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Ruling against Pierce County prosecutor may affect Puyallup records lawsuit

BY KARI PLOG
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Last week's unanimous Washington State Supreme Court ruling regarding Pierce County Prosecutor Mark Lindquist's text messages may have a ripple effect on a public records battle in Puyallup.

In another unanimous decision earlier this month, the State Supreme Court deferred consideration of a lawsuit against the city of Puyallup and City Councilman Steve Vermillion, pending a decision in the lawsuit against Lindquist.

The Puyallup case and the Lindquist case both deal with similar issues pitting open public records against personal privacy.

The Supreme Court ruled 9-0 Thursday that text messages created on Lindquist's private phone are public records if they concern public business.

In Puyallup, open-records advocate Arthur West's lawsuit centers on Vermillion's website, stevevermillion.com.

Three years ago, West asked the city to provide all city-related correspondence that Vermillion sent using a private email address tied to his private website.

The city has said it approached Vermillion about the request, but that he chose not to comply, and officials couldn't compel him to release the records.

West filed his lawsuit in January 2014. It alleges that both Puyallup and Vermillion violated the state Public Records Act.

The city argued state records law doesn't trump an individual's constitutional right to privacy.

A Pierce County Superior Court judge ruled in favor of West in July 2014. Judge Stanley J. Rumbaugh cited “clear abuses” of the Public Records Act and ordered Vermillion to forfeit the documents.

The city appealed.

West said Thursday’s ruling against Lindquist “appears to agree unanimously” with Rumbaugh’s decision.

He said the arguments made by Vermillion and the city are “almost identical” to those made by the Lindquist camp. He said he believes it will force the councilman and the city to comply with the trial court’s original ruling and release the records.

“I can’t imagine it having a different outcome,” West said Thursday.

Vermillion said he isn’t worried about the Lindquist ruling.

“The two cases are not the same,” he said.

While Lindquist has acknowledged conducting government business on his personal device, Vermillion said he hasn’t done that himself. He added that he’s always granted the city permission to review his personal emails if deemed necessary.

City Attorney Steve Kirkelie also disagreed with West’s comparison of the two cases.

“There are unique facts and legal issues present in the Vermillion case that are not present in the Lindquist case,” Kirkelie said in an email Thursday.

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