

FILED
SUPREME COURT
STATE OF WASHINGTON
10/4/2018 3:19 PM
BY SUSAN L. CARLSON
CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

JANELLE RIDDLE, Yakima County Clerk,)	
)	
Petitioner,)	No. 95959-5
)	
v.)	PETITIONER'S ANSWER TO
)	RESPONDENTS' MOTION TO
DAVID A. ELOFSON, KEVIN S.)	SUPPLEMENT AGREED
NAUGHT, MICHAEL G. MCCARTHY,)	STATEMENT OF FACTS AND
DOUGLAS L. FEDERSPIEL, BLAINE G.)	RECORD AND OBJECTIONS
GIBSON. RUTH E. REUKAUF. GAYLE)	THERE TO
M. HARTHCOCK, and RICHARD H.)	
BARTHFELD, Judges of the Superior Court)	
of the State of Washington for Yakima)	
County.)	
)	
Respondents.)	
<hr/>		

The Respondents, Judges of the Yakima County Superior Court, have filed a motion requesting the parties' Agreed Statement of Facts and Record be supplemented to include two letters issued by the Yakima County Board of County Commissioners' addressed to CNA Surety.

Ms. Riddle objects to the supplementation of the Agreed Facts and Record for the following reasons:

1. The first letter addressed to CNA Surety is dated June 11, 2018, which is 38 days after the Judges' May 4, 2018, Order Directing Yakima

County Clerk to Provide Supplemental Bond and accompanying cover letter were issued on May 4, 2018. (*Declaration of Elofson in Support of Motion*, Exhibit A; *Agreed Statement of Facts and Record*, ¶¶ 9 and 10, Exhibits 5 and 6)

2. The second letter addressed to CNA Surety is dated July 27, 2018, which is 84 days after the Judges' Order Directing Yakima County Clerk to Provide Supplemental Bond and accompanying cover letter were issued on May 4, 2018. (*Declaration of Elofson in Support of Motion*, Exhibit B; *Agreed Statement of Facts and Record*, ¶¶ 9 and 10, Exhibits 5 and 6)

3. The surety on Ms. Riddle's official bond is not CNA Surety. The surety on Ms. Riddle's official bond is Western Surety Company. (*Agreed Statement of Facts and Record*, ¶2, Exhibit 1)

4. There is no authentication of the letters submitted by the Judges, and no evidence the letters were actually sent by the Board of County Commissioners and received by Ms. Riddle's surety, Western Surety Company.

5. The Board of County Commissioners' letters dated June 11, 2018 and July 27, 2018, have not been referenced or attached as exhibits to any declaration or other pleading previously filed in this action.

The subsequent actions by the Board of County Commissioners in June and July of 2018 could not possibly be part of the factual and/or legal basis upon which the Judges issued their Order Directing Yakima County Clerk to Provide Supplemental Bond and accompanying cover letter on May 4, 2018. RAP 9.4 provides, in part: “The agreed report of proceedings must include only matters which were actually before the trial court.” Further, ER 402 provides, in part: “Evidence which is not relevant is not admissible.”

The Judges assert that supplementation of the Agreed Statement of Facts and Record is necessary to refute Ms. Riddle’s position that her official bond remains unimpaired. However, the Judges have not submitted any evidence that legal action has been commenced against Western Surety Company, Ms. Riddle’s surety. Legal action is the means by which a surety bond becomes impaired. *See*, RCW 19.72.090, .101, and .180; RCW 42.08-010-050; and RCW 18.27.040(4)-(10).

Ms. Riddle requests that the Judges’ Motion to Supplement Agreed Statement of Facts and Record be denied. The additional facts and exhibits the Judges seek to include in the record before the Supreme Court did not exist at the time the Judges issued their Order Directing Yakima County Clerk to Provide Supplemental Bond and accompanying cover letter.

Dated this 4th day of October, 2018.



Steven M. Clem, WSBA #7466
Special Deputy Prosecuting Attorney
for Yakima County
Attorney for Petitioner

DOUGLAS COUNTY PROSECUTING ATTORNEY

October 04, 2018 - 3:19 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 95959-5
Appellate Court Case Title: Janelle Riddle v. David A. Elofson, et al.

The following documents have been uploaded:

- 959595_Answer_Reply_20181004151803SC372206_5638.pdf
This File Contains:
Answer/Reply - Answer to Motion
The Original File Name was SC - Answer to Motion to Supplement Facts and Record.pdf

A copy of the uploaded files will be sent to:

- jhanson@lukins.com
- jmacfarlane@lukins.com
- joseph.brusic@co.yakima.wa.us
- tosler@lukins.com
- whyslop@lukins.com

Comments:

Answer to Motion to Supplement Agreed Statement of Facts and Record

Sender Name: Steven Clem - Email: sclem@co.douglas.wa.us

Address:

PO BOX 360

213 RAINIER

WATERVILLE, WA, 98858-0360

Phone: 509-745-8535

Note: The Filing Id is 20181004151803SC372206