NO. 101018-4

SUPREME COURT OF THE STATE OF WASHINGTON

KERRY SLONE, a Resident of the State of Washington; GUN OWNERS OF AMERICA, INC.; and GUN OWNERS FOUNDATION,

Petitioners,

v.

STATE OF WASHINGTON,

Appellee,

SAFE SCHOOLS SAFE COMMUNITIES,

Intervenor-Respondent.

RESPONDENT STATE OF WASHINGTON'S ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

This case is even less worthy of this Court's attention now than it was when this Court declined to consider it on direct review. Petitioners Kerry Slone, *et al.* (Slone) ask this Court to invalidate a voter-approved measure, Initiative 1639 (I-1639)[1] on the alleged basis that the print on the back on of the initiative petitions was badly formatted and too small. But petitions do not enact initiatives. Voters do, when the measure later appears on a ballot. The contention that a mere formatting error at a preliminary stage of the initiative process is enough to justify setting aside the votes of the people does not merit review. Even less so does the notion that the misapplication of the summary judgment standard—a standard not disputed here—merit review. Yet, in the wake of the Court of Appeals' decision Slone is reduced to arguing a garden-variety error in applying the summary judgment standard. This Court may better devote its

[1] Laws of 2019, ch. 3.

time to more weighty matters and should deny review.

II. ISSUES PRESENTED FOR REVIEW

1. May a court invalidate an initiative approved by the voters on the basis that the petitions submitted to qualify the initiative to the ballot contained the text of the measure printed in small font and showing statutory text being deleted in double parenthesis rather than strikethrough, and not showing text proposed for addition in underlining?

2. May a court invalidate an initiative approved by the voters at a general election on the basis that petitions submitted to qualify the initiative to the ballot were arguably deficient in form, particularly where this Court twice rejected an argument that the initiative should be excluded from the ballot for the same reason?

III. STATEMENT OF THE CASE

A. Initiative 1639

Given the prominent use of semi-automatic assault rifles (SARs) in mass shootings, I-1639 was primarily directed towards

regulating that type of firearm and did so in several ways. Laws of 2019, ch. 3. The contents of I-1639 are not at issue on this appeal, but for perspective the initiative changed state law to treat SARs similarly to how state and federal laws regulate handguns, by raising the minimum age to purchase or possess a SAR from 18 to 21,[2] prohibiting the sale of SARs to non-Washington residents,[3] requiring an "enhanced" background check,[4] and instituting a 10-business-day waiting period to allow law enforcement to conduct that enhanced background check.[5] The initiative also made other changes, including: requiring safety training to purchase a SAR,[6] imposing criminal liability for failure to securely store any firearm under certain

[2] Laws of 2019, ch. 3, § 13 (codified as RCW 9.41.240(1)).
[3] *Id.*, § 12 (codified as RCW 9.41.124).
[4] *Id.*, § 3 (codified as RCW 9.41.090(2)(b)).
[5] *Id.*, § 4 (codified as RCW 9.41.092(2)).
[6] *Id.*, § 3 (codified as RCW 9.41.090(2)(a)).

circumstances,[7] and safety warnings and safe storage requirements for firearm dealers.[8]

B. Constitutional and Statutory Petition Requirements

The political committee supporting I-1639, Intervenor-Respondent Safe Schools Safe Communities, collected the requisite number of petition signatures to qualify it for the ballot. Const. art. II, § 1(a). The state constitution addresses not only the required number of signatures, but also provides that every petition shall include the "full text of the measure," along with other procedural requirements. *Id.*

Two statutes further specify the required contents of those petitions. The first statute (the petition content statute) requires that the petitions be presented on single sheets of paper measuring at least 11 inches by 14 inches, allotting space for no more than 20 signatures, and containing the ballot title and required warnings to signers. RCW 29A.72.100. The petition

[7] *Id.*, § 5 (codified as RCW 9.41.360).
[8] *Id.*, § 6 (codified as RCW 9.41.365).

content statute also requires that the petition "have a readable, full, true, and correct copy of the proposed measure printed on the reverse side of the petition." *Id.*; *cf.* Const. art. II, § 1(a) (petitions must contain "the full text of the measure").

