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SUPREME COURT
STATE OF WASHINGTON
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No. 90875-3

IN THE WASHINGTON STATE SUPREME COURT

GLENDA NISSEN, an individual,

Respondent,

v.

PIERCE COUNTY, a public agency; PIERCE COUNTY
PROSECUTOR'S OFFICE, a public agency,

Petitioners

v.

PROSECUTOR MARK LINDQUIST,

Petitioner

NISSEN'S SUPPLEMENTAL BRIEF

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ORIGINAL

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I. INTRODUCTION

Respondent Nissen incorporates herein her 11/5/14 Answer to the Petitions for Review and her 1/23/15 Answer to the Amicus Curiae Briefs in support of the Petition for Review and the authorities cited in both.

II. ARGUMENT

A. **Agency Has Violated the PRA, Nissen is the Prevailing Party, and She Should be Awarded her Fees and Costs.**

Agencies are obligated to attempt to obtain records to respond to a Public Record Act (“PRA”) request and to provide an adequate identification of any withheld records and an explanation of any cited exemptions. Petitioners have acknowledged the text records have been secured at Verizon and still exist. See Lindquist’s Pet. for Rev. at 2 n. 1. The record is devoid of any evidence that the County ever so much as asked, let alone ordered, the elected Prosecutor to provide the texts to the County or to the Court. Instead, the County has joined forces with its elected Prosecutor arguing the records are exempt and not subject to production. Nissen prevailed in Division Two by overturning the CR 12(b)(6) dismissal the County obtained. The County has made no effort to obtain the text records and has denied her access to non-exempt portions of the phone records. The agency has not provided an adequate identification of the records withheld or the exemptions alleged to apply. The agency should be held to have violated the PRA by failing in its duties

to the requestor, and Nissen should be awarded her fees and costs both below and on appeal and, if records are held not to be exempt, a statutory penalty for all non-exempt records or portions of records for each day until such records are produced. Nissen renews her request for fees pursuant to RAP 18.1.

B. Petitioners' Facial Challenge Must Fail.

Petitioners are making a facial challenge and not as “as applied” challenge to the PRA in this case. They have each argued that there is no set of circumstances under which the PRA can constitutionally be interpreted to allow an agency to obtain an elected official’s text messages or phone records from a cell phone he used for work purposes but was not provided by the agency, or for a court to request such records to conduct an in camera review. They have argued that neither the agency nor a court may obtain these records without violating the State and US Constitutions.

“A facial challenge to a legislative Act is, of course, the most difficult challenge to mount successfully, since the challenger must establish that no set of circumstances exists under which the Act would be valid.” United States v. Salerno, 481 U.S. 739, 745, 107 S.Ct. 2095, 95 L.Ed.2d 697 (1987). If a law “could conceivably” be implemented in such a way as to comply with the constitutional right asserted, a facial challenge must fail. Wash. State Grange v. Wash. State Republican Party, 552 U.S.

442, 456, 128 S.Ct. 1184, 170 L.Ed.2d 151 (2008).

Facial challenges are disfavored for several reasons. Claims of facial invalidity often rest on speculation. As a consequence, they raise the risk of “premature interpretation of statutes on the basis of factually barebones records.” *Sabri v. United States*, 541 U.S. 600, 609, 124 S.Ct. 1941, 158 L.Ed.2d 891 (2004) (internal quotation marks and brackets omitted). Facial challenges also run contrary to the fundamental principle of judicial restraint that courts should neither “ ‘anticipate a question of constitutional law in advance of the necessity of deciding it’ ” nor “ ‘formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.’ ” *Ashwander v. TVA*, 297 U.S. 288, 346–347, 56 S.Ct. 466, 80 L.Ed. 688 (1936) (Brandeis, J., concurring) (quoting *Liverpool, New York & Philadelphia S.S. Co. v. Commissioners of Emigration*, 113 U.S. 33, 39, 5 S.Ct. 352, 28 L.Ed. 899 (1885)). Finally, facial challenges threaten to short circuit the democratic process by preventing laws embodying the will of the people from being implemented in a manner consistent with the Constitution. We must keep in mind that “ ‘[a] ruling of unconstitutionality frustrates the intent of the elected representatives of the people.’ ” *Ayotte v. Planned Parenthood of Northern New Eng.*, 546 U.S. 320, 329, 126 S.Ct. 961, 163 L.Ed.2d 812 (2006) (quoting *Regan v. Time, Inc.*, 468 U.S. 641, 652, 104 S.Ct. 3262, 82 L.Ed.2d 487 (1984) (plurality opinion)).

