

No. 73303-6

COURT OF APPEALS, DIVISION 1
OF THE STATE OF WASHINGTON

Andrew Pilloud,
Appellant,

vs.

King County Republican Central Committee

and

LORI SOTELO,
County Chairman, King County Republican Central Committee,

Respondents.

REPLY BRIEF OF APPELLANT

Andrew Pilloud
Petitioner, Pro Se.

2600 2ND AVE APT 807
SEATTLE WA 98121
206-279-2777

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COURT OF APPEALS
STATE OF WASHINGTON


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I. Argument

A. The court should overturn the ruling on preclusion and rule on the constitutional issues raised by the respondents.

“A statute is presumed to be constitutional, and the party challenging its constitutionality bears the burden of proving its unconstitutionality beyond a reasonable doubt.” State v. Thorne, 129 Wn.2d 736 (1996). The respondents have been consistent in asserting the unconstitutionality of the statute. However they have not challenged the constitutionality of the 2004 statute in which the defects found in the past ruling were corrected by the legislature. The court should overturn the ruling on preclusion. A ruling on constitutionality would terminate this controversy so the court should make such a ruling.

B. The trial court incorrectly barred enforcement of a 2004 statute by applying a 1967 ruling on a similar statute.

The courts correctly bared a claim on preclusion in 1993, however the legislature passed a version of the statute lacking the language ruled unconstitutional in 2004. There has been no ruling on the constitutionality of RCW 29A.80.061, and it contains none of the language previously ruled unconstitutional.

C. The state only needs to demonstrate compelling interest when severely burdening associational rights.

“If [the statute] severely burdens associational rights, it is subject to strict scrutiny and will be upheld only if it is narrowly tailored to serve a compelling state interest... Because [the statute] does not severely burden respondents, the State need not assert a compelling interest.” *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442 (2008). The republican party has not proved that their association rights are severely burdened, and so no compelling interest is required. The Attorney General's decision not to participate is probably because the motion challenging the constitutionality of the law was never filed. RP6 The Attorney General's office did request to be kept informed of the status of the constitutional challenge.

The entire RCW Chapter 29A.80 infringes on the King County Republican Central Committee's association rights. This chapter also dictates how the State Leadership and County Central Committee Chair is elected, who may be a member of the County Central Committee (a Precinct Committee Officer), and how the Precinct Committee Officer is elected. The infringement in section 061 by requiring the election of the legislative district chair by precinct

committee officers from their respective district is relatively minor. These infringements imposed by these statutes have already been settled in *Marchioro v. Chaney*, 442 U.S. 191 (1979). As in *Marchioro*, there is no reason the county committee could not have created an entirely new subcommittee for each legislative district which is separate from the statutory committee. The statutory committee has no statutory duties beyond electing a chair.

Even if the burden was severe, the state has an interest in regulating political associations “when necessary to prevent fraud and corruption.” *Eu v. S.F. Cty. Democratic Cent. Comm.*, 489 U.S. 214 (1989) There were significant reports of corruption due to the imbalance in power between the legislative district committees and county central committee during the 2012 nominating conventions that would have likely been prevented under the structure imposed by the statute. The *Seattle Times* article titled “King County GOP leader boots caucus outside after Ron Paul backers take over” covered alleged corruption on the part of Respondent Sotelo in April 2012.

D. RCW 29A.80.061 has a clear connection to RCW 29A.80.060
and the primary election

The title of ESB 6453 (Chapter 271, Laws of 2004) covers nearly two pages and specifically calls out the repeal of RCW 29A.80.060, the unconstitutional precursor to RCW 29A.80.061. An interested party would have little difficulty in making the connection between this bill and the election of legislative district chairs.

“Adequacy of the Title of ESB 6453: The second clause of article II, section 19 requires that the subject of a bill must be expressed in its title. The subject in title requirement is to be liberally construed in favor of the constitutionality of the legislation.” Washington State *Grange v. Locke*, 105 P. 3d 9, (2005). Primary election: "an election in which qualified voters nominate or express a preference for a particular candidate or group of candidates for political office, choose party officials, or select delegates for a party convention." *Id.* The Washington Supreme court ruled on this exact bill and its title. Choosing party officials is within the scope of a primary election and therefore a legitimate subject of ESB 6453.

II. Conclusion

Based on the forgoing argument, the court should overturn the order quashing the application for writ of mandamus, declare RCW 29A.80.061 constitutional, order the writ granted, and remand to the superior court for trial.

Respectfully submitted on October 15, 2015,



Andrew Pilloud
Appellant, Pro Se

Proof of Service / Declaration of Mailing

I, Andrew Pilloud, certify that I mailed a true and correct copy of the foregoing **Reply Brief of Appellant** postage prepaid, on **October 15th, 2015** to the following counsel of record: **John J White Jr, PO BOX 908, Kirkland WA 98083, Atty. For Respondents; Robert W. Ferguson, PO BOX 40100, Olympia WA, 98504-0100, Attorney General, State of Washington.**

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Oct 15, 2015 SEATTLE, WA

(Date and Place)

CL

(Signature)