The second statute (the petition form statute) sets forth additional petition language, including a formal request that the initiative be certified to the ballot. RCW 29A.72.120. The petition form statute requires a declaration concerning the manner in which the petition was circulated. *Id.* It states that the "petition must include a place for each petitioner to sign and print his or her name, and the address, city, and county at which he or she is registered to vote." *Id.*

The petitions circulated to qualify I-1639 to the ballot bore the full text of the measure on its reverse. CP 415-16. It did not, however, use the amendatory format typically used in recent times for legislation. That modern change in format indicates proposed language to be added to the law with underlining and indicates language proposed to be removed from the law in

strikethrough. Amendatory language was not shown in that way at the time the initiative and referendum powers were added to the constitution. *See, e.g.*, Laws of 1913, ch. 139 (the very next legislative act following the enactment of the original statutes implementing the initiative and referendum powers). However, the petition did show language proposed to be removed enclosed in double parentheses. CP 415-16. The font was, as the Court of Appeals described it, "small, but readable." Op. at 14.

C. Earlier Challenges to Initiative 1639

Opponents of I-1639 became convinced that the petitions did not satisfy the requirements of the constitution, or of the petition content statute, RCW 29A.72.100, because the copy of I-1639 printed on the back did not show the proposed changes to statutes in strikeout and underlining, and that the text was in small font. An initial challenge sought mandamus, as well as declaratory and injunctive relief, to prohibit the Secretary of State from processing the I-1639 petitions, before they had been submitted. *See Second Amend. Found., et al. v. Wyman, et al.*,

No 96022-4 (July 3, 2018). CP 435. The Supreme Court Commissioner denied the request and dismissed the claims regarding the petition's font size and amendatory formatting. *Id*. The Commissioner ruled that the petitioner lacked standing to seek judicial review of the Secretary's acceptance of the petitions under RCW 29A.72.170, holding that "[t]his is so because proponents of an initiative exercise their right to petition under article II, section 1 of the Washington Constitution" and "[t]he applicable statutes facilitate this constitutional right." CP 437 (citing *Schrempp v. Munro*, 116 Wn.2d 929, 934, 809 P.2d 1381 (1991)). In contrast, "opponents to an initiative have no constitutional or statutory basis to impede the proponents' exercise of their right of petition." *Id.* Rather, "[t]he opponents' interests in this matter are protected by their constitutional right to express opposition to the initiative, including urging voters to reject it at the polls." *Id.* The Secretary of State later certified that the petitions bore sufficient valid signatures of registered voters to qualify it for the ballot. CP 412-13.

A second suit also sought an order barring the initiative from appearing on the ballot. *Ball v. Wyman*, 435 P.3d 842, 843 (Wash. 2018); CP 128. As in the initial challenge, these opponents also alleged that the initiative petitions did not include proper mandatory formatting lines or have a readable font. *Id.*

The trial court in *Ball* denied plaintiffs' requested injunctive and declaratory relief, but granted a writ of mandamus estopping the Secretary of State from certifying I-1639. *Id*. The trial court found that the text on the back of the petitions was "not readable" and did not strictly comply with the requirements of article II, section 37 and RCW 29A.72.100. *Id.*

This Court unanimously rejected the *Ball* plaintiffs' claims. The Court determined that the statute that gives the Secretary of State authority to reject petitions applies only to requirements of the second statute described above, but not the one that addresses the inclusion of the measure's text. *Ball*, 435 P.3d at 843-44; *see also* RCW 29A.72.170(1). As this Court concluded, RCW 29A.72.170(1) "gives the secretary [of state]

very limited authority to refuse to certify an initiative petition to the ballot." *Ball*, 435 P.3d at 843. That is, it allows the Secretary of State the discretion to reject initiative petitions if they aren't in the form prescribed by the petition form statute, RCW 29A.72.120. But, like Slone in this case, the *Ball* plaintiffs raised concerns about the petition format derived from the petition content statute, RCW 29A.72.100, not RCW 29A.72.120. This Court denied a writ of mandamus and allowed I-1639 to go to the voters. *Ball*, 435 P.3d at 843.

The initiative proceeded to the November 2018 general election ballot, where voters passed it with nearly 60 percent approval. CP 349. Post-election litigation over the measure then began. Various opponents of the measure challenged the constitutionality of the provisions prohibiting sales to individuals under age 21 and non-Washington residents in federal court. The district court granted summary judgment upholding those provisions. *Mitchell v. Atkins*, 483 F. Supp. 3d 985 (2020) (appeal pending).

