

FILED
SUPREME COURT
STATE OF WASHINGTON
10/3/2018 3:39 PM
BY SUSAN L. CARLSON
CLERK

No. 95959-5

SUPREME COURT OF THE STATE OF WASHINGTON

JANELLE RIDDLE, YAKIMA COUNTY CLERK

Petitioner,

v.

DAVID A. ELOFSON, KEVIN S. NAUGHT, MICHAEL G.
McCARTHY, DOUGLAS L. FEDERSPIEL, BLAINE G. GIBSON,
RUTH E. REUKAUF, GAYLE M. HARTHCOCK, and RICHARD H.
BARTHELD, Judges of the Superior Court of the State of Washington for
Yakima County

Respondents.

**RESPONDENT YAKIMA COUNTY SUPERIOR COURT JUDGES'
MOTION TO SUPPLEMENT AGREED STATEMENT OF FACTS
AND RECORD**

WILLIAM D. HYSLOP, WSBA #11256
JENNIFER V. HANSON, WSBA #35476
TORI J. OSLER, WSBA #49117
Attorneys for Respondents

LUKINS & ANNIS, P.S.
1600 Washington Trust Financial Center
717 W Sprague Ave
Spokane, WA 99201-0466
Telephone: (509) 455-9555
Facsimile: (509) 747-2323

I. IDENTITY OF RESPONDENTS

Respondents are the Judges for the Superior Court of Yakima County, State of Washington. Individually, these Judges are Kevin S. Naught, Department 1; Michael G. McCarthy, Department 2; Douglas L. Federspiel, Department 3, Blaine G. Gibson, Department, 4; David A. Elofson, Presiding Judge, Department 5, Ruth E. Reukauf, Department 6, Gayle M. Harthcock, Department 7; and Richard H. Bartheld, Department 8 (collectively referred to herein as “the Judges”).

II. STATEMENT OF RELIEF IS SOUGHT

Respondents respectfully request that this Court supplement the Statement of Facts with information confirming that the Yakima County Board of Commissioner has made claims against Petitioner’s bond.

III. REFERENCE TO THE RECORD

1. Petitioner, Janelle Riddle, was elected as Clerk of the court for Yakima County for the term of January 1, 2015 through December 31, 2018. *Declaration of Janelle Riddle Supporting Petition Against State Officers, Motion to Stay Judges’ Order and Motion for Accelerated Consideration of Motion to Stay*, dated June 14, 2018 (“*Riddle Decl.*”), ¶ 2.

2. Ms. Riddle was required to obtain a bond at the time that she took office. Such bond was issued by Western Surety Company. *Riddle Decl.* at ¶ 3, Ex. A.

3. Based upon information received from the Washington State Auditor's Fraud Investigation report, an internal audit, and other information, the Yakima County Board of Commissioners issued two Notice of Claim letters dated June 11, 2018, and July 27, 2018, to the surety. *Declaration of the Honorable Judge David Elofson in Support of Respondents' Motion to Supplement Agreed Statement of Facts and Record.*

4. Ms. Riddle filed a Petition Against State Officers, Motion to Stay Judges' Order and Motion for Accelerated Consideration of Motion to Stay with the Washington State Supreme Court on June 14, 2018.

5. Ms. Riddle has argued in support of her allegation of wrongful action by the Judges, in part, based on the allegation that her "bond remains unimpaired." *Riddle Decl.* at ¶ 4; *Petition Against State Officers* at ¶ 3.6, Ex. D, Ex. E; *Motion to Modify Ruling of Commissioner* at 3.1.2.

IV. GROUNDS FOR RELIEF AND ARGUMENT

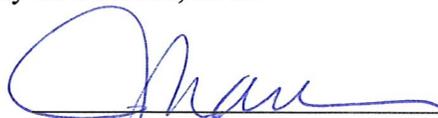
The Judges request that the Agreed Facts be supplemented with the fact that the Yakima County Board of Commissioners has filed two claims against Ms. Riddle's bond. Despite having provided no authority for a requirement that Ms. Riddle's bond be "impaired" nor a legally accepted definition of "impaired," to date, Ms. Riddle has referenced her belief that the bond is "unimpaired" on many occasions. She has used impairment of the bond as a justification for her claim that the Judges lacked authority to act.

Moreover, failure to supplement the Agreed Facts will leave a false impression that no action has been taken with respect to making claims on Ms. Riddle's bond.

V. CONCLUSION

Based upon the foregoing reasons, the Judges respectfully request that the Agreed Statement of Facts and Record be supplemented with information concerning claims made on Ms. Riddle's bond.

Submitted this 3rd day of October, 2018.



WILLIAM D. HYSLOP, WSBA #11256
JENNIFER V. HANSON, WSBA #35476
TORI J. OSLER, WSBA #49117
Attorneys for Respondents

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No. 95959-5

SUPREME COURT OF THE STATE OF WASHINGTON

JANELLE RIDDLE, YAKIMA COUNTY CLERK

Petitioner,

v.

DAVID A. ELOFSON, KEVIN S. NAUGHT, MICHAEL G.
McCARTHY, DOUGLAS L. FEDERSPIEL, BLAINE G. GIBSON,
RUTH E. REUKAUF, GAYLE M. HARTHCOCK, and RICHARD H.
BARTHELD, Judges of the Superior Court of the State of Washington for
Yakima County

Respondents.

**DECLARATION OF THE HONORABLE JUDGE DAVID
ELOFSON IN SUPPORT OF RESPONDENTS' MOTION TO
SUPPLEMENT THE AGREED STATEMENT OF FACTS AND
RECORD**

WILLIAM D. HYSLOP, WSBA #11256
JENNIFER V. HANSON, WSBA #35476
TORI J. OSLER, WSBA #49117
Attorneys for Respondents

LUKINS & ANNIS, P.S.
1600 Washington Trust Financial Center
717 W Sprague Ave
Spokane, WA 99201-0466
Telephone: (509) 455-9555
Facsimile: (509) 747-2323

I, DAVID ELOFSON, declare as follows:

1. I am over the age of 18 years and am competent to provide testimony in this matter. The following statements are based upon my own personal knowledge.

2. I am a Judge of the Washington State Superior Court, in and for Yakima County, Position 5. In this role, I am also serving as the Presiding Judge of the Yakima County Superior Court and this Declaration is made on behalf of this Court.

3. Attached hereto as **Exhibit A** is a true and correct copy of a letter received by me dated June 11, 2018 between the Board of Yakima County Commissioners and CNA Surety making a claim on Ms. Riddle's bond issued by Western Surety Company.

4. Attached hereto as **Exhibit B** is a true and correct copy of a letter received by me dated July 27, 2018 between the Board of Yakima County Commissioners and CNA Surety making a claim on Ms. Riddle's bond issued by Western Surety Company.

I certify and declare under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

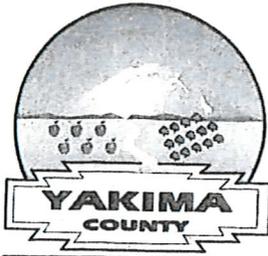
EXECUTED this 3 day of October, 2018, at Yakima,

Washington.



DAVID ELOFSON, Judge

EXHIBIT A



BOARD OF YAKIMA COUNTY COMMISSIONERS

Michael D. Leita
District 1

Ron Anderson
District 2

J. Rand Elliott
District 3

June 11, 2018

CNA Surety
Surety Claims
333 South Wabash Ave.
Floor 41 S.
Chicago, IL 60604

COPY

RE: NOTICE OF CLAIM

Clerk of Court Bond
Principal: Janelle L. Riddle
Obligee: Yakima County, Washington
Bond #: 65556399

Attention Claims Department:

Yakima County, Washington is the obligee under Clerk of Court Bond No. 65556399, in the amount of \$200,000.00, provided by Western Surety Company, as surety for Yakima County Clerk, Janelle L. Riddle. Pursuant to the Surety Bond, Yakima County, Washington hereby declares that Yakima County Clerk, Janelle L. Riddle, committed misfeasance, malfeasance and/or violated her oath of office, and is therefore in default under the contract .

In support of Yakima County's claim, enclosed with this letter is a copy of the Washington State Auditor's Fraud Investigation Report dated April 23, 2018. The Auditor's official report concluded that misappropriation and loss of funds occurred within the Yakima County Clerk's Office during 2017.

The State Auditor's investigation found that \$13,029.00 was misappropriated, of which \$3,599.00 is attributed to one individual. In addition, the cost to Yakima County for this investigation by the Washington State Auditor is \$13, 432.00. In all, Yakima County seeks recovery of misappropriated funds and investigation costs in the total amount of \$26,461.00.

In addition to the foregoing, Yakima County hereby provides notice that it is seriously considering making additional claims against the Clerk of Court Bond for losses to Yakima County of approximately \$200,000.00 due to the Yakima County Clerk's knowing and willful failure to transmit superior court child support orders to the Washington State Division of Child Support, as required by statute. To that end, attached hereto please find a copy of the very recent Washington State Supreme Court case, *Matter of Recall of Janelle Riddle, Yakima County Clerk*, 189 Wn.2d 565, 403 P.3d 849 (2017).

Yakima County acknowledges that Western Surety Company is entitled to a reasonable opportunity to investigate the Notice of Claim under the above-referenced Clerk of Court Bond, its investigation is without prejudice to the rights of the parties, and Western Surety Company reserves its rights or defenses to Yakima County's claim.

I look forward to hearing from you in the near future with regards to the resolution of Yakima County's claim.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Ron Anderson', written in a cursive style.

