Supreme Court No. 103357-5

Court of Appeals No. 59307-6-II

SUPREME COURT OF THE STATE OF WASHINGTON

Brian Wiklem,

Petitioner and Appellant

v.

City of Camas and Clark County,

Respondents.

Appellant's Petition for Review

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Introduction

This case involves a fundamental right in our democracy—using the local referendum power to obtain a public vote on new legislation. The question to be decided in this case is critically important to exercising that right, namely whether a trial court has the power to review the results of determining whether sufficient signatures were submitted for local referendum petitions. Here, when Clark County reviewed the signatures on a referendum petition, the County concluded that insufficient signatures were submitted, but the County's conclusion was obviously erroneous in several respects. Actual signatures on the petition the County declared to be blank lines (CP 530-31), signatures using nicknames were rejected (CP 810-11, 840-41, 867-68), a signature from someone in Camas was inexplicitly identified as a different person from Vancouver (CP 530-31), and people who were in fact registered voters in Camas were declared not to be. CP 532-33.

The County's rejection of signatures is the rejection of real people who chose to affix their name to the petition. Joseph Torres declared that he printed his name twice, instead of using cursive writing for his signature. CP 822. Hyun Kun Yi signed with a nickname. CP 840-41. Andrew Steven Talbert declared that he signed with his nickname, "Drew." CP 810-11. Haihui Hou affirmed signing the petition even though the signature was stylized in traditional English practice as "printing." CP 853-55; Johannes Magnus Lim signed where the petition said to print one's name and printed where it called for a signature. CP 861-62.

Another voter explained their legal name was Lijuon Yu, but the English name was Leslie Yu. CP 867-68. Dominic A. Choong Jr. explained it was dark when he signed. CP 364-65. Numerous others had no idea why the County did not count their signatures. *See, e.g.*, CP 752 (Marcus Paul Pascua); CP 776 (Yu Steven Zhu); CP 794

(Osama A. Al-Salti); CP 79 (Rose Cheng); CP 806 (Francisco J. Arana). All these people, and many others, wrongfully had their signatures rejected.

Petitioner, Brian Wiklem (Wiklem), sought to challenge the County's decisions by filing a petition for a writ of mandate, a writ of review and complaint for declaratory relief. CP 327-36. However, the trial court granted the County's motion to dismiss. According to Division Two, whatever the County did to invalidate people's signatures and stop people from being able to vote on the referendum was purely discretionary and unreviewable.

Wiklem petitions this Court to review Division Two's decision on the fundamental basis that the judiciary is not so powerless that it cannot review and correct errors, especially when numerous people have been wrongfully denied their democratic right to petition government and to vote.

Identity of Petitioner

Petitioner is Brian Wiklem, the Plaintiff and Appellant below.

Citation to Court of Appeals' Decision

Wiklem seeks review of a decision of Division Two filed on July 9, 2024, which is reproduced herein as Appendix App-1, *et seq*. This is a decision which terminates review.

Issues Presented for Review

1. Are the County's decisions on verifying signatures on a referendum petition subject to a writ of mandate to determine whether a referendum petition has sufficient valid signatures or are the County's decisions completely discretionary and not subject to any judicial review.

2. In dismissing a petition for a writ of review, may a trial court determine whether the County's decisions on the validity of referendum petition signatures were arbitrary and capricious without reviewing the record.

Statement of the Case

Wiklem is a resident of the City of Camas who pursued a referendum on a new city ordinance, referred to as

Referendum 1, which imposed a tax on utilities. After working with the City Clerk on the format of the referendum petition, Wiklem and others gathered signatures on the referendum petition. However, the County ultimately concluded that the petition was insufficient by 91 signatures. CP 349 (2730 signatures needed and 2639 accepted). Upon seeking obvious errors in the County's conclusion, Wiklem brought this action for constitutional and statutory writs of review and mandamus in addition to a claim for declaratory relief.

A. First Dispute resolved for Wiklem: whether Wiklem properly submitted signature pages without keeping a copy of the subject ordinance attached.

Based on express directions from the City Clerk, Wiklem filed only the petition signature pages with the City Clerk, after removing duplicate copies of the subject ordinance that accompanied the petitions during signature gathering.