D. History of this Case

Slone waited a year a half after the 2018 general election before filing this action contesting the enactment of I-1639. The complaint states four causes of action, although this appeal relates to only two. Slone's first two causes of action challenge specific provisions of I-1639, based on the right to keep and bear arms under the state constitution. This appeal concerns only the third and fourth claims, both of which assert that formatting errors in the I-1639 petitions invalidate the law enacted by the voters. CP 12-14.

The superior court held a hearing and rejected Slone's argument that the format of the petitions used to qualify I-1639 to the ballot rendered the voters' enactment invalid. The court denied in relevant part Slone's motion for partial summary judgment and granting summary judgment to Respondents as the non-moving parties. CP 571-75. Although the court concluded that the format of the I-1639 petition did not comply with article II, section 1(a) or the petition content statute, RCW 29A.72.100,

it clearly viewed its analysis as legal, and not factual in nature. The court was, after all, considering Slone's motion for summary judgment. The trial court further held that the invalidation of the initiative two years after the voters adopted it was not an available or appropriate remedy. The court ruled that "invalidation of Initiative 1639 as enacted is not available under the statutes of this State nor the plain language of the Constitution." CP 518. The court later denied Slone's motion to revise that decision, directed entry of final judgment regarding Slone's third and fourth causes of action, and certified its ruling for interlocutory review. CP 576-79. This appeal followed.

Slone initially sought direct review in this Court, contending that their appeal presented a fundamental and urgent issue of broad public import. RAP 4.2(a)(4). The State opposed direct review because Slone's attempt to invalidate a vote of the people after an election did not merit direct review when this Court had already disallowed any relief based on the same arguments before the election. The State acknowledged that

hypothetically "whether an enacted initiative may be struck down based on formatting issues in the pre-election initiative petitions, rather than based on substantive constitutional issues with the law itself, is a novel question of broad public import." Answer to Appellants' Statement of Grounds for Direct Review by the Supreme Court at 6. This is because the notion that the votes of the people may be eviscerated based on a formatting error at a preliminary state of qualifying an initiative to the ballot would be breathtaking. But, the State continued, "this case is hardly urgent over two years after the voters approved the measure." *Id.* "And by declining to exclude I-1639 from the ballot before the election, this Court has essentially resolved the matter." *Id.* at 7 (citing *Ball*, 435 P.3d at 843-44 (rejecting pre-election challenge to the measure's appearance on the ballot)). This Court denied direct review and transferred the case to Division II of the Court of Appeals.

The Court of Appeals affirmed the grant of summary judgment in favor of the State and Intervenors, but on a different

basis than that of the superior court. The Court of Appeals agreed with Intervenors that "the petition text fulfilled the requirements of article II, section 1(a)" and RCW 29A.72.100, "despite omitting the strikethroughs and underlines and being printed in small font." Op. at 12.

IV. ARGUMENT

A. None of the Considerations Guiding Acceptance of Review Support Review in This Matter

Slone takes issue with the Court of Appeals' application of a well-established legal standard to an unusual and narrowly constrained set of facts. But the application of a legal standard to a set of facts that is unlikely to recur does not merit this Court's review. In particular, the garden-variety question of whether the Court of Appeals' analysis of the petition's readability invaded the province of the fact-finder is extremely thin in light of the clear legal conclusion that a petition-formatting error does not justify setting aside the decision of the voters to enact an initiative.

This Court grants review of a Court of Appeals decision only: "(1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court." RAP 13.4(b). Slone satisfies none of these criteria.

Review is inappropriate merely to address a claim that a lower court committed a garden variety error in applying the summary judgment standard under a narrow set of facts that is unlikely to recur.

B. The Court of Appeals' Analysis of the Readability of Petitions Presents No Basis for This Court's Review

1. The legal standard for summary judgment is well-established and presents no issue meriting review

The law governing the standard of review on orders granting summary judgment is well-established, and requires no further elucidation. "This court reviews a grant of summary judgment de novo and views all facts in the light most favorable to the party challenging the summary dismissal." *Wash. Bankers Ass'n v. State*, 198 Wn.2d 418, 427, 495 P.3d 808 (2021) (citing *State v. Heckel*, 143 Wn.2d 824, 831-32, 24 P.3d 404 (2001)). In particular, "[s]ummary judgment is appropriate 'where there is no genuine issue of any material fact and the moving party is entitled to judgment as a matter of law.'" *Spokane Cnty. v. State*, 196 Wn.2d 79, 84, 469 P.3d 1173 (2020) (quoting *State ex. Rel. Banks v. Drummond*, 187 Wn.2d 157, 167, 385 P.3d 769 (2016)). To avoid summary judgment, a party "cannot simply rest upon the allegations of his pleadings, [but] he must affirmatively present the factual evidence upon which he relies." *Mackey v.*