Wash. State Grange, 552 U.S. at 450–51. Petitioners and their Amici urge this Court to rule for Petitioners based on a facial challenge they have not proven and cannot prove. Their attempt must fail.

C. An “As Applied” Challenge Here Must Also Fail.

Petitioners **have not made** an as applied challenge. There has been no search, or even attempted search by the government. The County has

made no effort to obtain the records. Instead they argue that the PRA cannot be interpreted to mean records under any circumstances related to an official's allegedly "personal" cell phone are "public records" no matter the facts or the PRA would be unconstitutional.

Even if the case was viewed as an "as applied" challenge, which it is not, such challenge must also fail. Petitioners argue that access to these records by the agency or a court constitutes an unconstitutional search and seizure. Their Amici (WASAMA and Public Employee Unions, hereinafter collectively "Agency Amici") raised a host of other constitutional arguments, which are not properly before this Court and have been waived as the parties did not raise them in the trial court or the Division Two Court of Appeals. Petitioners answered their own Amici attempting to cure this failure and waiver, but an brief saying in essence "yes, the Amici supporting me who argued things I neglected to argue before" does not preserve those arguments or cure waiver.

The arguments raised by Agency Amici and not raised explicitly below or in Division Two by Petitioners must be disregarded. None of the constitutional arguments, raised by the parties or the Agency Amici, whether viewed as a facial challenge or an as applied challenge, can succeed here.

For example, WASAMA argues that disclosure, or even in camera

review, of records of public officials or employees to determine if they meet the definition of a public record violates the official's or employee's right of association. Appellants and the Agency Amici argue that examination by the agency or in camera review by the court is a warrantless search in violation of the 4th Amendment and state equivalent. The Agency Amici claim access to the records by a court or the agency is a "taking" of personal property without just compensation. And for support for all of the above they all cite to criminal search cases or civil discovery cases with no similarity or application to the case at issue here and ignore clearly relevant and binding cases.

Many of the same arguments the Petitioners and Agency Amici make were made by former President Richard Nixon and addressed by the United States Supreme Court in **Nixon v. Administrator of General Services**, 433 U.S. 425, 97 S. Ct. 2777, 53 L. Ed.2d 867 (1977), when Nixon challenged the Presidential Recordings and Materials Preservation Act that required government archivists to review 42 million pages of his documents and 880 audio tape recordings of his conversations to decide what material was truly personal and could be returned to him and what should be kept by the government after his resignation. Nixon argued his right of association was threatened by review as well as disclosure. He compared the Act to a warrantless search that violated his Fourth

Amendment rights. He said it violated his right to privacy, presidential privilege and separation of powers. **And the United States Supreme Court rejected each of his claims. Nixon**, 433 U.S. 425 .

The Act about which Nixon sued required government archivists to seize all of his records and recordings, to review them, and to make determinations as to whether they were truly private or related to his role as President. The private records could be returned to him through a process. The ones deemed governmental would be retained and might be disclosable to the public. Archivists were authorized and required to review all of his records and recordings, including communications with doctors, clergy, family and friends, and to listen to every recording of every conversation he had recorded over his entire term in office. And the United States Supreme Court rejected all of the Constitutional claims Nixon raised. **Id.**

The **Nissen** decision from Division Two is first and foremost a remand to allow records to be provided to either the County or a court to review in camera. The records are text messages sent or received by the elected Prosecutor over a brief period of specified days and logs of his phone records for a similarly brief period. The review is to determine if the records meet the definition of public record, if they do whether portions are nonetheless exempt, and then to determine what should be disclosed.

The elected Prosecutor has conceded many of the texts at issue and phone calls on his phone records were or “may be” related to the conduct of government and are not purely private. But, ignoring Nixon, the Petitioners and Agency Amici argue the official’s employer cannot examine the records and that even an elected judge cannot be permitted to see them. The Nixon decision illustrates why the claims of Petitioners and Agency Amici must fail. A remand for the lodging of the records for in camera review is not a warrantless search, is not an invasion of privacy, is not an infringement on one’s associational rights, or any of the other allegations raised by the Agency Amici or that might belatedly be tossed in by Appellants on their Supplement Briefs or Amicus Brief Answers.