Thereafter, the City Clerk notified Wiklem that the signatures would not be given to the County for verifying signatures because the petition signature pages that were submitted did not have the subject ordinance attached to each page of signatures. Wiklem filed suit in Skamania Superior Court against the City because he was following the City Clerk's express direction only to submit signatures pages, and not duplicate copies of the ordinance. Believing the County was involved in the decision not to verify signatures, the County also was named as a defendant.

The Superior Court granted Wiklem's motion for entry of a writ of mandate against the City and ordered the City to submit the signatures to the County for verification. CP 310-319. In so doing, the Court stated that it "is mindful that the referendum process involves a person's First Amendment rights. A signature on a referendum petition is an expression of a person's political views, and, therefore,

implicates the election process and his or her First Amendment rights." CP 314.

Furthermore, the Court ruled "[t]his order resolves all claims against the City and is a final decision terminating the case against it." CP 318. It was believed at that time that the County was not involved in the City's decision, so no relief was entered against the County.

B. Subject Dispute: whether the trial court has the power to review the County's decisions to invalidate signatures on a petition.

Thereafter, the Referendum 1 petitions were transmitted to the County for signature verification. The County completed the process and ultimately concluded that the petitions with over 3,000 signatures lacked 91 valid signatures to meet the necessary threshold to submit the matter to a vote. CP 349.

Wiklem was concerned that the County's conclusions from his signature verification process were woefully inaccurate because there were several glaring

inconsistencies. For instance, the County's report of its conclusions identified specific signature lines on the petition as being blank when the identified signature lines were in fact not blank. CP 531. The report concluded that signatures did not match some unknown exemplar. Wiklem believes the County used voter registration cards. Nonetheless, having gathered signatures Wiklem knew people in the community who had in fact signed the petition who were declared by the County to have invalid signatures. Later, these petition signers stated under oath that they in fact signed the petition. CP 729-883.

Some explained why their signature on the petition might look different from whatever the County was using for comparison purposes. *See supra* at 2. Additionally, it cannot be denied that people's signatures change with age. Nevertheless, how and why the County came to the conclusions that "signatures did not match" was never revealed.

Wiklem filed a motion to amend his case in Superior Court to seek a writ of review under both statutory and constitutional grounds, asking the court to review the County's determination that insufficient valid signatures were submitted. Wiklem also sought a writ of mandate to order the County to declare valid signatures to be valid. The trial court granted Wiklem's motion to amend. CP 373-74.

Thereafter, Wiklem attempted basic discovery essentially to obtain the County's administrative record of its signature verification process so the Court could review the record as part of the requested writ of review. The County refused to provide discovery and Wiklem was forced to file a motion to compel. CP 400-20. Thereafter, the County filed a motion to dismiss the case to be heard at the same time as the motion to compel. CP 375. The trial court granted the motion to dismiss, essentially rendering the motion to compel moot. CP 449.

Wiklem contends that the trial court should have reviewed the administrative record as part of a writ of review and considered evidence submitted when ruling on the merits of a writ of mandate or declaratory relief. Although the County never produced the administrative record, Wiklem provided declarations of numerous petition signers who stated under oath that they in fact signed the petition. *See* CP 151-204, 730-842. Wiklem also filed a motion for reconsideration, which was denied (CP 989-92), and had previously filed a Notice of Appeal to this Court. CP 983. This appeal was transferred to Division Two shortly thereafter.

C. **Division Two's decision.**

On July 9, 2024, Division Two issued its published decision concluding that Wiklem's petition for a writ of review and writ of mandamus were properly dismissed. App-1. Dismissal requires consideration of even hypothetical facts. App-7. Division Two noted that the trial

Court considered evidence outside of the complaint, but it is not entirely clear whether Division Two applied the standard of review for dismissals or summary judgment. App-7.

Nevertheless, Division Two concludes that the certification of signatures on petitions are acts of "authorized discretion." App-8 (quoting *Vangor v. Munro*, 115 Wn.2d 536, 543 (1990) (quoting *State ex rel. Harris v. Hinkle*, 130 Wn. 419, 429 (1924))). It then merges that phrase with the principle that mandamus is not appropriate to compel how discretion is exercised. App-9. As discussed *infra* at 22-25, Wiklem contends that merging these two concepts was erroneous in a way that shakes all public confidence in the right and opportunity for people to be involved directly in legislative processes—often referred to as "direct democracy."