Ron Anderson, Chairman
Board of Yakima County Commissioners



Office of the Washington State Auditor

Pat McCarthy

Fraud Investigation Report

Yakima County

For the Investigation Period January 1, 2017 through December 31, 2017

Published April 23, 2018

Report No. 1021151





Office of the Washington State Auditor
Pat McCarthy

April 23, 2018

Board of Commissioners
Yakima County
Yakima, Washington

Report on Fraud Investigation

Attached is the official report on a misappropriation at Yakima County. On December 4, 2017, the County notified the State Auditor's Office of a potential loss of public funds. This notification was submitted to us under the provisions of state law (RCW 43.09.185).

This report contains the results of our investigation of the Financial Supervisor's unallowable activities at the County from January 1, 2017 through December 31, 2017. The purpose of our investigation was to determine if a misappropriation had occurred.

Our investigation was performed under the authority of state law (RCW 43.09.260) and included procedures we considered necessary under the circumstances.

If you are a member of the media and have questions about this report, please contact Assistant Director for Communications Kathleen Cooper at (360) 902-0470. Otherwise, please contact Fraud Manager Sarah Walker at (509) 454-3621.

Pat McCarthy
State Auditor
Olympia, WA

cc: Karen Hofmann, Finance Manager

FRAUD INVESTIGATION REPORT

Investigation Summary

On December 4, 2017, the County Clerk notified our Office regarding a potential loss of public funds as required by state law. The County identified bank deposits that did not include all money that was collected.

We investigated and determined \$13,029 in cash receipts were misappropriated between January 2017 and December 2017. We also identified questionable transactions totaling \$2,290 that occurred in the same timeframe.

The County has filed a report with Yakima County Sheriff's Office, which is investigating. We will refer this case to the Yakima County Prosecuting Attorney's Office.

Background and Investigation Results

Yakima County operates on an annual budget of about \$289 million. The Clerk's Office collects about \$1.2 million in revenue for fines, fees and restitution payments. During 2017, four people (two on any given day) were responsible for reconciling cash receipts, preparing deposits and taking deposits to the County Treasurer's Office.

The loss was detected during the independent bank statement reconciliation process, when the Senior Manager at the County's Financial Services Department identified bank deposits from September to November 2017 did not include all cash collected through the receipting system.

Our investigation focused on cash receipting and accounting system adjustments at the Clerk's Office. For cash receipts, we compared receipts recorded in the Clerk's receipting system to the deposits from August 1, 2017, through December 4, 2017. We obtained all system-generated reports to identify the people who reconciled each deposit. We also obtained the Treasurer's Office deposit logs to identify the person who took the deposit to the Treasurer's Office. We determined that cash collected at the Clerk's Office totaling \$6,760 was never deposited into the bank.

We obtained a report showing all adjustments to receipts for July 1, 2017, through September 30, 2017. We reviewed 26 adjustments that reduced cash payments, processed by various employees at the Clerk's Office. We reviewed court orders, case activity and adjustment documentation. Also, for voids related to facilitator user and form fees, we confirmed the legitimacy of the transactions through the Court Facilitator. Six of these cash adjustments were not legitimate, all of which were processed through the Financial Supervisor's account. We expanded the scope of our review to cash adjustments for all of 2017, processed through the Financial Supervisor's account. We determined that cash receipts totaling \$6,269 were voided or adjusted with no valid reason. In addition, there were questionable adjustments totaling \$2,290.

To determine who was responsible for the misappropriation, we reviewed daily deposit forms, Treasurer's Office deposit logs, payroll records and refund check images. The Financial Supervisor was the only individual with access to the cash on all days when misappropriation occurred. Further, all of the adjustments and voids with misappropriation were processed through her access code. Through review of the deposit logs, we determined the Financial Supervisor deposited receipts only 14 times during the year. Seven of these deposits were short.

We assigned responsibility to the Financial Supervisor for at least three cash deposit shortages totaling \$2,760 for which she reconciled and deposited the cash, or where her handwritten notes show her involvement with the missing cash. Through our review, we further determined the Financial Supervisor was responsible for at least seven cash receipt system adjustments totaling \$839; we verified her involvement in the transaction through her signature, which was on either the reconciliation report or checks associated with the transactions. In addition to inappropriately adjusting the cash transactions, the Financial Supervisor wrote five checks associated with these transactions, totaling \$464 that inappropriately refunded individuals for payments that should not have been refunded. Altogether, we assigned responsibility to the Financial Supervisor for \$3,599.

On March 1, 2018, we interviewed all four people who were involved in the cash reconciliation process. The Financial Supervisor agreed that the documentation makes it look as if she took the money, but she said she did not. We were unable to finish our questioning because she requested an attorney and ended the interview.

Control Weaknesses

Internal controls at the County were not adequate to safeguard public resources. We found the following weaknesses allowed the misappropriation to occur:

- F0
E1 The Clerk's Office lacked segregation of duties over cash handling procedures. Multiple individuals were responsible for reconciling the cash receipts to the deposits and transmitting funds to the County Treasurer's Office. In addition, there was not adequate oversight from someone independent of cash handling, reconciling or depositing.
- F0
E1 Cash and checks receipted for the day were placed in an unsealed bank bag in the vault overnight, with multiple individuals having access to the vault. Although this money was reconciled the next day and placed in a sealed bank bag, the sealed bag was not safeguarded before transmittal. Before it was transported to the Treasurer's Office, the bag could have been altered or switched with another bag, because the Clerk's Office did not monitor the numerical integrity of the sealed bags.
- F0
E1 There was no independent review of cash receipting adjustments or accounts receivable adjustments. Additionally, individuals responsible for performing these adjustments are also involved in the daily cash deposit preparation.

Recommendations

We recommend the County Clerk's Office strengthen internal controls over cash receipting and adjustments to ensure adequate oversight and monitoring to safeguard public resources and compliance with County policies.

We also recommend the County seek recovery of at least the misappropriated \$3,599 and related investigation costs of \$13,432 from the Financial Supervisor and/or the County's insurance bonding company, as appropriate. Any compromise or settlement of this claim by the County must be approved in writing by the Attorney General and State Auditor as directed by state law (RCW 43.09.260). Assistant Attorney General Matt Kernutt is the contact person for the Attorney General's Office and can be reached at (360) 586-0740 or mattk1@atg.wa.gov. The contact for the State Auditor's Office is Sadie Armijo, Assistant Director of Local Audit, who can be reached at (360) 902-0362 or Sadie.Armijo@sao.wa.gov.

County's Response

Yakima County offers the following response to the Fraud Audit related to the County Clerk's Office:

The Board of Yakima County Commissioners is disappointed with the Clerk's progress concerning issues that are the sole responsibility of the elected Clerk.

We agree with the Auditors opinion that internal controls within the Clerk's office continue to be inadequate and has allowed misappropriations to occur. Despite the County's collective efforts to support her office, the Clerk has failed to resolve your findings.

The Board of Yakima County Commissioners will diligently pursue the State Auditor's recommendations.

State Auditor's Office Remarks

We thank County officials and personnel for their assistance and cooperation during the investigation. We will review the corrective action taken during our next audit.

ABOUT THE STATE AUDITOR'S OFFICE

The State Auditor's Office is established in the state's Constitution and is part of the executive branch of state government. The State Auditor is elected by the citizens of Washington and serves four-year terms.

We work with our audit clients and citizens to achieve our vision of government that works for citizens, by helping governments work better, cost less, deliver higher value, and earn greater public trust.

In fulfilling our mission to hold state and local governments accountable for the use of public resources, we also hold ourselves accountable by continually improving our audit quality and operational efficiency and developing highly engaged and committed employees.

As an elected agency, the State Auditor's Office has the independence necessary to objectively perform audits and investigations. Our audits are designed to comply with professional standards as well as to satisfy the requirements of federal, state, and local laws.

Our audits look at financial information and compliance with state, federal and local laws on the part of all local governments, including schools, and all state agencies, including institutions of higher education. In addition, we conduct performance audits of state agencies and local governments as well as fraud, state whistleblower and citizen hotline investigations.

The results of our work are widely distributed through a variety of reports, which are available on our website and through our free, electronic subscription service.

We take our role as partners in accountability seriously, and provide training and technical assistance to governments, and have an extensive quality assurance program.

| Contact information for the State Auditor's Office | |
|--|--|
| Public Records requests | PublicRecords@sao.wa.gov |
| Main telephone | (360) 902-0370 |
| Toll-free Citizen Hotline | (866) 902-3900 |
| Website | www.sao.wa.gov |

EXHIBIT B



BOARD OF YAKIMA COUNTY COMMISSIONERS

Michael D. Leita
District 1

Ron Anderson
District 2

J. Rand Elliott
District 3

July 27, 2018

CNA Surety
Surety Claims
333 S. Wabash Ave., Floor 41 S.
Chicago, IL 60604

RE: NOTICE OF CLAIM

Clerk of Court Bond
Principal: Janelle L. Riddle
Obligee: Yakima County, Washington
Bond #: 65556399

Attention Claims Department:

Yakima County, Washington is the obligee under Clerk of Court Bond No. 65556399, in the amount of \$200,000.00, provided by Western Surety Company, as surety for Yakima County Clerk, Janelle L. Riddle. Pursuant to the Surety Bond, Yakima County, Washington hereby declares that Yakima County Clerk, Janelle L. Riddle, committed misfeasance, malfeasance and/or violated her oath of office, and is therefore in default under the contract.

Ms. Riddle's errors or omissions resulted in a failure of the Clerk of Court to transmit child support orders entered by the Yakima County Superior Court to the Washington State Child Support Registry (DCS) within five days of entry as required by state law, RCW 26.23.033(4), the ultimate consequence of which was a substantial loss of revenue to Yakima County. In that regard, see the very recent Washington State Supreme Court case, *Matter of Recall of Janelle Riddle, Yakima County Clerk*, 189 Wn.2d 565, 403 P.3d 849 (2017), a copy of which is attached hereto and incorporated by reference.