Graham, 99 Wn.2d 572, 576, 663 P.2d 490 (1983). "A legislative act is presumed constitutional and the statute's challenger has the heavy burden to overcome that presumption." *Heckel*, 143 Wn.2d at 832 (citing *Lybbert v. Grant County*, 141 Wn.2d 29, 34, 1 P.3d 1124 (2000)). A party needing more time to find such evidence may move for a continuance for that purpose, CR 56(f), but the failure to do so waives the issue. *Avellaneda v. State*, 167 Wn. App. 474, 485, 273 P.3d 477 (2012).

Slone's Petition for Review leads with an argument that this Court should grant review on the assertion that the Court of Appeals incorrectly applied the well-established summary judgment standard. Pet. at 7-10. Slone says that the Court of Appeals' review of what the text of I-1639 actually looked like on the back of circulated petition sheets "substitute[d] its view of disputed facts and/or inferences therefrom" for those of the fact finder. *Id.* at 8. But of course Slone does not suggest that there is any factual dispute as to what was printed on the back of the

petition sheets.[9] Slone rather contends that this Court should grant review on the basis of an argument that the Court of Appeals incorrectly applied the correct legal standard to review of a summary judgment order.

The mere suggestion that a lower court applied the correct standard, but in the wrong way, does not merit this Court's review. Washington has implemented its initiative process for well over a century. *See* Const. amend. 7. And yet Slone can suggest no previous example in all that time of the petition formatting issue raised here, suggesting the facts are unlikely to recur. But Slone's lead argument in seeking this Court's review is the claim that the Court of Appeals' analysis conflicted with the standards for reviewing a grant of summary judgment. The

[9] Slone's misrepresentation in the Complaint as to what text appeared on the back of the petitions does not create a dispute of material fact. An exhibit to the Complaint presented what Slone purported to be a copy of the I-1639 petition. CP 5, 46-47. The record established, however, that the actual text of the petitions was something else. CP 415-16. The parties do not contest this point, and the exhibit to the Complaint was simply in error.

standards governing that review are not at issue, as Slone seems to agree. Pet. at 8. This Petition for Review thus amounts to simply a plea to engage in run-of-the-mill error correction, not in this Court's fundamental function of guiding the development of the law.

2. Slone failed to meet the plaintiff's burden of proving the measure text was not readable

Slone failed in any event to place any evidence into the record to establish that the petitions were not readable—a particularly notable omission given that it was Slone, not the State or Intervenor, who moved for summary judgment. The Washington Constitution specifies merely that the petition contain "the full text of the measure," Const. art. II, § 1(a). It specifies neither a minimum font size nor any format for indicating amendatory text.

The petitions to qualify I-1639 to the ballot contained the full text of the measure. CP 415-16. Slone makes much of the fact that Intervenors were the only party below who argued that the format satisfied the requirement of article II, section 1(a).

They suggest no reason why this matters, but the Court of Appeals compellingly demonstrated that the measure text was readable. Op. at 12-13. The State joins Intervenors' argument in answer to the Petition for Review on this point.

Slone also argues that this Court should grant review on the basis that the text on the petition was not "the full text of the measure so proposed." Pet. at 10. Slone seems to argue that the text on the petitions must be a replica of the text previously filed with the Secretary of State to propose the measure. Aside from whether such fine nuance forms an issue meriting review, that cannot reasonably be the import of the constitutional language. The text of the measure filed with the Secretary of State to propose the initiative is a different document than the petition sheets. The petition sheets are required to include additional content, be printed on a different size of paper, and all be contained on a single sheet. RCW 29A.72.100. None of those requirements apply to the measure text filed with the Secretary of State. RCW 29A.72.010. The measure text filed with the

Secretary of State is commonly formatted on 8½ by 11 inch paper using 12-point font. *See* full text of I-1639 as filed with Secretary of State (2018).[10] And the measure text submitted to the Secretary of State has no limit on the number of pages. The drafters of article II, section 1(a) thus could not have contemplated the construction Slone proffers for the phrase "full text of the measure so proposed." In context the Constitution thus requires the petitions to bear the "text" of the measure—its words—not to specify a replica as to format with the original filing with the Secretary. Const. art. II, § 1(a).