Whether the decisions to accept or reject signatures on a petition are subject to judicial review goes to the heart of

direct democracy. As addressed below, only this Court should decide whether these critical decisions are beyond the scope of judicial review as Division Two concludes or whether the judiciary can review these decisions in a meaningful manner to protect this essential constitutional right.

Argument

Review Should be Granted Under RAP 13.4(b).

RAP 13.4(b) establishes this Court's considerations governing acceptance of review.

> (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
> (2) …
> (3) If a significant question of law under the Constitution of the State of Washington … 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). Review is appropriate under subsections (1), (3) and (4), as addressed below.

A. For purposes of RAP 13.4(b)(4), whether a writ of mandate is appropriate regarding a County's determination that signatures were not valid on a petition is an issue of substantial public interest that should be determined by the Supreme Court.

1. Washington law recognizes a writ of mandate is an available remedy because the County has a duty to declare valid signatures valid.

A writ of mandate is an appropriate procedure under Washington law to order compliance with the law. *Washington State Council of County and City Employees, Council 2, AFSCME, AFL-CIO, Local 87 v. Hahn,* 151 Wn.2d 163, 166-67 (2004). Here, the County has a duty to confirm that valid signatures on a referendum petition are valid. RCW 35A.01.040(4).

Moreover, Washington jurisprudence confirms that seeking a writ of mandate is an appropriate way to challenge the invalidation of signatures on a petition. *See Sudduth v. Chapman,* 88 Wn.2d 247, 249 (1977) (writ of mandate issued when "a number of rejected signatures

were in fact signatures of registered voters"); *see also Filo Foods LLC v. City of SeaTac*, 179 Wn. App. 401 (2014).

Consequently, the County has no authority to declare someone's actual, valid signature to be invalid or decide that a presently existing signature does not exist. This is furthered by the rule that all statutory requirements "regulating the elective process should be liberally construed in the voter's favor." *Sudduth,* 88 Wn.2d at 254. Division Two has construed the law to restrict the elective process by considering valid signatures to be improperly declared to be invalid or nonexistent as something beyond any court's review.

2. This case involves a question of substantial public interest because Division Two's treatment of the presumption of validity renders it meaningless.

Both this Court and the Legislature have declared that there is a presumption of validity that attaches to signatures on petition until proven otherwise. "[T]he

presumption of validity ... attaches to a signature upon a petition." *Sudduth,* 88 Wn.2d at 254. The Attorney General in the 1930s came to the same conclusion. The question was whether signatures "on a petition have to be identical with the name he used when registering?" Op.Atty.Gen. 1935-36, at 192. After noting that statutes do not require signatures to be signed "in any particular way" and because of the speech and petition provisions of the First Amendment, and the state constitution, the Attorney General answered that doubts as to whether a person subscribed their name to a petition are to be resolved *in favor of the person who placed their name on the petition*.

> Our federal and state courts hold that when in doubt, the doubt should be resolved strongly in favor of the elector.

Op.Atty.Gen.1935-36, at 193.

RCW 35A.01.040(5) also requires that signatures on a petition be "accepted as prima facie valid until their invalidity has been proved." Division Two responds that

"there is no indication that the County did not treat the signatures as valid until they proved based on their analysis that certain signatures were not valid." App-12. Division Two is essentially ruling that the County need only prove invalidity to itself, and no court can look at the underlying facts. Concluding that the "the County fulfilled this duty when the verifiers went through the process of verifying signatures" is simply circular reasoning. App-10.

Wiklem urges this Court to treat the presumption of validity statute and caselaw as it was obviously intended—signatures are valid until proven invalid in a way that can be reviewed by a court.

Merely requiring that signature invalidity be proven to oneself makes a mockery of the statute and this Court's decisions. The right to petition and the right to vote are clearly of substantial public interest and at issue with Division Two's decision.