An internal audit by CPA Susan Remer, Senior Manager of Yakima County Financial Services, determined that between December 2015 and August 2016, the Clerk of Court's willful failure to timely transmit child support orders to DCS resulted in a loss of total eligible reimbursement to which Yakima County was otherwise entitled in the amount of \$194,913.23. Accordingly, Yakima County seeks recovery from you in that amount. A copy of Ms. Remer's worksheet and calculations is attached hereto and incorporated by reference.

Yakima County acknowledges that Western Surety Company/CNA Surety is entitled to a reasonable opportunity to investigate the Notice of Claim under the above-referenced Clerk of Court Bond, its investigation is without prejudice to the rights of the parties, and Western Surety Company/CNA Surety reserves its rights or defenses to Yakima County's claim.

I look forward to hearing from you in the near future with regards to the resolution of Yakima County's claim.

Very truly yours,

Ron Anderson, Chair
Board of Yakima County Commissioners

Clerk Child Support Enforcement Billings

| | December 2015 | January 2016 | February 2016 | March 2016 | April 2016 | May 2016 | June 2016 | July 2016 | August 2016 | |
|---|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|---------------------|
| Salaries | 109,889.31 | 106,955.48 | 104,089.65 | 108,140.73 | 107,798.79 | 108,545.89 | 112,245.98 | 107,305.52 | 112,429.06 | 977,400.41 |
| Benefits | 43,748.89 | 41,498.38 | 41,720.19 | 43,029.77 | 44,498.75 | 43,653.48 | 43,957.92 | 45,366.64 | 45,590.39 | 393,064.41 |
| Supplies | 6,963.72 | 546.41 | 2,025.30 | 3,388.77 | 2,555.29 | 2,857.26 | 7,718.77 | 626.20 | 5,476.01 | 32,157.73 |
| Small Tools | 396.86 | | | | 101.70 | | | | | 498.56 |
| Prof. Services | 199.97 | 7,465.00 | 12.27 | 5,063.44 | 228.09 | 28.36 | 354.92 | 208.18 | 272.81 | 13,833.04 |
| Purchasing | 619.00 | 326.59 | 326.59 | 326.59 | 326.59 | 326.59 | 326.59 | 326.59 | 326.59 | 3,231.72 |
| Info Services | 18,590.92 | 19,187.33 | 19,187.33 | 19,187.33 | 19,187.33 | 19,187.33 | 19,187.33 | 19,187.33 | 19,187.33 | 172,089.56 |
| Security | 2,904.42 | 2,396.42 | 2,396.42 | 2,396.42 | 2,396.42 | 2,396.42 | 2,396.42 | 2,396.42 | 2,396.42 | 22,075.78 |
| Postage | 4,770.05 | 4,659.39 | 1,032.21 | 7,314.83 | 7,943.56 | 5,455.69 | 5,233.33 | 3,464.45 | 3,144.81 | 43,018.32 |
| Phone | 312.00 | 318.50 | 318.50 | 318.50 | 318.50 | 318.50 | 318.50 | 318.50 | 318.50 | 2,860.00 |
| Travel | | 896.84 | | | 249.43 | 113.79 | | 104.33 | | 1,364.39 |
| Advertising | 139.33 | | 753.71 | | | | 486.54 | | | 1,379.58 |
| Rentals/leases | 2,593.05 | 981.63 | 971.13 | | 1,982.67 | | 1,926.36 | 1,017.56 | | 9,472.40 |
| Rent-Facil. Maint. | 7,181.75 | 7,344.17 | 7,344.17 | 7,344.17 | 7,344.17 | 7,344.17 | 7,344.17 | 7,344.17 | 7,344.17 | 65,935.11 |
| Insurance | | | | | | | | | | - |
| Interfund Insurance | 1,006.33 | 992.58 | | 1,985.16 | 992.58 | 992.58 | 992.58 | 992.58 | 992.58 | 8,946.97 |
| R&M | 1,457.80 | | 261.20 | | 187.01 | | 233.90 | | 520.56 | 2,660.47 |
| Misc. | | | | 95.00 | 200.00 | | (95.00) | | 10.97 | 210.97 |
| | <u>200,773.40</u> | <u>193,568.72</u> | <u>180,438.67</u> | <u>198,590.71</u> | <u>196,310.88</u> | <u>191,220.06</u> | <u>202,628.31</u> | <u>188,658.47</u> | <u>198,010.20</u> | <u>1,750,199.42</u> |
| Less Unallowable | (445.00) | (438.00) | (436.00) | (436.00) | (427.00) | (438.00) | (479.00) | (436.00) | (427.00) | (3,962.00) |
| Total Direct Costs | <u>200,328.40</u> | <u>193,130.72</u> | <u>180,002.67</u> | <u>198,154.71</u> | <u>195,883.88</u> | <u>190,782.06</u> | <u>202,149.31</u> | <u>188,222.47</u> | <u>197,583.20</u> | <u>1,746,237.42</u> |
| Indirect rate 10.00% | 10,988.93 | 10,695.55 | 10,408.97 | 10,814.07 | 10,779.88 | 10,854.59 | 11,224.60 | 10,730.55 | 11,242.91 | 97,740.04 |
| Calculation of Reimbursement: | | | | | | | | | | |
| Direct costs allowed | | | | | | | | | | |
| Total Direct costs | 200,328.40 | 193,130.72 | 180,002.67 | 198,154.71 | 195,883.88 | 190,782.06 | 202,149.31 | 188,222.47 | 197,583.20 | |
| Reimbursement Rate ** | 14.12% | 13.51% | 13.51% | 13.51% | 13.51% | 13.51% | 13.51% | 13.51% | 13.51% | |
| Total Direct costs allowed (a) | <u>28,286.37</u> | <u>26,091.96</u> | <u>24,318.36</u> | <u>26,770.70</u> | <u>26,463.91</u> | <u>25,774.66</u> | <u>27,310.37</u> | <u>25,428.86</u> | <u>26,693.49</u> | <u>237,138.68</u> |
| Indirect costs allowed | | | | | | | | | | |
| Total Indirect costs | 10,988.93 | 10,695.55 | 10,408.97 | 10,814.07 | 10,779.88 | 10,854.59 | 11,224.60 | 10,730.55 | 11,242.91 | |
| Reimbursement Rate | 14.12% | 13.51% | 13.51% | 13.51% | 13.51% | 13.51% | 13.51% | 13.51% | 13.51% | |
| Indirect costs allowed (b) | <u>1,551.64</u> | <u>1,444.97</u> | <u>1,406.25</u> | <u>1,460.98</u> | <u>1,456.36</u> | <u>1,466.45</u> | <u>1,516.44</u> | <u>1,449.70</u> | <u>1,518.92</u> | <u>13,271.71</u> |
| Total eligible reimbursement | | | | | | | | | | |
| State - 12.5% of total Direct | | | | | | | | | | |
| Costs Allowed (a) | 3,535.80 | 3,261.50 | 3,039.80 | 3,346.34 | 3,307.99 | 3,221.83 | 3,413.80 | 3,178.61 | 3,336.69 | 29,642.36 |
| Federal - 66% of total direct (a) and total indirect costs (b) | <u>19,693.09</u> | <u>18,174.37</u> | <u>16,978.24</u> | <u>18,632.91</u> | <u>18,427.38</u> | <u>17,979.14</u> | <u>19,025.70</u> | <u>17,739.85</u> | <u>18,620.19</u> | <u>165,270.87</u> |
| Total Eligible Reimbursement | <u>23,228.89</u> | <u>21,435.87</u> | <u>20,018.04</u> | <u>21,979.25</u> | <u>21,735.37</u> | <u>21,200.97</u> | <u>22,439.50</u> | <u>20,918.46</u> | <u>21,956.88</u> | <u>194,913.23</u> |

** - Based on percentage of pleadings sample for Clerk

▲ In re Recall of Riddle, 189 Wn.2d 565

Copy Citation

Supreme Court of Washington

October 5, 2017, Considered; October 26, 2017, Filed

No. 94788-1

Reporter

[189 Wn.2d 565](#) * | [403 P.3d 849](#) ** | [2017 Wash. LEXIS 993](#) ***

In the Matter of the Recall of Janelle Riddle, Yakima County Clerk.

Notice:

As amended by order of the Supreme Court October 26, 2017.

Subsequent History: Modified by [In re Recall of Riddle, 2017 Wash. LEXIS 996 \(Wash., Oct. 26, 2017\)](#)

Prior History:

[\[***1\]](#) Appeal from Yakima County Superior Court. 17-2-02011-6. Honorable [Maryann C. Moreno](#).

Core Terms

duties, charges, orders, clerk's office, superior court, legally sufficient, child support order, legal sufficiency, election, in-court, alleges, trial court's ruling, transmitted, synopsis, ballot, courts, recall proceeding, restraining order, malfeasance, contends, shutdown, misfeasance, argues, cases, staff, services director, jury service, challenges, e-mailed, services

Case Summary

Overview

HOLDINGS: [1]-Recall of the county clerk could proceed to the signature gathering phase in accordance with [Wash. Rev. Code § 29A.56.140](#) because the five remaining recall charges in the amended ballot

synopsis were factually and legally sufficient, particularly the charges that the clerk knowingly failed to transmit child support orders and restraining orders entered by the superior court to the appropriate agency as required by statute and the charge that the clerk unlawfully failed to perform certain in-court duties, especially after the court adopted a lawful rule requiring the clerk to perform the duties; [2]-The clerk, by virtue of her office, was the clerk of the superior court for the county under [Wash. Const. art. IV, § 26](#) and, as such, was subject to the direction of the court under [Wash. Rev. Code § 2.32.050](#).

Outcome

The trial court was affirmed.

