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FILED

JUL 15 2022

Scott G. Weber, Clerk, Clark Co.

The Honorable David E. Gregerson

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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR CLARK COUNTY

CAROLYN CRAIN and PENNY ROSS,

Plaintiffs,

v.

GREG KIMSEY, in his official capacity as
Clark County Auditor, CATHIE GARBER,
in her official capacity as Clark County
Elections Supervisor, and CLARK
COUNTY,

Defendants.

Case No.: 22-2-01685-06

ORDER

Plaintiffs Carolyn Crain and Penny Ross, by and through the undersigned counsel, state as follows:

WHEREAS, on May 17, 2022, John Ley filed a declaration of candidacy for the position of 18th Legislative District, State Representative, Position 2;

WHEREAS, in a decision dated July 9, 2022, Defendant Greg Kimsey sustained a challenge by Plaintiff Carolyn Crain to the validity of Mr. Ley's voter registration;

WHEREAS, on July 11, 2022, Plaintiffs filed a Petition for Writ of Mandamus and Complaint for Declaratory Judgment and Injunctive Relief against Defendants, which alleged that John Ley was an ineligible candidate for the position of 18th Legislative District, State Representative, Position 2 because he was not properly registered to vote in the 18th Legislative District at the time he filed his declaration of candidacy;

.. ORDER

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No. 22-2-01685-06

Chalmers & Adams LLC
1003 Main Street, Suite 5
Sumner, Washington 98390
PHONE: (206) 207-3920

1 WHEREAS, under RCW 29A.24.075(3), Plaintiffs contend that Mr. Ley is ineligible to
2 run as a candidate for the position of 18th Legislative District, State Representative, Position 2
3 during the 2022 election;

4 WHEREAS, Plaintiffs acknowledge that the delay in printing and mailing new 2022
5 primary election ballots without Mr. Ley's name listed as a candidate is prohibitive;

6 WHEREAS, Plaintiffs have met and conferred with Defendants in an attempt to reach an
7 agreement on how to reconcile Mr. Ley's ineligibility for the position of 18th Legislative District,
8 State Representative, Position 2 with the practical realities regarding physical ballots for an
9 election to held on August 2, 2022;

10 WHEREAS, because RCW 29A.36.180 already provides that in certain nonpartisan
11 elections "votes cast for [a] disqualified candidate . . . shall not be counted," Plaintiffs desire this
12 Court to use its equitable powers to apply a similar remedy to the 2022 primary election with
13 respect to Mr. Ley's candidacy for office in the 18th Legislative District;

14 WHEREAS, Plaintiffs believe the terms of the Order below to be a just, fair, adequate and
15 equitable resolution of the case;

16 WHEREAS, Plaintiffs believe the issuance of an Order conforming to these terms is in the
17 public interest and is an appropriate way to resolve the disputed issues; and

18 WHEREAS, Defendants, through their counsel, have indicated that they do not take a
19 position on the entry of the Order below, except that they desire an opportunity to review and
20 revise any order to ensure administrative feasibility;

21 NOW THEREFORE, THE COURT ORDERS AS FOLLOWS:

22 I. John Ley, who filed a declaration of candidacy for the office of 18th Legislative
23 District, State Representative, Position 2 on May 17, 2022, was not "properly registered to vote"
24 in the 18th Legislative District "at the time [his] declaration of candidacy was filed." Therefore,
25 the Court hereby declares him ineligible as a candidate for election to such office pursuant to RCW
26 29A.24.075(3).

1 2. Defendants are entitled to continue their pre-arranged process for administering the
2 2022 primary election pursuant to federal, state and county laws. Plaintiffs agree to waive any and
3 all claims with respect to the publication, distribution or dissemination of 2022 primary election
4 ballots that include John Ley as a candidate for the office of 18th Legislative District, State
5 Representative, Position 2.

6 3. Clark County Canvassing Board shall not, in its certification of the 2022 primary
7 election include votes cast for John Ley for the office of 18th Legislative District, State
8 Representative, Position 2.

9 4. For the avoidance of doubt, with respect to the 2022 election for the office of 18th
10 Legislative District, State Representative, Position 2, the “top two candidates . . . certified as
11 qualified to appear on the general election ballot” pursuant to RCW 29A.52.112(2) shall be the
12 two highest vote-getters for such office other than John Ley.

13 5. Defendants shall promptly issue a news release describing this order and its effect
14 and use their best efforts to, as soon as practicable, cause a notice to be mailed to each unique
15 mailing address of all active registered voters in the 18th Legislative District informing them of
16 this Order, including the fact that Mr. Ley has been declared ineligible for the office of 18th
17 Legislative District, State Representative, Position 2 and that votes cast for him for such office on
18 2022 primary election ballots will not be used to determine which two candidates for that office
19 will appear on the 2022 general election ballot.

20 6. Entry of this Order resolves all claims in the Plaintiffs’ complaint.

21 7. Upon entry of this Order, Plaintiffs’ complaint shall be dismissed with prejudice.

22 8. This Order does not constitute an admission or evidence of any fact, wrongdoing,
23 misconduct, or liability on the part of Defendants or any of their employees or agents.

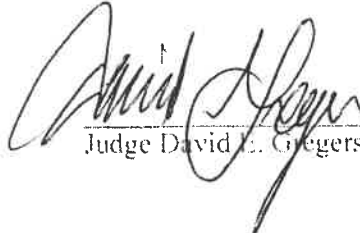
24 9. Notwithstanding the dismissal of this action, this Court shall retain jurisdiction to
25 oversee compliance with the terms of this Order and to resolve any motions to modify such terms,
26 until the certification of the 2022 primary election pursuant to RCW 29A.60.190.

27 10. The terms of this Order shall become effective upon its entry by the Court.

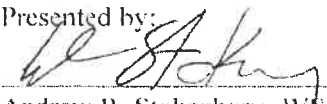
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IT IS SO ORDERED.

DATED this 15 day of July, 2022.



Judge David L. Gregerson

Presented by:


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Approved as to form:


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