Petitioners and Agency Amici focus on cases involving the warrantless search or seizure of property by law enforcement of non-governmental criminal defendants for the sole purpose of criminal investigation and prosecution. They focus on civil discovery cases involving non-governmental entities where the analysis is based on whether discovery sought is relevant to the civil claims and defenses asserted. These two types of cases are far afield from this case, which is about examination of records of a government official—for a non-law enforcement purpose—which records the official concedes are potentially government-related—and when the sole purpose of the review is to determine if the records

should be produced under the state's Public Records Act. The Nixon case above is far more instructive, and relevant, and on point to the case here. The Nixon case illustrates why the Division Two decision here is not wrong and why Lindquist's constitutional rights are not violated by the review process that will follow a remand.

D. The 4th Amendment is Not Violated Here.

Lindquist voluntarily brought in his unredacted phone bills. Lindquist was not ordered to bring them in nor threatened with any form of discipline if he refused. He is the elected prosecutor, the superior to all the staff involved in this case, and would have needed a recall to remove him from office. So Lindquist, who brought in his phone records, cannot claim a constitutional violation from his voluntary production to the County. There was no search or seizure about which to complain.

The County has apparently never asked Lindquist to provide the text messages or made any effort to retrieve them from Verizon, and there is no evidence in the record of such a request. Thus, there is also no search or seizure about which Lindquist can complain as to his text messages. Petitioners make a facial challenge, and such challenge must fail. Division Two correctly held these records could be deemed "public records" under the PRA overturning the CR 12(b)(6) dismissal obtained by the County. Petitioners have not shown, and cannot show, that production of the text

messages and the unredacted phone records to the County and/or to a court for in camera review will violate the 4th Amendment in this case. (The Petitioners have further not established any claim of exemption.)

Neither the County, nor a Court, is required to obtain a warrant to retrieve the text messages or phone records or to establish probable cause of a crime. The United States Supreme Court has held that when a government employer conducts a “noninvestigatory work-related intrusion” of an employee or his property, or an investigatory search for evidence of suspected work-related employee misfeasance that a warrant and probable cause is not required to comply with the 4th Amendment.

O’Connor v. Ortega, 480 U.S. 709, 715, 717, 107 S.Ct. 1492, 94 L.Ed.2d 714 (1987). Rather, the proper test is whether the search was “reasonable” under all of the circumstances, looking at whether the employee had “an expectation of privacy that society is prepared to consider reasonable” in the area searched, and then whether the government employer violated this expectation by conducting an unreasonable search. **Id.**, 480 U.S. at 715, 717, 720. When considering whether a search conducted by an employer for work-related purposes violates the 4th Amendment, courts must balance “invasion of the employees' legitimate expectations of privacy against the government's need for supervision, control, and the efficient operation of the workplace.” **Id.** at 719–20 . The US Supreme Court held

that searches and seizures to investigate suspected work-related misfeasance similarly do not require probable cause, explaining:

Public employers have an interest in ensuring that their agencies operate in an effective and efficient manner, and the work of these agencies inevitably suffers from the inefficiency, incompetence, mismanagement, or other work-related misfeasance of its employees. Indeed, in many cases, public employees are entrusted with tremendous responsibility, and the consequences of their misconduct or incompetence to both the agency and the public interest can be severe. In contrast to law enforcement officials, therefore, public employers are not enforcers of the criminal law; instead, public employers have a direct and overriding interest in ensuring that the work of the agency is conducted in a proper and efficient manner. In our view, therefore, a probable cause requirement for searches of the type at issue here would impose intolerable burdens on public employers. The delay in correcting the employee misconduct caused by the need for probable cause rather than reasonable suspicion will be translated into tangible and often irreparable damage to the agency's work, and ultimately to the public interest.

Id. at 724.

Using this test, the O'Connor Court found no 4th Amendment violation from the warrantless search of an employee's office and seizure of personal items from the employee's desk and file cabinet during an investigation into workplace misconduct by the employee. Id. The US Supreme Court subsequently held that a government employer's seizure and search of records of an employee's government-provided pager did not violate the 4th Amendment in City of Ontario v. Quon, 560-U.S. 746, 130 S.Ct. 2619, 177 L.Ed.2d 216 (2010).