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HN1 [Local Governments, Elections](#)

Washington voters have a constitutional right to recall any nonjudicial elected official who has committed some act or acts of malfeasance or misfeasance while in office, or who has violated his or her oath of office. [Wash. Const. art. I, § 33](#). The statutes governing recall proceedings are Wash. Rev. Code §§ 29A.56.110-.270. [Wash. Const. art. I, § 34](#). [More like this Headnote](#)

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HN2 [Courts, Authority to Adjudicate](#)

The courts act solely as gatekeepers in the recall process. Their role is to ensure that the recall process is not used to harass public officials by subjecting them to frivolous or unsubstantiated charges. It is up to the voters to determine whether the charges are true and, if so, whether they actually justify recalling the official. Courts therefore take all factual allegations as true. [More like this Headnote](#)

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[HN3](#) [Standards of Review, De Novo Review](#)

The sufficiency of a recall petition is reviewed de novo. [More like this Headnote](#)

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[HN4](#) [Local Governments, Elections](#)

A recall charge is factually sufficient where the alleged facts, taken as a whole, identify to the electors and to the official being recalled acts or failure to act which without justification would constitute a prima facie showing of misfeasance, malfeasance, or a violation of the oath of office. [More like this Headnote](#)

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[HN5](#) [State & Territorial Governments, Elections](#)

A recall charge is legally sufficient if it states with specificity substantial conduct clearly amounting to misfeasance, malfeasance or violation of the oath of office. [More like this Headnote](#)

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[HN6](#) [State & Territorial Governments, Elections](#)

"Misfeasance," "malfeasance" and "violation of the oath of office" are statutorily defined: (1)

"Misfeasance" or "malfeasance" in office means any wrongful conduct that affects, interrupts, or

interferes with the performance of official duty; (a) Additionally, "misfeasance" in office means the performance of a duty in an improper manner; and (b) Additionally, "malfeasance" in office means the commission of an unlawful act; (2) "Violation of the oath of office" means the neglect or knowing failure by an elective public officer to perform faithfully a duty imposed by law. [Wash. Rev. Code §](#)

[29A.56.110](#). [More like this Headnote](#)

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[HN7](#) [State & Territorial Governments, Elections](#)

An appropriate exercise of discretion does not constitute grounds for recall. [More like this Headnote](#)

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[HN8](#) [Local Governments, Elections](#)

Where a recall charge alleges the commission of an unlawful act, the petitioner must show facts indicating the official had knowledge of and intent to commit an unlawful act. [More like this](#)

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- Governments > [Courts](#) > [Clerks of Court](#)

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[HN9](#) [Child Support, Procedures](#)

Superior court clerks must transmit child support orders to the Washington State Division of Child Support (DCS) within five days of entry. [Wash. Rev. Code § 26.23.033\(2\)](#). If a clerk complies with this duty, then DCS funds a portion of the clerk's office budget; if not, then DCS must withhold the anticipated funding. [More like this Headnote](#)

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[HN10](#)  Local Governments, Elections

In recall proceedings, where commission of an unlawful act is alleged, the petitioner must show facts indicating the official had knowledge of and intent to commit an unlawful act. The primary purpose of the intent requirement is to shield elected officials from recall where their actions, though not statutorily compliant, are attributable to a simple mistake. [More like this Headnote](#)

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[HN11](#)  Local Governments, Elections

An official may be recalled for knowingly failing to perform a statutorily mandated duty. [More like this Headnote](#)

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[HN12](#)  Local Governments, Duties & Powers

Factual allegations that, if believed, establish a prima facie showing of the neglect or knowing failure by an elective public officer to perform faithfully a duty imposed by law demonstrate a violation of the oath of office. [Wash. Rev. Code § 29A.56.110\(2\)](#). [More like this Headnote](#)

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[HN13](#)  State & Territorial Governments, Elections

An appropriate exercise of discretion does not constitute grounds for recall. [More like this Headnote](#)

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[HN14](#) [Appeals, Standards of Review](#)

A reviewing court must take the facts alleged by recall petitioners as true. [More like this Headnote](#)

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[HN15](#) [Judgments, Enforcement & Execution](#)

A superior court clerk must transmit restraining orders entered in a variety of cases to law enforcement on or before the next judicial day. [Wash. Rev. Code § 7.92.180\(1\)](#) (civil antistalking actions); [Wash. Rev. Code § 10.99.040\(6\)](#) (pending criminal actions for domestic violence offenses); [Wash. Rev. Code § 26.09.050\(3\)](#) (final dissolution decrees), [Wash. Rev. Code § 26.09.060\(8\)](#) (pending dissolution actions); [Wash. Rev. Code § 26.26.130\(11\)](#) (parentage actions); [Wash. Rev. Code § 26.50.100\(1\)](#) (domestic violence protection orders). [More like this Headnote](#)

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[HN16](#) [Local Governments, Duties & Powers](#)

Where an official credibly threatens retaliation in his or her official capacity, such threats alone would be wrongful by any standard. [More like this Headnote](#)

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[HN17](#) Local Governments, Elections

An action with a legally justifiable excuse is not sufficient for recall, but an action that is not legally justifiable can be sufficient. [More like this Headnote](#)

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[HN18](#) Courts, Clerks of Court

A county clerk, by virtue of the office, is the clerk of the superior court for the county. [Wash. Const. art. IV, § 26](#). The duties of a county clerk as clerk of the superior court are defined both by statute and court rules. Generally speaking, a clerk of court is an officer of a court of justice, who attends to the clerical portion of its business, and who has custody of its records and files and of its seal. Such an office is essentially ministerial in its nature, and the clerk is neither the court nor a judicial officer. [More like this Headnote](#)

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[HN19](#) Courts, Authority to Adjudicate

A superior court has power to control, in furtherance of justice, the conduct of its ministerial officers, such as county clerks. [Wash. Rev. Code § 2.28.010\(5\)](#). Therefore, when acting as the clerk of the superior court, a county clerk has always been required in the performance of his or her duties to conform to the direction of the court. [Wash. Rev. Code § 2.32.050\(9\)](#); 1891 Wash. Laws ch. 57, § 3(9). A clerk's general powers and duties as clerk of a superior court are set forth in [Wash. Rev. Code § 2.32.050](#) and in the local rules for the superior court. [More like this Headnote](#)

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[HN20](#) Courts, Authority to Adjudicate

A superior court has the authority to direct the functions of the county clerk when the county clerk is acting in the capacity as clerk of the superior court. A superior court's rule-making authority in regard to court clerks is subject to the same restrictions as any other rules: to the extent that the court rule relates to practice and procedure rather than to the creation of substantive law, the rule is within the authority of the court. [More like this Headnote](#)

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[HN21](#) Courts, Authority to Adjudicate

Yakima County, Wash., Superior Court Local Administrative Rule 3, which describes the responsibilities of the county clerk as clerk of the court while in court, is within the scope of the superior court's rule-making authority, and the clerk does not have a legally justifiable excuse for refusing to follow it. [More like this Headnote](#)

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- Governments > [State & Territorial Governments](#) > [Elections](#)

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[HN22](#) Fundamental Freedoms, Freedom of Speech

The [First Amendment](#) (U.S. Const. amend. I) prevents governments from restricting or chilling free speech, but a recall proceeding is an action by the voters, not the government. [Wash. Const. art. I, § 33](#). The voters unquestionably have a right to base their decisions on what a public official says, the [First Amendment](#) notwithstanding. [More like this Headnote](#)

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[HN23](#) State & Territorial Governments, Elections

The imminence of a regular election does not justify dismissing a recall petition. The timing of the next election is irrelevant to a court's recall charge analysis. [More like this Headnote](#)

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- Governments > [Local Governments](#) > [Duties & Powers](#)

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[HN24](#) Appeals, Reviewability of Lower Court Decisions

The decision of a superior court concerning the adequacy of a recall petition ballot synopsis is final. [Wash. Rev. Code § 29A.56.140](#). [More like this Headnote](#)

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▼ Headnotes/Syllabus

Summary

WASHINGTON OFFICIAL REPORTS SUMMARY

Nature of Action: Action to determine the sufficiency of the charges for the recall of a county clerk and to determine the sufficiency of the ballot synopsis for the recall petition.

Superior Court: The Superior Court for Yakima County, No. 17-2-02011-6, [Maryann C. Moreno, J.](#), on July 10, 2017, ruled that five out of the six charges were factually and legally sufficient and approved an amended ballot synopsis.

Supreme Court: The court holds that the five charges approved by the superior court were factually and legally sufficient, in particular the charges that the clerk knowingly failed to transmit child support orders and restraining orders entered by the superior court to the appropriate agency as required by statute, the charge that the clerk threatened to stop performing certain in-court duties, the charge that the clerk failed to maintain a proper account of cash receipts, and the charge that the clerk failed to bill limited jurisdiction courts for jury services.

Headnotes

WASHINGTON OFFICIAL REPORTS HEADNOTES

[WA\[1\]](#) [1] Elections > Recall > Petition > Court Review > Purpose.

In actions to recall elected public officials, the courts act solely as gatekeepers to ensure that the process is not used to harass public officials by subjecting them to frivolous or unsubstantiated charges.

[WA\[2\]](#) [2] Elections > Recall > Petition > Sufficiency > Factual Allegations > Truth.

In determining the sufficiency of a recall charge, a court takes all factual allegations as true.

[WA\[3\]](#) [3] Elections > Recall > Petition > Court Review > Supreme Court > Standard of Review.

After a superior court has determined the sufficiency of a recall charge, the Supreme Court's review is de novo.

[WA\[4\]](#) [4] Elections > Recall > Petition > Sufficiency > Factual Sufficiency > Test.

A recall charge against a public official is factually sufficient if the petitioner's factual allegations, taken as a whole, identify to the electors and to the official the acts or failures to act that without justification would constitute a prima facie showing of "misfeasance," "malfeasance," or a "violation of the oath of office," as those terms are defined in [RCW 29A.56.110](#).

