

**FILED**  
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 STATE OF WASHINGTON

IN THE SUPREME COURT  
 OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	No. 83343-5
Appellant,	)	
	)	STATEMENT
v.	)	OF ADDITIONAL
	)	AUTHORITIES
HELEN D. IMMELT,	)	
	)	
Respondent.	)	

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Respondent State of Washington submits the following additional authorities. RAP 10.8.

1. Church of the Am. Knights of the Ku Klux Klan v. Kerik, 356 F.3d 197, 205 n.6 (2d Cir.2004) (Hurley did not alter the test for expressive conduct in Spence v. Washington and Texas v. Johnson: while expressive conduct need not convey a message that is "narrow," "specific," or even "articulable," such a message must nonetheless be "particularized" and likely to be understood).

RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of July, 2010.

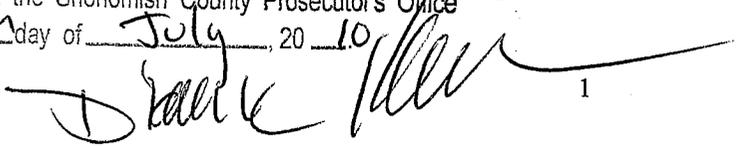
MARK K. ROE  
 Snohomish County Prosecutor

  
 CHARLES F. BLACKMAN, # 19354  
 Deputy Prosecuting Attorney,  
 Attorney for Appellant

On this day I mailed a properly stamped envelope addressed to the attorney for the defendant that contained a copy of this document.

I certify under penalty of perjury under the laws of the State of Washington that this is true.

Signed at the Snohomish County Prosecutor's Office  
 this 6<sup>th</sup> day of July, 20 10



IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

No. 83343-5

Respondent,

vs.

HELEN D. IMMELT,

STATEMENT OF  
ADDITIONAL AUTHORITIES

Petitioner.

Petitioner, Helen D. Immelt, submits the following additional authorities, RAP 10.8:

1. Quotation from *Hurley* on the particularized message standard:<sup>1</sup>

The protected expression that inheres in a parade is not limited to its banners and songs, however, for the Constitution looks beyond written or spoken words as mediums of expression.

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<sup>1</sup> *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston* 515 U.S. 557, 569, 115 S.Ct. 2338, 2345 (U.S.Mass.,1995).

Noting that “[s]ymbolism is a primitive but effective way of communicating ideas,” *West Virginia Bd. of Ed. v. Barnette*, 319 U.S. 624, 632, 63 S.Ct. 1178, 1182, 87 L.Ed. 1628 (1943), our cases have recognized that the First Amendment shields such acts as saluting a flag (and refusing to do so), *id.*, at 632, 642, 63 S.Ct., at 1182, 1187, wearing an armband to protest a war, *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503, 505-506, 89 S.Ct. 733, 735-736, 21 L.Ed.2d 731 (1969), displaying a red flag, *Stromberg v. California*, 283 U.S. 359, 369, 51 S.Ct. 532, 535, 75 L.Ed. 1117 (1931), and even “[m]arching, walking or parading” in uniforms displaying the swastika, *National Socialist Party of America v. Skokie*, 432 U.S. 43, 97 S.Ct. 2205, 53 L.Ed.2d 96 (1977). As some of these examples show, a narrow, succinctly articulable message is not a condition of constitutional protection, which if confined to expressions conveying a “particularized message,” *cf. Spence v. Washington*, 418 U.S. 405, 411, 94 S.Ct. 2727, 2730, 41 L.Ed.2d 842 (1974) (per curiam), would never reach the unquestionably shielded painting of Jackson Pollock, music of Arnold Schönberg, or Jabberwocky verse of Lewis Carroll.

RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of July, 2010.

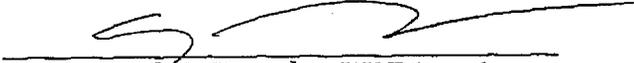
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John J. Tollefsen WSBA #13214  
Of Attorneys for Petitioner



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Frank S. Homsher WSBA #26935  
Of Attorneys for Petitioner

**Certificate of Service**

I hereby certify that I caused to be served the Statement of Additional Authorities on the following person by First-class mail on July 1, 2010.

**SERVED PERSON:**

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TOLLEFSEN LAW PLLC

*Belinda Born-Reid*  
Belinda Born-Reid, Paralegal

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