MR. KIMSEY: So just the two people.

15                   MS. CRAIN: May I ask a question,           10:23:47  
16           please? Can I ask questions of him? That's  
17           usually allowed. I got asked questions last  
18           time.

19                   MR. KIMSEY: Sure. I'll give each side  
20           an opportunity to ask the other side questions.           10:24:02

21                   MS. CRAIN: Thank you.

22

23                                   CROSS-EXAMINATION

24

25

1 BY MS. CRAIN: 10:24:06

2 Q John, it's quite clear that the  
3 Haggertys are snowbirds. They have said so. You've  
4 said so. The newspaper said so. They were not home  
5 when I knocked on the door. I talked with 10:24:17  
6 neighbors. The neighbor said they weren't home  
7 because they were in Arizona where they go all the  
8 time. That was in May.

9 I'm curious. If they were in Arizona,  
10 how did you execute a rental or lease agreement, and 10:24:35  
11 did you bring a copy of that for evidence that you  
12 actually had an agreement, a formal agreement in  
13 place? Do you have canceled checks for your formal  
14 agreement?

15 And the last question I have for you is, 10:24:53  
16 you just made the statement that when they returned  
17 home they would have use of their home. Does that  
18 mean they would ask you to not be there, or that you  
19 actually still will be or can be sleeping there  
20 should you choose to? 10:25:09

21 A Again, I said what I said. Eileen  
22 Haggerty returned from Arizona, my understanding is  
23 late April or early May. My intention is I have  
24 free use of the house, but I choose not to when they  
25 are back. 10:25:42

1                   There is no minimum time requirement in           10:25:45  
2           the law for residing at any particular address.  As  
3           I said, I have spent the majority of my life  
4           sleeping, staying in multiple places around the  
5           world.  As a nontraditional individual, it's just           10:26:02  
6           normal.

7                   And in this case when Eileen returned, I  
8           felt it was best not to be there unless Phil was  
9           there also.  That doesn't mean I do not have the  
10          right or opportunity to do that.                           10:26:28

11           Q           No checks, no lease?

12           A           I have the affidavit.

13                   MR. KIMSEY:  I'm going to ask the  
14          question as well, John -- Mr. Ley.  Do you have  
15          a signed lease agreement or rental agreement,           10:26:45  
16          and do you have copies of -- evidence of  
17          payment of the rent of the room?

18                   MR. LEY:  Not in the packet that I  
19          offered.  It was a verbal agreement.  Verbal  
20          agreements are legal, in my understanding,           10:27:00  
21          under the law.

22                   MR. KIMSEY:  How much is the rent of the  
23          room?

24                   MR. LEY:  A dollar a month.

25                   MR. KIMSEY:  Okay.  With that, thank you           10:27:21

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for your presence here today. As I said, I  
would expect to issue a decision sometime in  
the next few weeks. So thank you. With that,  
we are adjourned.

10:27:24  
  
10:27:36

(Hearing concluded at 10:27 a.m.)



CERTIFICATE

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I, ROBIN REGER, Certified Shorthand Reporter, do hereby certify that at the time and place set forth herein I reported the voter registration challenge hearing, that at said time and place I reported in stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were transcribed using computer-aided transcription under my direction; and the foregoing transcript, Pages 1 to 24, constitutes a full, true and accurate record of such testimony adduced and oral proceedings had and of the whole thereof.

Witness my hand and stamp at Portland, Oregon, this 29th day of June, 2022.



ROBIN REGER, RPR  
Certified Shorthand Reporter  
Oregon Certificate No. 10-0416  
Washington Cert. No. 21025895  
RPR Certificate No. 1461  
Expires 6/30/2023

[1 - believe]

<b>1</b>	<b>6</b>	<b>admits</b> 15:17	<b>areas</b> 6:9
<b>1</b> 25:11	<b>6/28/20</b> 2:1 3:1 4:1	<b>adult</b> 16:11	<b>arguments</b> 5:15
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[believes - documents]

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[dollar - immaterial]

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[impact - november]

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[o0o - record]

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