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SUPREME COURT OF THE STATE OF WASHINGTON

CARL GEORGE JAEGEL AND WAVERLY JONELL JAEGEL,

Appellants,

v.

STATE OF WASHINGTON AND SKAGIT COUNTY,

Respondents.

BRIEF OF RESPONDENT STATE OF WASHINGTON

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ORIGINAL

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I. INTRODUCTION

Appellants Carl and Waverly Jaegel filed a Petition for Declaratory Judgment and For Injunctive Relief (petition) in Skagit County Superior Court that sought to declare four property tax statutes unconstitutional and requested an order exempting the Jaegels from paying taxes on their property. The Jaegels based the request on their assertions that (1) variants in the capitalization of the State of Washington invalidate the Revised Code of Washington; (2) they have withdrawn from the jurisdiction of the State, the Social Security system, and the Fourteenth Amendment of the United States Constitution; and (3) property taxes are a form of involuntary contract.

The superior court concluded that these arguments were frivolous, not well-grounded in fact, and not warranted by existing law or a good faith argument for the establishment of new law. It, therefore, entered orders denying the petition and sanctioning them for filing a frivolous action. The Jaegels now appeal and repeat the same frivolous arguments, attack the jurisdiction of the superior court, and make accusations against the State and the superior court. Because their claims have no basis in fact or law, the State respectfully requests that the superior court be affirmed.

II. STATEMENT OF THE CASE

The Jaegels filed suit against the State and Skagit County in Skagit County Superior Court to invalidate four property tax collection statutes as applied to the Jaegels and requested an order that prohibited Skagit County from collecting taxes on their real property. Clerk Papers (CP) 5-

8. Specifically, the Jaegels asserted that four statutes setting forth the State's and the counties' obligations with respect to property tax collection (RCW 84.56.010, RCW 84.56.020, RCW 84.56.050, and RCW 84.64) were invalidly enacted, and, therefore, unenforceable. CP 5.

The Jaegels made these assertions based on, at least, three claims: (1) that they had voluntarily withdrawn from the jurisdiction of the State because (a) it is a branch of the Social Security Administration, from which they have "terminated their charitable gift to the social security public trust and have refused any and all government benefits and privileges and with it the liabilities and disadvantages" (CP 16) and (b) they are not "14th amendment federal citizens" or associated with the "unincorporated STATE OF WASHINGTON" (CP 17-22); (2) variants in the spelling of "State of Washington" invalidate the Revised Code of Washington (CP 14-15); and (3) the State cannot force them into an invalid contract, i.e. the payment of taxes (CP 22-23).

The State and Skagit County (collectively the respondents) submitted their respective answers denying the Jaegels' claims, and filed simultaneous motions for judgment on the pleadings under CR 12(c). CP 190-266 (State); CP 93-189 (Skagit County). After considering the parties' briefs and hearing oral argument, the superior court granted the respondents' motions. CP 267-73. Specifically, the superior court found that RCW 84.56.010, -.020, -.050, and RCW 84.64 are not unconstitutional as applied to the Jaegels. CP 273. It also found that the Jaegels' arguments were frivolous, not well-grounded in fact, and not

warranted by existing law or a good faith argument for the establishment of new law. *Id.* The superior court, therefore, granted the respondents their respective costs for defending against the action under CR 11 and RCW 4.84.185. *Id.*

On September 12, 2011, the Jaegels timely filed their appeal of the superior court order.¹

III. STATEMENT OF THE ISSUES

1. Did the Jaegels fail to state any facts or cognizable legal theories in their petition that entitled them to relief?

2. Was the Jaegels' challenge to the authority of the State to enact property tax collection statutes frivolous, not well grounded in fact, and not warranted by existing law or good faith argument for the establishment of new law?

IV. ARGUMENT²

A. **This Court Sits In The Same Position As The Superior Court And, Like The Superior Court, Should Conclude That The Jaegels' Claims Are Frivolous.**

A superior court's order under CR 12(c) is reviewed *de novo*. *M.H. v. Corp. of Catholic Archbishop of Seattle*, 162 Wn. App. 183, 189,

¹ On the same day that the Jaegels filed their appeal, they also noted a motion for default against the respondents based on the argument that the respondents had not properly appeared. CP 87-92. The Jaegels made this assertion even though the superior court had already denied their claims and entered dismissal orders against them. *See* CP 267-73. The superior court rejected the Jaegels' request. CP 296-99. Notwithstanding their assertion otherwise (*see* Appellant Br. at 18), the Jaegels have not appealed from that order. *See* Notice of Appeal filed September 12, 2011.

² The Jaegels may be making more arguments than those addressed in this brief. Their petition and brief, however, are remarkably unclear and often nonsensical. The State has attempted to respond to their claims in a logical fashion.