C. Improperly Formatted Petitions Could Not Divest the Voters of Their Right to Enact I-1639

Slone's ultimate argument on the merits amounts to the claim that an election somehow doesn't count to enact an initiative if, despite voter approval, the petitions presented at the preliminary stage of qualifying a measure to the ballot were

[10] Online at: https://www.sos.wa.gov/_assets/elections/initiatives/finaltext_1531.pdf.

defectively formatted. The formatting of the text on the petitions certainly had no effect on the voters, who had the Voters' Pamphlet as a reference at the general election. The notion that the votes of millions of Washingtonians may be nullified based on petition format is certainly dramatic, but is not drama that gives rise to an issue of substantial public interest. RAP 13.4(b)(4).

This Court has previously rejected an argument that voters should be deprived of the opportunity to vote on a measure based on defects in initiative petitions at the qualification stage. Indeed, this Court universally has rejected claims to invalidate the people's constitutional power of initiative based on technical errors. *See, e.g.*, *Sudduth v. Chapman*, 88 Wn.2d 247, 251, 558 P.2d 806 (1977) ("Those provisions of the constitution which reserve the right of initiative and referendum are to be liberally construed . . . and not hampered by either technical statutory provisions or technical construction thereof, further than is necessary to fairly guard against fraud and mistake in the

exercise by the people of this constitutional right."); *see also Rousso v. Meyers*, 64 Wn.2d 53, 60, 390 P.2d 557 (1964) (same); *State ex rel. Case v. Superior Court of Thurston Cnty et al.*, 81 Wash. 623, 632, 143 P. 461 (1914) (same).

Slone's attempt to nullify state law based on defects in the initiative petitions also fails because the validity of the vote by which the voters enacted I-1639 is uncontested. That vote cured any alleged defect in the manner in which petitions were presented at a preliminary stage. *See, e.g., West v. Reed*, 170 Wn.2d 680, 682, 246 P.3d 548 (2010) (per curiam), *as corrected* (Jan. 18, 2011) (denying as moot challenge to sufficiency of referendum petitions after election took place in which referendum was approved by the voters).

As required by the constitution, Const. art. II, § 1(e), the voters' pamphlet included the full text of the measure along with arguments for and against. CP 337-46. I-1639 received the affirmative votes of 59 percent of the electorate, enacting it into

law. CP 349; Const. art. II, § 1(d). Slone does not dispute any of these determinative facts.

Washington courts recognize that a later intervening legislative act cures a defect occurring at an earlier stage in the process. This Court has applied this concept in the analogous context of a challenge to a statute's constitutionality based on the single-subject rule. That provision prohibits legislation from containing more than one subject, and requires that subject to be expressed in its title. Const. art. II, § 19. A challenge under article II, section 19 "is precluded when the allegedly constitutionally infirm legislation has been subsequently reenacted or amended pursuant to properly titled legislation." *Morin v. Harrell*, 161 Wn.2d 226, 228, 164 P.3d 495 (2007) ("Such amendment or reenactment cures the article II, section 19 defect."). The later legislative act supersedes the earlier act that allegedly bears a constitutional defect, and cures that defect. *Pierce Cnty. v. State*, 159 Wn.2d 16, 40, 148 P.3d 1002 (2006).

Similar reasoning applies here, except that I-1639 was never enacted in an invalid form. At most, it merely suffered alleged errors in the printing of petitions to qualify I-1639 to the ballot, but those alleged defects did not preclude its placement on the ballot or the voters' exercise of legislative authority to enact it. *Ball*, 435 P.3d at 843-44. The voters' subsequent approval of I-1639 thus cures any defect at the preliminary stage of qualifying to the ballot. *See* Const. art. II, § 1(d); *see also Sudduth*, 88 Wn.2d at 251 (construing article II, section 1 liberally to protect the voters' right to legislate); *Coppernoll v. Reed*, 155 Wn.2d 290, 297, 119 P.3d 318 (2005) (courts "vigilantly protect" the initiative process). The full text of the measure appears, of course, in the Voters' Pamphlet. Const. art. II, § 1(e).