[WA\[5\]](#) [5] Elections > Recall > Petition > Sufficiency > Legal Sufficiency > Test.

A recall charge against a public official is legally sufficient if it states with specificity substantial conduct clearly amounting to "misfeasance," "malfeasance," or a "violation of the oath of office," as those terms are defined in [RCW 29A.56.110](#).

[WA\[6\]](#) [6] Elections > Recall > Petition > Sufficiency > Factual Sufficiency > Violation of Law > Knowledge.

When a recall charge against a public official alleges the commission of an unlawful act, the petitioner must show facts indicating that the official had knowledge of and intent to commit the unlawful act.

[WA\[7\]](#) [7] Elections > Recall > Grounds > Failure To Perform Statutory Duty > Knowing Failure > Willfulness > Unreasonable Indifference to Consequences.

A public official's knowing failure to properly and timely perform a statutorily mandated duty for a significant period of time in circumstances indicating that the official acted willfully and with unreasonable indifference to the consequences can be grounds to recall the official.

[WA\[8\]](#) [8] Elections > Recall > Petition > Sufficiency > Factual Sufficiency > Violation of Law > Intent > Purpose for Requirement.

The primary purpose for requiring a recall petitioner alleging a violation of law by a public official to show that the official intended to commit an unlawful act is to shield elected officials from recall when their actions, though not statutorily compliant, are attributable to a simple mistake.

[WA\[9\]](#) [9] Elections > Recall > Grounds > Refusal To Perform Duty Required by Law.

A public official's refusal to perform a duty required by a valid law without a legally justifiable excuse can be grounds to recall the official.

[WA\[10\]](#) [10] Elections > Recall > Grounds > Threat To Retaliate > Threat Made in Official Capacity.

A public official's credible threat of retaliation that the official makes in an official capacity can be grounds to recall the official.

[WA\[11\]](#) [11] Courts > Clerks > Duties > Superior Court.

In accordance with [Const. art. IV, § 26](#), a county clerk is the clerk of the superior court for the county. As such, the clerk is subject to the control of the court pursuant to [RCW 2.28.010\(5\)](#), must conform to the direction of the court pursuant to [RCW 2.32.050\(9\)](#), and must perform the duties delineated in [RCW 2.32.050](#) and as required by the local rules of the superior court.

[WA\[12\]](#) [12] Elections > Recall > Grounds > Statements by Official > First Amendment > Effect.

The voters may determine whether to recall a public official on the basis of what the official says, the [First Amendment](#) notwithstanding.

[WA\[13\]](#) [13] Elections > Recall > Grounds > Failure To Properly Maintain Account of Cash Receipts.

A public official's failure to properly maintain an account of cash receipts can be grounds to recall the official.

[WA\[14\]](#) [14] Elections > Recall > Grounds > Failure To Bill for Services > Delay of Revenue.

A public official's failure to bill other agencies for services rendered, resulting in a delay of revenue, can be grounds to recall the official.

[WA/15](#) [15] Elections > Recall > Imminence of Regular Election > Effect.

The imminence of a regular election at which a public official must stand for reelection does not justify the dismissal of a recall petition against the official.

[WA/16](#) [16] Elections > Recall > Ballot Synopsis > Adequacy > Determination > By Superior Court > Finality.

Pursuant to [RCW 29A.56.140](#), a superior court's determination of the adequacy of a ballot synopsis for a recall petition is "final" and is not subject to review by the Supreme Court.

Yu, J., delivered the opinion for a unanimous court.

Counties > County Clerk > Duty as Court Clerk > (Subject of Action).

Counsel: *Rickey Kimbrough, Robert Young, Bruce Smith, and Richard Johnson*, pro se respondents.

[Mark A. Hood](#) and [Daniel C. Montopoli](#) (of *Vandenberg, Johnson & Gandara*), for appellant.

Judges: AUTHOR: Justice [Mary I. Yu](#). WE CONCUR: Chief Justice [Mary E. Fairhurst](#), Justice [Charles W. Johnson](#), Justice [Barbara A. Madsen](#), Justice [Susan Owens](#), Justice [Debra L. Stephens](#), Justice [Charles K. Wiggins](#), Justice Steven C. González, Justice [Sheryl Gordon McCloud](#).

Opinion by: [Mary I. Yu](#)

Opinion

[\[*567\]](#) [\[*852\]](#) EN BANC

[As amended by order of the Supreme Court October 26, 2017.]

¶1 Yu, J. — Yakima County Clerk Janelle Riddle appeals the trial court's ruling that five out of the six recall charges filed against her are factually and legally sufficient. We granted the recall petitioners' motion for accelerated review and now affirm the trial court.

FACTUAL AND PROCEDURAL BACKGROUND

¶2 Riddle was elected on November 4, 2014. Riddle executed her oath of office on December 29 and began her [\[*568\]](#) term on January 1, 2015. Riddle's term in office has been a challenging one.

¶3 Riddle attributes many of the challenges she has faced to Yakima County's early adoption of new case management software called Odyssey. Yakima County had received approval to be "an early adopter site" for Odyssey about a year before [\[***2\]](#) Riddle's election. Yakima County Sup. Ct. Local Admin. Rule (LAR) 2.1. Odyssey was deemed necessary to replace Yakima's "obsolete" calendaring software, which posed "a threat to the [Superior] Court's continuing ability to operate." *Id.* Odyssey was implemented in November 2015, nearly one year after Riddle took office. Although most of the early adopter sites for Odyssey encountered some difficulties in its implementation, the Yakima County Clerk's Office had the most difficulty making the transition.

¶4 Another source of difficulty for Riddle has been her ongoing disagreement with other Yakima County officials, particularly the superior court judges, about the scope of Riddle's powers and duties as clerk. This disagreement prompted the Yakima County Superior Court to pass five new local administrative rules regarding the powers and duties of the clerk on an emergency basis pursuant to [GR 7\(e\)](#). LAR 3, 7, 8, 9, 10. Riddle contends that those rules are void because they conflict with state law and violate separation-of-powers principles.

¶5 In May 2017, about two and a half years into Riddle's four-year term, the recall petitioners (attorneys [Rickey Kimbrough](#), Robert Young, Bruce Smith, [\[***3\]](#) and Richard Johnson) filed a statement of charges against Riddle. Briefly, the charges allege that Riddle failed to transmit court orders as required by statute, refused to perform in-court duties and threatened to shut down the Yakima County Superior Court, and failed to properly collect and account for clerk's office revenue. The facts underlying each charge are discussed as relevant to the analysis below.

[\[*569\]](#)

¶6 As required by [RCW 29A.56.130](#), the Yakima County Prosecuting Attorney's Office drafted a ballot synopsis based on the charges and petitioned for a ruling on the sufficiency of the charges and the ballot synopsis in Yakima County Superior Court. The court ruled that five of the six charges were factually and legally sufficient and approved an amended ballot synopsis that states, in full, as follows:

BALLOT SYNOPSIS

The charges that Yakima County Clerk, Janelle Riddle, committed misfeasance, malfeasance and/or violated her oath of office allege she:

1. Failed, between October 2015 and November 2016, to properly and timely transmit to [the Department of Social and Health Services], Division of Child Support, orders of child support entered in Yakima County Superior Court, resulting in substantial loss [\[***4\]](#) of revenue to the County and harm to parents;
2. Failed, between February 2016 and October 2016 to properly discharge her duty to timely transmit to law enforcement agencies restraining orders entered in Yakima County Superior Court;

3. Refused and/or failed in July 2016 to perform in-court duties required by law, and threatened to shut down or close the Yakima County Superior Court and Yakima County Clerk's Office;
4. Failed, between January 2015 and December 2016 to properly maintain account [\[**853\]](#) of the monies received by the Yakima County Clerk's Office; and
5. Failed, between May 2016 and October 2016 to enact procedures to collect for jury services rendered to other courts resulting in a delay of revenue.

Should Janelle Riddle be recalled from office based on these charges?

Clerk's Papers (CP) at 2442.

¶7 Riddle appealed the sufficiency of those five charges to this court pursuant to [RCW 29A.56.270](#). The insufficient charge is not at issue. We affirm the trial court and hold [\[*570\]](#) that all five of the remaining charges in the amended ballot synopsis are factually and legally sufficient and the recall proceeding may move forward.

ISSUES

¶8 A. Are the five remaining charges factually and legally sufficient to move forward in accordance with [RCW 29A.56.140](#)?

¶9 B. [\[***5\]](#) Is the amended ballot synopsis adequate?

BACKGROUND LAW AND STANDARD OF REVIEW

¶10 [HN1](#) Washington voters have a constitutional right to recall any nonjudicial elected official who “has committed some act or acts of malfeasance or misfeasance while in office, or who has violated his[or her] oath of office.” [Const. art. I, § 33](#). The statutes governing recall proceedings are [RCW 29A.56.110-.270](#). See [Const. art. I, § 34](#).

[WA\[1-3\]](#) [1-3] ¶11 [HN2](#) The courts act solely as gatekeepers in the recall process. Our role is “to ensure that the recall process is not used to harass public officials by subjecting them to frivolous or unsubstantiated charges.” *In re Recall of West*, 155 Wn.2d 659, 662, 121 P.3d 1190 (2005). It is up to the voters to determine whether the charges are true and, if so, whether they actually justify recalling the official. Courts therefore take all factual allegations as true. *In re Recall of Boldt*, 187 Wn.2d 542, 549, 386 P.3d 1104 (2017). [HN3](#) “The sufficiency of a recall petition is reviewed de novo.” *Id.* (quoting *In re Recall of Wasson*, 149 Wn.2d 787, 791, 72 P.3d 170 (2003)).