252 P.3d 914 (2011). Sitting in the position of the superior court, the appellate court examines the pleadings to determine whether the plaintiffs can provide any set of facts, consistent with the complaint, that would entitle them to relief. *Id.* Even though the court must accept the plaintiffs' factual allegations as true, dismissal is appropriate when the plaintiffs "include[] allegations that show on the face of the complaint that there is some insuperable bar to relief." *Id.*

In this case, the Jaegels plainly failed to state any facts or cognizable legal theories that entitled them to relief. After considering the Jaegels' petition, the superior court concluded that their challenge to the State's and Skagit County's authority to collect taxes on their real property was based on frivolous claims that were not well grounded in fact or warranted by existing law. CP 272-73. On appeal, the Jaegels repeat their frivolous claims against the State and Skagit County and broaden their attack to challenge the superior court's authority and jurisdiction over their petition. *See* Appellant Brief (Br.) at 3-4 (Assignments of Error Nos. 14-24). The Jaegels' petition lacks merit and the superior court's orders denying their claims should be affirmed.

- 1. The authority of the state of Washington is not invalidated by variation in the capitalization or spelling of its name.**

In the superior court, the Jaegels sought to invalidate four property tax collection statutes on the ground that the entire Revised Code of Washington is invalidly enacted by a fictional entity – the "STATE OF

WASHINGTON.” CP 17, 19-20. Specifically, they asserted that the “STATE OF WASHINGTON is personating the incorporated State of Washington” and that “nowhere in the State of Washington Constitution does it authorize [the State] either to alter the style of said [state], as so exactly incorporated, to create/facilitate/sell derivative instruments into the commercial marketplace.” CP 14-15.³

The Jaegels cite article I, section 29⁴ and article IV, section 27⁵ of the Constitution to support their claim that exact capitalization is necessary to validate the State’s authority. *See* Appellant Br. at 5, 18, 26, and 29. However, the Jaegels misconstrue the constitutional provisions. As this Court recognized in 1926, article IV, section, 27 does not apply to civil cases, such as this one, in which the State is not prosecuting violations of the general criminal laws of the state. *State ex rel. Hagen v. Superior Court of Thurston Cy.*, 139 Wash. 454, 460-61, 247 P. 942 (1926) (summons in a civil action is not a process within the meaning of the provision); *c.f.*, *City of Seattle v. Chin Let*, 19 Wash. 38, 41-42, 52 P. 324 (1898) (article IV, section 27 applies to criminal prosecutions by the State, not to those by municipal corporations). Nor can the provision be construed to require that the validity of the State’s authority hinges on

³ The Jaegels made similar assertions with respect to “SKAGIT COUNTY”. *See, e.g.*, CP 13-14. As Skagit County will be filing its own brief, the State is not addressing those arguments.

⁴ Article I, section 29 states: “The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise.” Const. art. I, § 29.

⁵ Article IV, section 27 states: “The style of all process shall be, ‘The State of Washington,’ and all prosecutions shall be conducted in its name and by its authority.” Const. art. IV, § 27.

whether its name is capitalized. In fact, since at least 1908, Washington courts have accepted the doctrine of *idem sonans*, which holds that absolute accuracy of spelling is not required in legal documents or proceedings. See *In re Esparza*, 118 Wn.2d 251, 259, 821 P.2d 1216 (1992) (citing *Kelly v. Kuhnhausen*, 51 Wash. 193, 194, 98 P. 603 (1908)). Because the Jaegels misapply their only cited authority and have presented no argument for why the doctrine of *idem sonans* should be abandoned, their challenge to the authority of State must fail.

2. The Jaegels cannot refuse to acknowledge the State's property tax collection system.

The Jaegels asserted in their petition that the State is a branch of the Social Security Administration and that they have withdrawn from the benefits and obligations of that federal program. See CP 15-16. As such, the Jaegels claim that the State cannot enforce its property tax collection laws against them. *Id.* They also claim that, as “non-Fourteenth Amendment citizens,” they are not subject to real property taxes. CP 16-17, 21-22. The Jaegels cite no authority supporting their assertion that they can voluntarily withdraw from state taxation based on their disavowal of Social Security benefits.⁶ They also cite no authority supporting their assertion that they can opt out of the Fourteenth Amendment.

The Jaegels also argue that the State cannot force them against their will and under threat of foreclosure to “contract” with the State's

⁶ There is also no authority to support their obviously false claim that the State is a branch of the Social Security Administration.