Here, the County was asked to obtain and inspect some text messages

and phone records from a cell phone the elected Prosecutor chose to use to conduct agency business instead of his County-provided cell phone. The Prosecutor did not copy or forward the text messages to the County for storage. He sent several of the text messages within days after being told all such text messages were public records and were subject to production and more than a year after published appellate decisions in this State made clear records such as these were public records needing to be disclosed.

A court is to examine whether or not the employee has a reasonable expectation of privacy in the material to be searched or seized, and to examine further whether the alleged privacy interest is one which society is prepared to honor. Lindquist was on notice that using his 861 cell phone as he did created public records on that device subjecting it to needed access by the County. There is nothing unreasonable about the County gaining access to those materials or a Court from being allowed to review them for purposes of an in camera review.

E. Article I, Section 7 of the State Constitution is Not Violated Here.

Petitioners have not shown that allowing the agency to access records to comply with the PRA or for a court to obtain them to perform an in camera review will violate Article I, Section 7 of the State Constitution. Again, Petitioners make a facial challenge, which necessarily must fail

since they have not established that there are no set of circumstances under which the PRA could constitutionally be read to reach texts and phone records of cell phones not paid for by the agency. An as applied challenge similarly must fail.

Again, there has been no order, seizure or compelled search. Lindquist voluntarily produced the unredacted phone records to the County. The County has made no request for or effort to obtain the text messages. And while Lindquist appears to belatedly claim in his latest appellate briefing that he will refuse to provide the text messages if ordered or asked, the fact remains he has never been asked or ordered and thus never has officially refused. Petitioners have not shown, and cannot show, that Article I, Section 7 will be violated by providing the text messages and the unredacted phone records to the County and/or a Court for in camera review. (The Petitioners have further not established any claim of exemption.)

Article I, section 7 requires an intrusion into a person's "private affairs." **American Legion Post #149 v. Washington State Dept. of Health**, 164 Wn.2d 570, 596, 192 P.3d 306 (2008). Whether an intrusion into private affairs exists depends upon a two-step analysis: (1) what privacy interests citizens have historically held and (2) whether the expectation of privacy is one that citizens should be entitled to hold. **Id.**;

State v. McKinney, 148 Wn.2d 20, 26-32, 60 P.3d 46 (2002).

The assessment of whether a cognizable privacy interest exists under Const. art. 1, § 7 is thus not merely an inquiry into a person's subjective expectation of privacy but is rather an examination of whether the expectation is one which a citizen of this state should be entitled to hold.

City of Seattle v. McCready, 123 Wn.2d 260, 270, 868 P.2d 134 (1994).

This case does not involve a search or seizure for purposes of a criminal investigation. If records are requested from this elected official, it will be a request by the County to its elected Prosecutor or a request by a Court to lodge records for in camera review, both solely for purposes of a determination whether the records are public records in order to comply with the PRA. The records at issue will first be the unredacted phone records the Prosecutor voluntarily provided the County (which thus cannot constitute a search and seizure since the records were already freely provided) and second the text messages the Prosecutor has not yet been asked by the County or trial court to provide but which the Prosecutor concedes at least 16 of which are likely work-related texts. The text messages and phone records are from calls and texts the Prosecutor chose to send from his 861 cell phone instead of from the County-provided cell he possessed at the same time, and they will be texts he could have forwarded to the County for safekeeping and chose not to do so. These are also text messages the Prosecutor chose to send on his 861 days after

being warned that text messages on the 861 cell and phone records from that cell were public records that had to be disclosed and a year **after** published appellate caselaw made clear these types of records were public records requiring disclosure regardless of the nature of the device on which they were created, stored or read.

Petitioners cannot show these records constitute the “private affairs” of the elected Prosecutor. Rather, they are records meeting the definition of public records in the PRA. Petitioners further cannot show that the “privacy” interest the Prosecutor seeks to claim is one an elected official who has acted as he has acted should be entitled to hold.

F. Lindquist is the “Agency”

Nissen has briefed several times the issue of why Lindquist, as the Prosecutor, is “the Office” and thus falls within the definition of “agency” under the PRA. See RCW 42.56.010(1) The Pierce County Prosecutor has historically been considered without question an “agency” under the PRA. **Limstrom v. Ladenburg**, 136 Wn.2d 595, 963 P.2d 869 (1998).

Lindquist is the first to claim a distinction between his “office” and himself as an “officer.” The PRA does not define the term “office.” The plain meaning of the term “office” encompasses the individual official occupying the office: “Employment or position as an official” or “a position of duty, trust, or authority, esp. in the government.” *Random*

House Dictionary of the English Language the unabridged version (1966).