[WA\[4-6\]](#) [4-6] ¶12 [HN4](#) A charge is factually sufficient where the alleged facts, taken as a whole, “identify to the electors and to the official being recalled acts or failure to act which without justification would constitute a prima facie showing of misfeasance, malfeasance, or a violation of the oath of office.” *Id.* at 548 (quoting *Chandler v. Otto*, 103 Wn.2d 268, 274, [\[*571\]](#) 693 P.2d 71 (1984)). [HN5](#) A charge “is legally sufficient if it ‘state[s] with specificity [\[***6\]](#) substantial conduct clearly amounting to misfeasance, malfeasance or violation of the oath of office.’” *Id.* at 549 (alteration

in original) (quoting *Chandler*, 103 Wn.2d at 274). “[HN6](#) Misfeasance,” “malfeasance,” and “violation of the oath of office” are statutorily defined:

(1) “Misfeasance” or “malfeasance” in office means any wrongful conduct that affects, interrupts, or interferes with the performance of official duty;

(a) Additionally, “misfeasance” in office means the performance of a duty in an improper manner; and

(b) Additionally, “malfeasance” in office means the commission of an unlawful act;

(2) “Violation of the oath of office” means the neglect or knowing failure by an elective public officer to perform faithfully a duty imposed by law.

[RCW 29A.56.110](#). When applying these statutory definitions, we have held that [HN7](#) “[a]n appropriate exercise of discretion does not constitute grounds for recall.” *Boldt*, 187 Wn.2d at 549. Moreover, [HN8](#) where the charge alleges the commission of an unlawful act, “the petitioner must show facts indicating the official had knowledge of and intent to commit an unlawful act.” *Id.*

ANALYSIS

¶13 Riddle's contentions reflect a misunderstanding of the respective roles of the courts and the voters in the recall process. We affirm the trial court's [\[***7\]](#) ruling that each charge is factually and legally sufficient to move on to the signature-gathering phase of the recall proceeding. We decline to address [\[**854\]](#) Riddle's challenge to the amended ballot synopsis.

A. Factual and legal sufficiency of the charges

¶14 Riddle challenges the factual and legal sufficiency of each of the five remaining charges individually, and further [\[*572\]](#) raises a general challenge to the recall proceeding as a whole. We affirm the trial court.

1. Charge One: failure to transmit child support orders

¶15 Charge One alleges that for over a year, Riddle failed to transmit child support orders entered by the Yakima County Superior Court to the appropriate agency as required by statute. We affirm the trial court's ruling that Charge One is factually and legally sufficient.

a. Background information

[WA\[7,8\]](#) [7, 8] ¶16 [HN9](#) Superior court clerks must transmit child support orders to the Division of Child Support (DCS) “within five days of entry.” [RCW 26.23.033\(2\)](#). [1](#) If the Yakima County Clerk complies with this duty, then DCS funds a portion of the clerk's office budget; if not, then DCS must

withhold the anticipated funding. CP at 1153, 1252, 1281. Charge One alleges that Riddle “[f]ailed, between October 2015 and November 2016, to properly and timely transmit [***8] to [the Department of Social and Health Services, DCS], orders of child support entered in Yakima County Superior Court, resulting in substantial loss of revenue to the County and harm to parents.” *Id.* at 2442.

¶17 DCS first became aware that there was a problem with transmitting support orders in January 2016. The problem dated back to November, when Odyssey was first implemented. On January 11, DCS e-mailed Riddle to notify her that there appeared to be a problem and to ask if she knew what was causing it. *Id.* at 1283. The next day, DCS e-mailed again to say it had confirmed that there was a problem; it sent a list of cases in which it knew that support orders had not been transmitted and asked Riddle to investigate and resolve the issues. *Id.* at 1289.

[*573]

¶18 Riddle responded that “[a]s an ‘early adopter’ of this state courts’ program [Odyssey], we are just to the point of finishing up the workflow process for those documents to automatically be emailed to the designated staff that [the Washington State Support Registry] would like to receive them.” *Id.* at 1283. She assured DCS that her office was “working diligently to get this workflow in place,” and proposed that in the interim, she could “ask staff to email them directly” to DCS. [***9] *Id.*

¶19 However, neither the automatic workflow process nor the direct e-mails from staff had resolved the problem by February 3, so DCS e-mailed again, expressing its concerns more forcefully:

While we do understand the difficulties often encountered when switching to a new system, there must be a “workaround” in place so that you can continue to transmit orders to [the Washington State Support Registry] during this transition period.

. ...

Please let [the supervisor from the intake unit] know the status of the automated transmission of orders under the new Odyssey system and also when all of the orders NOT previously sent since November 1, 2015 will be transmitted.

Also note that the monthly reimbursements you receive from DCS are payment for the transmission of orders and copy requests. Since orders are not being transmitted I will likely need to withhold future reimbursements until all of the past orders are received and you are sending orders regularly again.

Id. at 1282. DCS's e-mails always included offers to help Riddle resolve the issue.

¶20 In February 2016, the issue also came to the attention of the court services director for Yakima County. *Id.* at 1153. Three people had called her to report that they [***10] had not [**855] received support payments because the support orders in their cases had not been transmitted to DCS, and the clerk's office had not returned their repeated phone calls. [*574] *Id.* at 1153-54. The court services director confirmed that both the prosecutor's office and DCS were experiencing similar problems, and she then had her staff prepare a report of the missing orders. *Id.* at 1154-55.

¶21 The report stated that only 44.7 percent of the child support orders entered in family law cases between November 1, 2015 and February 17, 2016, were ever received by DCS. *Id.* at 1340. A follow-up report revealed that between February 18 and May 31, 2016, the number of orders transmitted

dropped to 33.3 percent. *Id.* at 1330. By August 2016, 74 percent of orders were transmitted on time, *id.* at 1125, and as of May 2, 2017, the court services director stated that “it appears that the child support orders are now being sent to [DCS].” *Id.* at 1156. However, as a result of so many orders being transmitted late or not at all, DCS withheld over \$ 200,000 in anticipated funding for the clerk’s office. *Id.* at 1154.

b. Factual sufficiency

¶22 Riddle contends that Charge One is factually insufficient because there is no evidence that she intended to violate the law. Br. of Appellant at [***11] 17. However, Riddle misreads the intent requirement and the showing necessary to satisfy it. [2](#)

¶23 Riddle is correct that [HN10](#) in recall proceedings “[w]here commission of an unlawful act is alleged, the petitioner must show facts indicating the official had knowledge of and intent to commit an unlawful act.” [Boldt, 187 Wn.2d at 549](#) (citing [In re Recall of Telford, 166 Wn.2d 148, 158, 206 P.3d 1248 \(2009\)](#)). The primary purpose of the intent requirement is to shield elected officials from recall where [***575] their actions, though not statutorily compliant, are attributable to a “simple mistake.” [In re Recall of Heiberg, 171 Wn.2d 771, 779, 257 P.3d 565 \(2011\)](#) (mayor purchased truck under honest but erroneous belief that reserve fund money could be used for that purpose and later reimbursed the town when he learned of his mistake).

¶24 The facts in this case, however, allege that Riddle [HN11](#) knowingly failed to perform a statutorily mandated duty in the majority of cases for eight months (from the time she was first notified of the problem in January 2016 until it was arguably mostly resolved in August 2016). The facts also allege that other counties that had been early Odyssey adopters faced some challenges, but none of them had nearly as many problems, nor did their problems persist for nearly as long. And in light of Riddle’s refusal to accept suggestions or assistance [***12] over this extended period of time, a voter might also rationally infer that Riddle acted willfully and with unreasonable indifference to the consequences of her failure to transmit child support orders. See [In re Recall of Sandhaus, 134 Wn.2d 662, 671, 953 P.2d 82 \(1998\)](#) (“[W]illfulness can probably be found in evidence showing that Sandhaus knew he was overspending and did so even after the Board and the auditor warned him against doing so.”). The factual allegations in this case clearly allege much more than a simple mistake.

¶25 Riddle, however, contends that the recall petitioners must have evidence that she had an unlawful purpose in failing to transmit court orders, such as an intent to deprive custodial parents of child support payments. It is true that we have required such evidence where the elected official’s actions would have been lawful but for the official’s alleged unlawful purpose. See [Boldt, 187 Wn.2d at 551](#) (charge that officials held a closed meeting for the purpose of taking action outside the view of the public in violation of the [Open Public Meetings Act of 1971, chapter 42.30 RCW](#)); [In re Recall of Carkeek, 156 Wn.2d 469, 472-73, 128 P.3d 1231 \(2006\)](#) (charge that [***856] official filed antiharassment order for the purpose [***576] of keeping constituents from attending public meetings). In such cases, a showing of unlawful purpose is necessary to establish an unlawful [***13] act constituting malfeasance.

¶26 This case is different. [HN12](#) The factual allegations here, if believed, establish a prima facie showing of “the neglect or knowing failure by an elective public officer to perform faithfully a duty

imposed by law,” that is, a violation of the oath of office. [RCW 29A.56.110\(2\)](#) (emphasis added). We therefore hold that Charge One is factually sufficient. [Boldt, 187 Wn.2d at 548](#).

c. Legal sufficiency

¶27 Riddle argues that Charge One is not legally sufficient because she did not engage in any wrongful conduct and the problems with transmitting child support orders were not her fault. We reject these arguments.

¶28 First, relying on the same arguments she raises as to factual sufficiency, Riddle argues that her extended failure to transmit child support orders was not wrongful at all. We reject this argument for the reasons stated above in the discussion of factual sufficiency.

¶29 Second, as Riddle correctly notes, [HN13](#) “[a]n appropriate exercise of discretion does not constitute grounds for recall.” [Id. at 549](#). She is also correct that becoming an early adopter of Odyssey was an appropriate exercise of discretion, which she was not involved in. However, Charge One does not seek to recall Riddle for the early adoption of Odyssey, but [\[***14\]](#) for Riddle's knowing failure to perform faithfully her mandatory duties.