Our basic charter nowhere suggests that an initiative properly enacted by the people may be invalidated after the election, based on alleged errors in the initiative petition format. To the contrary, it provides merely that a measure approved by

the voters is validly enacted. Const. art. II, § 1(d). And when looking at article II, section 1 (a) as a whole, this Court always interprets it to give effect to the will of the voters, not invalidate that will. *Sudduth*, 88 Wn.2d at 251.

Courts of other states have agreed that errors arising at the stage of qualifying an initiative to the ballot do not deprive the people of their right to enact the measure. For example, the Montana Supreme Court has followed a rule against considering challenges to the petition after the voters have enacted the measure. That court explained this as stemming from the fact that the petitions only serve the purpose of determining whether the measure has sufficient support to appear on the ballot. *State ex rel. Graham v. Bd. of Exam'r*, 125 Mont. 419, 239 P.2d 283, 289 (1952). That step merely presages the voters' final decision at the general election. The court therefore held that, "after the people have voted on the measure and a great majority of the voters throughout the state have expressed their approval, the courts presume that the public interest was there and technical

objections to the petition or its sufficiency are disregarded." *Id.*; *see also Montanans for Equal Application of Initiative Laws v. State ex rel. Johnson*, 2007 MT 75, 336 Mont. 450, 154 P.3d 1202, 1208-10 (2007) (applying the rule under a later-adopted state constitution and summarizing cases). As the Arizona Supreme Court concluded, "Once the measure has been placed upon the ballot, voted upon and adopted by a majority of the electors, the matter becomes political and is not subject to further judicial inquiry as to the legal sufficiency of the petition originating it." *Renck v. Superior Court of Maricopa Cnty.*, 66 Ariz. 320, 187 P.2d 656, 661 (1947). The Nevada Supreme Court agreed, refusing to consider an argument to exclude a matter from the ballot when such a case cannot be heard without disrupting the election process. *Beebe v. Koontz*, 72 Nev. 247, 302 P.2d 486, 489 (1956).

This Court has essentially resolved the potential effect of improperly-formatted petitions by declining to exclude I-1639 from the ballot before the election. *See Ball*, 435 P.3d at 843

(rejecting pre-election challenge to the measure appearing on the ballot). Both this case and the pre-election challenges concern the same arguments about format of petitions used at a preliminary stage of the initiative process to qualify I-1639 to the ballot. The difference is that those prior cases arose before the election, and this Court concluded in *Ball* that the opponents failed to present a legal basis for preventing the voters from voting. By contrast, this appeal presents an attempt to invalidate the vote of the people after they properly enacted I-1639 at the polls (and importantly voted on the law that indisputably contained all proper formatting).

To explain further, in *Ball*, the superior court issued a writ of mandamus prohibiting the Secretary from certifying the measure to the ballot on the basis that the text of the measure on the petitions "was not readable and did not strictly comply with the statutory and constitutional requirements identified by the plaintiffs." *Ball*, 435 P.3d at 843. This Court reversed, observing that there is no legislative mandate for excluding a measure from

the ballot on the basis of petition format. *Id.* Mandamus relief was not available because the Secretary had no duty to reject the measure, and the statute under which the case was brought was limited to reviewing the number of signatures on the petition, which were clearly sufficient to qualify I-1639 to the ballot. *Id.* But this does not mean that *Ball* is merely a case about bad pleading. The state constitution provides that an initiative is validly enacted if the voters approve it at the ballot. Const. art. II, § 1(d). If a defect in format doesn't preclude the measure from appearing on the ballot, it would be incomprehensible that the same defect would allow the people's vote to be set aside after they approve the initiative.

The notion that the vote of the people may be set aside after the election for a reason this Court already rejected before the election may well be fundamental and important in the proper case, but it is not urgent here.

V. CONCLUSION

For these reasons, and for those presented by Intervenors, this Court should deny review.

This document contains 4,842 words, excluding the parts of the document exempted from the word count by RAP 18.17.

RESPECTFULLY SUBMITTED this 14th day of July 2022.

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CERTIFICATION

I certify that the foregoing document was served on all Parties on this date through the Court's electronic filing system. I declare under penalty of perjury under the laws of the State of Washington that this statement is true and correct.

DATED this 14th day of July 2022.

/s/ Jeffrey Even
JEFFREY EVEN, WSBA #20367
Deputy Solicitor General

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