WASH. CONST. ART. XI § 5 authorizes the legislature to provide for the election of a person to carry out the prescribed duties of the county prosecutor's office. The prosecuting attorney is a county officer. **State v. Whitney**, 9 Wash. 377, 379, 37 P. 473 (1894). The power of the county prosecutor's office can only be exercised by its agents or officers acting under their authority or authority of law. RCW 36.01.030. When a county prosecutor exercises the county's powers, his actions are the actions of the county. **Broyles v. Thurston County**, 147 Wn. App. 409, 195 P.3d 985 (2008). The term "office" contemplates acts committed by a public officer in his official capacity as well as private acts committed outside of an officer's official duties, committed during the official's term of office. **In re Recall of Pearsall-Stipek**, 141 Wn.2d 756, 10 P.3d 1034 (2000). Pierce County Code identifies the elected prosecutor as an "Office of the County: "This department shall be headed by the elected Pierce County Prosecutor whose duties and responsibilities are regulated by RCW 36.27.020." PCC 2.06.030. As the elected official he has superior power to the county executive over staff and normal daily operations of his office. Pierce County Charter Sec. 3.10. Upon election, the prosecutor must swear under oath to "faithfully and impartially discharge the duties of his or her office." RCW 36.16.040. The duties of the prosecutor's office include

compliance with the PRA. Dawson v. Daly, 120 Wn.2d 782, 845 P.2d 995 (1993). “All county officers shall complete the business of their offices...” RCW 36.16.120. Lindquist is obligated to comply with the PRA. He was and is the “agency.” Such a finding is neither novel nor concerning.

G. The Stored Communications Act Does Not Prevent In Camera Review or an Order to Lodge Records with the Court.

The Stored Communications Act (SCA) does not prevent in camera review or an order to lodge the records with the trial court for in camera review. Text data stored exclusively with a third party provider is not shielded from discovery under the SCA. Theofel v. Farey-Jones, 359 F.3d 1066 (9th Cir. 2004); Crispin v. Christian Audigier, Inc., 717 F.Supp. 2d 965 (C.D. Cal. 2010); “*A User’s Guide to the Stored Communications Act, and A Legislator’s Guide to Amending It*” Orin S. Kerr, 72 Geo. Wash. L. Rev. 1208, 2003-2004. “Remote computing service” (“RCS”) data does not have the same privacy protections as data kept by an e-mail service provider. RCS may be accessed via a court order, rather than under the more stringent standards applicable to electronic communication services (“ECS”). 18 U.S.C. §§ 2703(b), 2703(d); Low v. LinkedIn Corp., 900 F.Supp. 2d 1010 (N.D. Cal. 2012). A “remote computing service” is defined in the SCA as “the provision to the public of computer storage or processing services by means of an

electronic communications system.” 18 U.S.C. §2711(2). The 16 work-related texts at issue in this case have been read by Lindquist and now are stored at Verizon separately from any phone bills. They are governed by the rules for RCS, and not the rules for ECS. 18 U.S.C. §§ 2702(a)(2), 2703(b), see also Steve Jackson Games, Inc. v. U.S. Secret Serv., 36 F.3d 457, 461-463 (5th Cir. 1994). Content retained beyond 180 days is treated under distinct provisions from those held 180 days or less. 18 U.S.C. § 2703(a). Lindquist has stored the texts with Verizon for more than 180 days. The data has not expired in the normal course, meaning the ECS standard is not applicable and the RCS standard is controlling. A warrant is not necessary to obtain the texts. A trial subpoena is sufficient. 18 U.S.C. § 2703(b)(1)(B)(i). Text messages are discoverable and may be also produced by consent from the sender or recipient without violating the SCA. In re Facebook, Inc., 923 F. Supp. 2d 1204 (N.D. Cal. 2012).

The SCA does not preclude in camera review, or an order to lodge the records for in camera review, and it is not a basis for this Court to deprive the County, a Court, or Nissen access to these records.

H. Lindquist Did Not Have A Reasonable Expectation of Privacy in the Records at Issue Here and a Court at a Minimum Must be Allowed to Review Them In Camera.