¶30 Riddle may intend to argue that the early adoption of Odyssey made it impossible for her to fulfill her duties, which could preclude legal sufficiency. See [Greco v. Parsons, 105 Wn.2d 669, 673, 717 P.2d 1368 \(1986\)](#) (“Greco's failure to comply with an ordinance, because it was impossible to comply, amounts to a legally cognizable justification for his [\[*577\]](#) failure. Such justification defeats the legal sufficiency of the recall petition.”). However, impossibility in this case is, at best, disputed.

¶31 Riddle apparently attributes all the problems to Yakima's early adoption of Odyssey, but the facts alleged by the recall petitioners suggest that other early adopters had fewer problems, or no problems at all. Compare Br. of Appellant at 21-22, with CP at 1155-56, 1298, 1300, 1302. Moreover, the office manager for Riddle's predecessor stated that “[t]he process before Odyssey was to fax all no contact/protection orders to a designated law enforcement agency, as stated in the order. It was to be done immediately after court, so law enforcement could serve the paperwork and enter it into their system.” CP at 2253. There is no indication Riddle could not have done the same with child support orders until Odyssey was functioning properly. [\[***15\]](#) [HN14](#) We must take the facts alleged by the recall petitioners as true and assume that the early adoption of Odyssey did not make it impossible for Riddle to perform her duties.

¶32 Therefore, we affirm the trial court's ruling that Charge One is legally sufficient, as well as factually sufficient.

2. Charge Two: failure to transmit restraining orders

¶33 Charge Two is very similar to Charge One except that Charge Two deals with restraining orders instead of child support orders. Riddle's challenges to the factual and legal sufficiency of Charge Two are

identical to her challenges to Charge One. Because the allegations underlying each charge are not materially different, we affirm the trial court's ruling that Charge Two is factually and legally sufficient.

a. Background

¶34 [HN15](#) The superior court clerk must transmit restraining orders entered in a variety of cases to law enforcement “on or before the next judicial day.” [RCW 7.92.180\(1\)](#) (civil [\[*578\]](#) antistalking actions); [RCW 10.99.040\(6\)](#) (pending criminal actions for domestic violence offenses); [RCW 26.09.050\(3\)](#) (final dissolution decrees), [.060\(8\)](#) (pending dissolution actions); [RCW 26.26.130\(11\)](#) (parentage actions); [RCW 26.50.100\(1\)](#) (domestic violence [\[**857\]](#) protection orders). Charge Two alleges that Riddle “[f]ailed, between February 2016 and October 2016 [\[***16\]](#) to properly discharge her duty to timely transmit to law enforcement agencies restraining orders entered in Yakima County Superior Court.” CP at 2442.

¶35 On July 25, 2016, the Yakima County court services director learned that a family member of one of her staff could not get law enforcement assistance in enforcing valid restraining orders because the orders had not been transmitted to law enforcement. Hoping that this was an isolated incident, the court services director ordered reports about missing restraining orders. The reports revealed that between June 1 and July 27, 2016, 40 percent of criminal no-contact orders were not received by law enforcement. *Id.* at 1731. Between June 1 and July 21, 2016, 71 percent of domestic restraining orders were not received. *Id.* at 1735. A follow-up report spanning January through August 2016 revealed a pattern of failure to transmit restraining orders. *Id.* at 1159-60, 1788.

¶36 When the court services director sent these reports to Riddle and asked if they could meet to discuss and sort out the problem, Riddle responded that her office was running its own reports and did not need assistance. *Id.* at 1736, 1738. Although the time period referenced in Charge Two ends in October 2016, the problem was not in fact fully resolved [\[***17\]](#) by then. *Id.* at 1751-55. We do not know what happened after October 2016.

b. Factual and legal sufficiency

¶37 Riddle argues that there is no evidence that she intended to violate the law, that she did not engage in any substantial misconduct, and that the problems were caused by Yakima's early adoption of Odyssey. She does not distinguish [\[*579\]](#) the arguments pertaining to Charge Two from those pertaining to Charge One. We therefore reject those arguments for the reasons discussed in the above analysis of Charge One and affirm the trial court's ruling that Charge Two is sufficient.

3. Charge Three: refusal to perform in-court duties

¶38 There have been significant tensions between Riddle and the Yakima County Superior Court over their respective powers and duties. Charge Three alleges that Riddle “[r]efused and/or failed in July 2016 to perform in-court duties required by law, and threatened to shut down or close the Yakima County

Superior Court and Yakima County Clerk's Office." *Id.* at 2442. We affirm the trial court's ruling that this charge is factually and legally sufficient.

a. Background

¶39 Riddle came into the position of clerk with very different ideas about her powers and duties than those held by the Yakima County Superior Court [***18] and the Board of Yakima County Commissioners. Riddle felt it was inappropriate for her deputy clerks to perform in-court tasks they had done in the past, such as operating the electronic recording equipment that had replaced most of the in-person court reporters in Yakima and providing copies of those recordings as requested. The clerk's office had been providing such services to the Yakima County Superior Court for years in exchange for extra staff and additional funding for the clerk's office, while the staff and budget for the court were reduced accordingly. *Id.* at 1177-78.

¶40 Although Riddle agreed before she took office that she would continue that arrangement, after taking her oath of office she stated her intent to withdraw from it. *E.g., id.* at 1168. After a tense meeting between Riddle and the superior court judges on March 30, 2015, the Yakima County Superior Court adopted LAR 3, which "describes actual current courtroom [*580] procedures and the responsibilities of the Clerk of the Court while in court. The purpose of the rule is to maintain and continue current practice without interruption." LAR 3 was adopted on an emergency basis effective April 15, 2015, and on a permanent basis effective September [***19] 1, 2015. However, despite the passage of LAR 3, Riddle again asserted that her deputy clerks would stop providing the in-court services specified in the rule. *E.g., id.* at 1223.

¶41 The court services director became sufficiently concerned about Riddle's assertions, and she brought the issue to the Yakima [***858] County Law and Justice Committee, which caused the Board of Yakima County Commissioners to appoint an independent review panel in March 2016. The panel's initial report, issued on May 31, 2016, noted an attorney general opinion suggesting that the remedy for a clerk who refuses to follow a local court rule may be contempt proceedings.

¶42 On July 3, 2016, Riddle responded to the panel's report with a written document that opened, "Dear Family, Friends and Supporters." 3. *Id.* at 2113. As relevant to Charge Three, Riddle's document included the following language:

I have been threatened with contempt and going to jail if I don't do what the County Commissioners and Court want me to do. Therefore, I have no choice other than to prepare for this possibility by sending a Clerk's Directive to the Prosecuting Attorney. I don't believe they realize what the severity of the consequences will be. I would have no choice other [***20] than to revoke the deputization[] of all my deputies (staff) and they would not be able to perform my duties in my absence which would close the Clerk's Office. The Courts will not be able to hear cases without a Clerk present so the Courts will shut down. The jail will be overflowing because the Prosecutor will have no way to prosecute individuals. I would hope they know [*581] these consequences and will choose not to shut down our judicial system by such an action. I would be given no choice as I must ensure my mandated responsibilities are being met according to the law.

Id. at 2117. The disputes leading up to this document and the document itself are the basis for Charge Three.

b. Factual sufficiency

[WA/9,10/↑](#) [9, 10] ¶43 First, Riddle contends that Charge Three is factually insufficient because there is no proof that she actually “failed” to perform any in-court duties. However, Charge Three alleges that she “[r]efused *and/or* failed” to perform those duties. *Id.* at 2442 (emphasis added). The facts clearly allege that Riddle refused to perform in-court duties and thus that Riddle refused *and/or* failed to perform those duties, just as Charge Three states.

¶44 Next, Riddle argues that there is no proof that she actually shut down the court as threatened. [\[***21\]](#) That is true, but irrelevant. [HN16/↑](#) Where an official credibly threatens retaliation in his or her official capacity, “such threats alone would be ... wrongful by any standard.” [In re Recall of Lee, 122 Wn.2d 613, 619, 859 P.2d 1244 \(1993\)](#). For instance, we held sufficient a charge that a mayor threatened to have local law enforcement officers fired if they issued her a traffic citation. *Id.* Like Riddle in this case, the mayor in that case argued the charge was “inadequate because it does not allege that any police officer ever refrained from issuing her a citation because of what she said.” [Id. at 618-19](#).

¶45 We rejected that argument and held that “[e]ven if no officer ever refrained from issuing Mayor Lee a citation out of fear for his job, *such threats alone* would be a clear abuse of the mayor’s position of authority over the police department and would be wrongful by any standard.” [4↓ Id. \[*582\]](#) at 619 (emphasis added). To the extent Riddle argues that the document at issue in this case was not a threat but a mere expression of opinion regarding a hypothetical scenario, a reasonable person reading the language Riddle actually used might well reach a different conclusion.

¶46 Finally, Riddle argues that the alleged threat to shut down the court cannot be factually sufficient because [\[***22\]](#) it was in a letter “addressed to Ms. Riddle’s supporters, family and friends,” not to the court. Br. of Appellant at 27. However, this letter was delivered to the Board of Yakima County Commissioners at one of its meetings. CP at [\[*859\]](#) 2036. Regardless of the opening salutation, the facts clearly allege that Riddle did not intend for this document to be a private expression of opinion but a publicly directed statement of her intentions.

¶47 We affirm that Charge Three is factually sufficient.

c. Legal sufficiency

¶48 Riddle contends Charge Three is not legally sufficient because she had no obligation to perform in-court duties, and therefore she had a legally justifiable excuse for refusing to perform them. She also argues that Charge Three cannot be legally sufficient because she was exercising her [First Amendment](#) rights. [U.S. Const. amend. I](#). Riddle misapprehends the scope of her powers, her duties, and the [First Amendment](#).