“private unincorporated company/association”. CP 22. Presumably, by “contract” the Jaegels mean the State’s and counties’ assessment and collection of property taxes. The courts, however, established long ago that taxes are not a form of contract. “[A] tax is an enforced contribution of money, assessed or charged by authority of sovereign government for the benefit of the state or the legal taxing authorities. It is *not* a debt or contract in the ordinary sense, but it is an exaction in the strictest sense of the word.” *State ex rel. City of Seattle v. Dep’t of Pub. Utils.*, 33 Wn.2d 896, 902, 207 P.2d 712 (1949) (emphasis added); *see also Amalgamated Transit Union Local 587 v. State*, 142 Wn.2d 183, 219-20, 11 P.3d 762 (2001) (“Essential characteristics of a tax are that it is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority.”).

Finally, the Jaegels assert that “the things called RCW 84.56.010, 84.56.020, RCW 84.56.050 and RCW 84.64 do not conform to the requirements” of the Washington Constitution. Appellant Br. at 39. Rather, they assert they are “at best prima facie evidence of the law rebuttable by the law” and the “laws of the State of Washington properly enacted are the substance of the law.” *Id.* But other than merely stating that they do not conform to the Constitution, the Jaegels make no showing as to why or how these RCW provisions (or the session laws enacting them) are invalid. Instead, they rest on the idea that they can unilaterally abolish the State’s laws.

Notwithstanding their claims to the contrary, the Revised Code of Washington establishes the laws of this state. RCW 1.04.020, -.030. The Jaegels cannot simply reject these RCW provisions, or opt out of the State's property tax collection system. As property owners, their real property is subject to tax unless an exemption applies. RCW 84.36.005 ("All property now existing, or that is hereafter created or brought into this state, shall be subject to assessment and taxation for state, county, and other taxing district purposes[.]"). The law obligates the counties, including Skagit County, to collect those taxes. *See* RCW 84.56.010, -.020, -.050. It also sets forth the remedy available to the counties when property owners, such as the Jaegels, fail to pay their property taxes. *See* RCW 84.64.

The Jaegels' assertion that they can withdraw from the jurisdiction of the State's laws is frivolous and without legal support. The superior court correctly rejected the Jaegels' frivolous assertions, and its order dismissing their petition should be affirmed.

B. The Jaegels' Accusations Against The State And The Superior Court Are Meritless.

The Jaegels devote most of their brief attacking the Skagit County Superior Court's jurisdiction to hear their petition and charging the superior court judge and the State with various untoward acts. These acts include (1) interfering with "ongoing discovery", (2) converting the Jaegels' "file documents into investment devices into the international commercial marketplace", and (3) "allow[ing] the defendants to alter the

public record by changing the names of the plaintiffs from Carl George and Waverly Jonell Jaegel to the status of names of decedents CARL GEORGE and WAVERLY JONELL Jaegel to support the SUPERIOR COURT's commercial investment relative to the decedents' estate or otherwise." *See, e.g.*, Appellant Br. at 4-5 (Assignments of Error Nos. 20-23).

The Jaegels' claims are patently frivolous and should be rejected. The Skagit County Superior Court obtained jurisdiction over this case *when the Jaegels* filed their petition in that court. The Jaegels cannot now disavow the superior court's jurisdiction simply because they disagree with the superior court's ruling. Nor should they make obviously false accusations against the State or the superior court in the hopes of escaping these entities' authority.

The Jaegels' tax avoidance and jurisdictional claims are like those routinely dismissed by courts outside of Washington. *See, e.g., United States v. Studley*, 783 F.2d 934, 937 (9th Cir. 1986) (arguments, such as the one where "absolute, freeborn, natural citizens" cannot be taxpayers, have been "consistently and thoroughly rejected by every branch of the government for decades"); *see also Quigley v. Geithner*, No. 1:09-CV-293-REB, 2010 WL 3613901 (D. Idaho, Sept. 08, 2010) (noting that sovereignty theories in all their various forms have been consistently struck down by the courts). Just as those courts have rejected such frivolous claims, this Court should too.

V. CONCLUSION

For these reasons, the State respectfully requests that the superior court's orders be affirmed.

RESPECTFULLY SUBMITTED this 9th day of December, 2011.

ROBERT M. MCKENNA
Attorney General

A handwritten signature in cursive script that reads "Callie A. Castillo". The signature is written in black ink and is positioned above the printed name and title of the signatory.

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CERTIFICATE OF SERVICE

I certify that I served a copy of BRIEF OF RESPONDENT STATE OF WASHINGTON, via U.S. Mail, postage prepaid, through Consolidated Mail Services, on the following:

Carl George Jaegel and Waverly Jonell Jaegel
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I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 9th day of December, 2011, at Tumwater, WA.


CARRIE A. PARKER, Legal Assistant