The 4th Amendment and Article I Section 7 arguments pre-suppose

that Lindquist had a reasonable expectation of privacy in the records at issue here. As explained in previous briefing and above, he did not. He was on notice in 2011 when he sent and received the at least 16 work-related texts and sent and received the calls he concedes may be work related that the records here could be public records and that any device on which they were stored could require agency access to retrieve them.

Any constitutional privacy interest further depends upon a subjective and reasonable expectation of privacy in private affairs. State v. Goucher, 124 Wn.2d 778, 881 P.2d 210 (1994). Matters of legitimate public interest outweigh offensive public scrutiny of private life. AGO 1983 No. 9, citing to Hearst Corp. v. Hoppe, 90 Wn.2d 123, 580 P.2d 246 (1978). The “special needs” of a government workplace justifies a warrantless examination of digital communications under search and seizure laws. Ontario v. Quon, 560 U.S. 746. Detective Nissen is seeking work-related text communications of the elected Prosecutor. Setting aside the fact that privacy is not a stand alone exemption and Petitioners have not identified an applicable exemption, under the definition of privacy in the PRA, the text content would have to be highly offensive information that is truly secret and of no legitimate concern to the public in order to apply the definition of privacy under the PRA. RCW 42.56.050. Van Buren v. Miller, 22 Wn. App. 836, 592 P.2d 671, review denied, 92 Wn.2d

1021(1979); Cowles Publ'g Co. v. State Patrol, 109 Wn.2d 712, 721, 748 P.2d 597 9 (1988); Seattle Firefighters Union Local No. 27 v. Hollister, 48 Wn. App. 129, 135, 737 P.2d 1302, review denied, 108 Wn.2d 1033 (1987); Bellevue John Does 1-11v. Bellevue Sch. Dist., 164 Wn.2d 199, 212-12, 189 P.3d 139 (2008)

An elected Prosecutor's work-related texts cannot meet the definition for an invasion of privacy, statutory or constitutional. Public officials are held to a high standard because the public has the right to judge an official's performance and safeguard against corruption. King County v. Sheehan, 114 Wn. App. 325, 57 P.3d 307 (2002). That is precisely the purpose of Detective Nissen's request. The public has a legitimate interest in the content of those work-related messages, and the elected Prosecutor similarly has no legitimate expectation of privacy in the content of those work-related texts, and certainly not in August 2011 when these texts were sent and received.

In camera review provides an appropriate safeguard to address any legitimate privacy concerns of Lindquist. In camera review is the process identified in the civil rules for addressing privilege claims. CR 26(b)(6). In camera review is designed to effectively enforce the constitutional right of a plaintiff to civil discovery. King v. Olympic Pipeline Co., 104 Wn. App. 338, 362, 16 P.3d 45 (2000), citing Wash. Const. art. I § 10. In

camera review is essential to addressing the constitutional interests at stake. Snedigar v. Hoddersen, 114 Wn.2d 153, 786 P.2d 781 (1990). In camera review is proper in a public records case. RCW 42.56.550, Limstrom v. Ladenburg, 136 Wn.2d 595, 963 P.2d 869 (1998). (“The only way that a court can accurately determine what portions, if any, of the file are exempt from disclosure is by an in camera review of the files”). PRA cases are like any other civil case and courts are empowered with all of the same powers they possess for other civil cases.

Lindquist alleges that the records are not “related to the conduct of government” and so should not be ordered released, but he seeks to block the County, and a Court, from looking at the records to confirm Lindquist’s representation. Courts are entrusted to review records parties dispute should be provided to an opponent. Parties cannot block production to a Court for such a review as Lindquist is attempting to do here. At a minimum, Lindquist should be ordered to provide the records to the Court for purposes of an in camera review.

RESPECTFULLY SUBMITTED this 20th day of April, 2015

ALLIED LAW GROUP LLC
Attorneys for Respondent Glenda Nissen

By 

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on April 20, 2015, I served by email pursuant to agreement the foregoing document and this certificate of service on:

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Dated this 20th day of April, 2015, at Shoreline, Washington.



Michele Earl-Hubbard

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Subject: RE: Nissen v. Pierce County - 90875-3

Attached for filing is Nissen's Supplemental Brief.

Filed by Michele Earl-Hubbard, WSBA # 26454, attorney for Respondent Glenda Nissen. My contact information is below.

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Subject: Nissen v. Pierce County - 90875-3

Dear Clerk:

Attached for filing (and service) is the Supplemental Brief of Petitioner Lindquist.

Thank you, Stew

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