¶49 First, Riddle contends that LAR 3 was enacted without authority of law and is therefore void, so she was justified in refusing to follow it. [5](#) [HN17](#) An action with a legally justifiable excuse is not sufficient for recall, but Riddle's position is not legally justifiable.

[\[*583\]](#)

[WA/11](#) [11] ¶50 While Riddle is correct that she retains authority over the clerk's office, [\[***23\]](#) she fails to recognize that [HN18](#) she is, "by virtue of [her] office, clerk of the superior court." [Const. art. IV, § 26](#). As we have explained,

[t]he duties of a county clerk as clerk of the superior court are defined both *by statute and court rules*. Generally speaking, a clerk of court is an officer of a court of justice, who attends to the clerical portion of its business, and who has custody of its records and files and of its seal. Such an office is essentially *ministerial* in its nature, and the clerk is neither the court nor a judicial officer.

[Swanson v. Olympic Peninsula Motor Coach Co.](#), 190 Wash. 35, 38, 66 P.2d 842 (1937) (emphasis added). [HN19](#) The superior court "has power ... [t]o control, in furtherance of justice, the conduct of its ministerial officers," such as county clerks. [RCW 2.28.010\(5\)](#). Therefore, when acting as the clerk of the superior court, the county clerk has always been required "[i]n the performance of his or her duties to conform to the direction of the court." [RCW 2.32.050\(9\)](#); see [Laws of 1891, ch. 57, § 3\(9\)](#). The clerk's general powers and duties as clerk of the superior court are set forth in [RCW 2.32.050](#) and, for Yakima County specifically, LAR 3 and 7 through 10.

¶51 Riddle contends that LAR 3, which addresses in-court duties, is void because the court has no authority to "dictate the personnel functions of a different County [\[***24\]](#) department." Br. of Appellant at 28. However, as the preceding paragraph explains, [HN20](#) a court *does* have the authority to direct the functions of the clerk when he or she is acting in his or her capacity as clerk of the superior court. Cf. [SAR 16\(f\)](#) (powers and duties of the Clerk of the Supreme Court). Moreover, the attorney general has opined that a court's rule-making authority in regard to court clerks is subject to the same restrictions as any other rules: "[T]o the extent that the court rule relates to practice and procedure rather than to the creation of substantive law, the rule is within the authority of the court." 2001 Op. Att'y Gen. No. 6, [\[*584\]](#) at 3. [HN21](#) LAR 3 is within the scope of the court's rule-making authority, and Riddle has no legally justifiable excuse for refusing to follow it.

[WA/12](#) [12] ¶52 Second, Riddle contends that her alleged threat to shut down the court was an expression of opinion protected by the [First Amendment](#) and that such protected expression cannot be grounds for recall. Riddle appears to be unaware that [HN22](#) the [First Amendment](#) prevents *governments* from restricting or chilling free speech. [16A Am. Jur. 2d Constitutional Law § 400](#) (2008). A recall proceeding is an action by the voters, not the government. [Const. art. I, § 33](#). The voters unquestionably have a right [\[***25\]](#) to base their decisions on what a public official says, the [First Amendment](#) notwithstanding.

¶53 While Riddle cites authorities, they do not support her position. One of the cases cited, which does not deal with recall, holds that "[t]o be sure, the [First Amendment](#) protects [the plaintiff]'s discordant speech as [\[**860\]](#) a general matter; it does not, however, immunize him from the political fallout of what he says." [Blair v. Bethel Sch. Dist.](#), 608 F.3d 540, 542 (9th Cir. 2010), cited in Br. of Appellant at 33. Another, which also does not deal with recall, notes that "[o]ur case law recognizes that the nature

of political debate is rough and tumble.” *Eaton v. Meneley*, 379 F.3d 949, 956 (10th Cir. 2004), cited in Br. of Appellant at 33. And the only case Riddle cites that does involve a recall proceeding dealt with very different questions about a charge that the official committed perjury and false swearing. *In re Recall of Pearsall-Stipek*, 141 Wn.2d 756, 10 P.3d 1034 (2000), cited in Br. of Appellant at 34. The court was required to determine whether the elements of those crimes were properly alleged by the facts underlying the charge. It did not engage in any discussion of free speech principles.

¶54 Because Riddle's contentions do not have merit, we affirm the trial court's ruling that Charge Three is factually and legally sufficient.

[*585] 4. Charge Four: failure to account

¶55 Charge Four states that Riddle “[f]ailed, between January [***26] 2015 and December 2016 to properly maintain account of the monies received by the Yakima County Clerk's Office.” CP at 2442. We affirm the trial court's ruling that Charge Four is factually and legally sufficient.

a. Background

¶56 The Washington State auditor performed a scheduled audit of the Yakima County Clerk's Office covering the year from January 1 to December 31, 2015. The audit determined that stronger internal controls and oversight were needed, noting, among other problems, that several important tasks were not completed until long after they were due and the clerk's office had failed to maintain proper documentation needed for an outsider to verify that collections had been performed correctly.

¶57 The audit noted that similar concerns had been raised in two prior audits, but apparently had not been fixed. The cause of the problems, according to the audit report, was that “[t]he Clerk's Office has not devoted sufficient time and resources to ensure proper segregation of duties exists over cash handling and account reconciliations and has not taken the necessary steps to correct reconciliation items noted in the previous audit.” *Id.* at 2131.

b. Factual and legal sufficiency

WA/13/↑ [13] ¶58 Riddle's contentions regarding the [***27] sufficiency of Charge Four are indistinguishable [**861] from those she raises in regard to Charges One and Two. We reject these arguments in accordance with the analysis of the factual and legal sufficiency of Charge One, above, and affirm the sufficiency of Charge Four.

[*586] 5. Charge Five: failure to collect jury service fees

¶59 Charge Five alleges that Riddle “[f]ailed, between May 2016 and October 2016 to enact procedures to collect for jury services rendered to other courts resulting in a delay of revenue.” *Id.* at 2442.

a. Background

¶60 In addition to the Yakima County Superior Court, the Yakima County Clerk's Office provides jury services for one district court and three municipal courts. The clerk's office is supposed to bill those courts for jury services once a month. However, the Washington State Auditor's Office determined that [t]he Clerk has not established procedures to ensure the Office is paid for these services. The Office has not billed or collected for jury services provided to the District Court and two municipal courts from May 2015 through August 2016. We estimate these services to be approximately \$ 44,500. In addition, the Clerk provided jury services for one municipal court without an agreement in place [***28] from May 2015 to September 2016. The agreement was subsequently signed and billed in October 2016 for \$ 52,411, sixteen months after the service period started.

Id. at 2130.

b. Factual and legal sufficiency

[WA/14/↑](#) [14] ¶61 Riddle's contentions regarding the sufficiency of Charge Five are indistinguishable from those she raises in regard to Charges One, Two, and Four. We reject these arguments in accordance with the analysis of the factual and legal sufficiency of Charge One, above, and affirm the sufficiency of Charge Five.

6. Challenge based on the timing of the next general election

[WA/15/↑](#) [15] ¶62 Finally, Riddle briefly notes that she will be up for election soon anyway, implying that the recall proceeding [*587](#) is therefore unnecessary. Certainly the recall petitioners, if unsuccessful, may take solace in the fact that Riddle is up for reelection soon, but [HN23/↑](#) "we do not suggest that the imminence of a regular election justifies dismissing a recall petition." [Sandhaus, 134 Wn.2d at 672](#). The timing of the next election is irrelevant to our analysis.

B. Ballot Synopsis

[WA/16/↑](#) [16] ¶63 Finally, Riddle challenges the adequacy of the ballot synopsis for its failure to identify which charges are malfeasance, which are misfeasance, and which are violations of the oath of office. We decline [***29](#) to review this issue because [HN24/↑](#) "[t]he decision of the superior court concerning the adequacy of the ballot synopsis is 'final.'" [In re Recall of Zufelt, 112 Wn.2d 906, 910, 774 P.2d 1223 \(1989\); see RCW 29A.56.140.](#)

CONCLUSION

¶64 We affirm the trial court's ruling that the five remaining recall charges against Riddle are factually and legally sufficient, and the recall proceeding may move forward to the signature-gathering phase.

Fairhurst, C.J., and Johnson, Madsen, Owens, Stephens, Wiggins, González, and Gordon McCloud, JJ., concur.

References

Annotated Revised Code of Washington by LexisNexis

Footnotes

- [1](#)

DCS maintains a statewide registry of child support orders to promote uniform recordkeeping and to help custodial parents and their children obtain support payments. [RCW 26.23.010](#), [.033\(1\)](#).

- [2](#)

Riddle also contends that Charge One is factually insufficient because it “fails to mention that the problem with forwarding child support orders has been fixed by Ms. Riddle.” Br. of Appellant at 18. However, Charge One provides a start and end date for the period at issue, clearly implying that the problem has been resolved. CP at 2442. If Riddle disagrees about the precise date on which the problem was resolved or who should be given credit for resolving it, she must take her case to the voters, as we are in no position to resolve that factual dispute.

- [3](#)

The document is dated “July 3, 2015,” but the parties agree that the document was actually written in 2016. CP at 2113.

- [4](#)

Riddle attempts to distinguish this case on the basis that in *Lee*, “the mayor's threat was coupled with an action: a directive to subordinates to never issue her a ticket.” Reply Br. of Appellant at 9. However, the decision in *Lee* was explicitly based on the threat alone, not a threat coupled with an action.

- [5](#)

Riddle also argues that her initial agreement to provide in-court services is without force because she entered the agreement prior to taking office. This is irrelevant because the charge is that she refused to perform duties required by *law*—that is, by statute and court rule.

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