NO. 100181-9

SUPREME COURT OF THE STATE OF WASHINGTON

Court of Appeals, Div. I, 81814-7-I

JOHN DOES 2-4,

Petitioners,

v.

KING COUNTY AND THE SEATTLE TIMES,

Respondents.

THE SEATTLE TIMES RESPONSE TO AMICUS CURIAE MEMORANDUM OF WASHINGTON COALITION FOR OPEN GOVERNMENT

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I. DISCUSSION

The Washington Coalition for Open Government (WCOG) makes two primary points as to why the Court of Appeals opinion should not be reviewed. First, WCOG correctly argues that the opinion is based on well-settled principles of law, including narrow construction of disclosure exemptions as required by RCW 42.56.030. Mem. 7-11. Second, WCOG aptly argues that reviewing the injunction denial at this late stage – nineteen months after the John Does opposed prompt and ultimate determination by this Court, and twenty-one months after the Does obtained a temporary injunction pending appeal - would frustrate the Public Records Act's strong policy against undue delay of disclosure. Mem. pp. 4, 11-12.

The Seattle Times agrees with WCOG. As explained in the Answer to Petition for Review, the Court of Appeals did not break new ground or contradict precedents when denying an injunction against disclosure of the adult criminal records at

issue.[1] In fact, the decision is unpublished and cannot interfere with settled law. GR 14.1(a).

WCOG is also correct that, if third parties can stall disclosure of important records simply by dragging out appeals, the public's ability to hold government accountable is thwarted. WCOG appropriately warns against allowing those "seeking to hide their conduct to 'run out the clock' on the public's interest in the issue." Mem. p. 12.

WCOG's position is supported by the Public Records Act's emphasis on promptness. RCW 42.56.080(2) requires agencies to make public records "promptly available" upon request. RCW 42.56.520(1) commands: "Responses to requests

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[1] *See, e.g.*, Answer p. 8 (noting reliance on *Cornu-Labat v. Hosp. Dist. No. 2 Grant Co.*, 177 Wn.2d 221, 229, 298 P.3d 741 (2013) for the well-established rules that records must be disclosed unless an exemption applies and that disclosure exemptions must be narrowly construed); Answer p. 9 (noting reliance on the two-part injunction test in *Lyft v. City of Seattle*, 190 Wn.2d 769, 789-90, 418 P.3d 102 (2018)); Answer p. 10 (describing adherence to *Does 1-11 v. Bellevue School Dist*., 164 Wn.2d 199, 189 P.3d 139 (2008) in upholding the release of records with redactions); and Answer pp. 11-14 (explaining a lack of conflicts with precedential opinions).

for public records shall be made promptly….” RCW 42.56.100 requires “the most timely possible action” on records requests. When construing these provisions, courts must be mindful that: “[t]he people insist on remaining informed so that they may maintain control over the instruments that they have created.” RCW 42.56.030. The people of Washington will not remain informed if third parties can prolong disclosure injunctions simply to facilitate needless review of unpublished decisions.

II. CONCLUSION

For the foregoing reasons, this Court should deny review.

Dated this 3rd day of January 2022.

I certify that this response contains 2,383 words except for content excluded by RAP 18.17.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington that on January 3, 2022, I caused service of the foregoing Response to Amicus Memorandum on registered parties through the electronic filing system.

KATHERINE A. GEORGE

JOHNSTON GEORGE LLP

January 03, 2022 - 12:59 PM

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