3. Issues related to whether people are allowed to vote are significant to the public as a whole.

To be sure, direct democracy is a fundamental subject matter for this Court's involvement. The number of cases where the Court granted review to determine whether people would be allowed to vote are too numerous to list. The following is simply a sampling: *Brower v. State,* 137 Wn.2d 44 (1998) (right to vote on referendum on a football stadium); *City of Port Angeles v. Our Water-Our-Choice!,* 170 Wn.2d 1 (2010) (right to vote on fluoridation initiative); *Pierce County v. State*, 150 Wn.2d 422 (2003) (validity of citizen initiative); *Ball v. Wyman*, 435 P.3d 842 (2018) (regarding font size of print on back of initiative petition). Issues affecting the right to vote are quintessential substantial public issues.

4. The issues regarding judicial review of decisions to reject signatures on petitions should not be disregarded based on potential mootness.

At the hearing in this matter before Division Two, counsel for the City argued that this case will become moot because the ordinance to which the referendum petition relates will expire at the end of December 2024. Whether an election can be held on an ordinance after it expires need not be determined now because this case classically fits within the exemption for deciding even moot cases where the contested issues are matters of continuing and substantial public interest. *Matter of Dependency of L.C.S.*, 200 Wn.2d 91, 99 (2022).

In determining whether a case presents an issue of continuing and substantial interest, this Court considers the following:

> Whether the issue of a public or private nature, whether an authoritative determination is desirable to provide future guidance, and whether the issue is likely to reoccur. .... The court may also consider the adverseness of the parties, the quality of the

> advocacy, and the likelihood that the issue will escape review.

Id. Each of these considerations support deciding the issues in this case.

The review of signatures on a petition presented to the government for an election on a measure is necessarily of a public nature. For County election officials and the public at large, it is desirable to know whether those verifying or invalidating signatures on a petition will ever have their decisions potentially subject to judicial oversight. The issue is likely to recur before this Court has another opportunity to decide the issues. They are highly likely to evade review based on timing considerations. After all, Division Two granted Wiklem's motion for accelerated review, but nevertheless the likelihood of obtaining Supreme Court review and a decision is out of reach before the ordinance expires.

Additionally, the parties are clearly adverse, and the Court should have no concern that counsel are not up to the task to provide quality advocacy on these important issues. Consequently, the Court should decide these issues even though an election cannot be held before the ordinance expires, if that fact would render the case moot on some technical basis.

5. The substantial public interest issues should be resolved by the Supreme Court.

Because of the longstanding significance of the right to vote, judicial review of a decision that a court has no authority to review one of the essential steps in bringing about a public vote is of broad public import. This case does not merely affect Wiklem, nor merely affect the numerous people who signed the petition, but every voter in the State who may ever want to sign a referendum, initiative or recall petition. The fundamental question is whether, when obvious errors are identified, is the

courthouse door blocked because whatever the County decides to do regarding verifying signatures is completely discretionary? This Court should resolve this fundamental issue which relates to an essential element of the lawmaking process in Washington and, therefore, affects every person in this State.

B. For purpose of RAP 13.4(b)(1) and (3), Division Two's decision is inconsistent with this Court's precedent creating a significant question of law.

Division Two's treatment of both the writ of mandate and writ of review claims are inconsistent with this Court's prior decisions. First, Division Two concluded that a writ of mandate was inappropriate because reviewing signatures was a discretionary process. App-14. Second, regarding the petition for a writ of review, Division Two concludes that the County's review of signatures was not arbitrary and capricious even though the trial court did not have the record to review because it had a single declaration of a staff member that essentially declares "we did everything

right." App-15 (referring to Garber Declaration, CP 343-53). These decisions are addressed below.

1. **Division Two's reliance on the "authorized discretion" phrase from *Hinkle* is divorced from the context of *Hinkle* and this Court's clear statement in *Hinkle* that erroneous decisions regarding erroneous decisions invalidating signatures can be rectified by the court.**

Division Two concludes that the review of signatures is a matter of "authorized discretion" and that writs of mandate cannot be used to control the exercise of discretion. App-9. The path it takes to get to this destination conflicts with this Court's well-established jurisprudence.

While the conclusion that a writ of mandate is not to be used to control discretion is correct, the notion that signature verification is discretionary is not. Washington jurisprudence confirms that seeking a writ of mandate is an appropriate way to challenge the invalidation of signatures on a petition. *See Sudduth* 88 Wn.2d at 249;

Filo Foods LLC, 179 Wn. App. 401; *see also Case v. Superior Court,* 81 Wn. 623, 633 (1914) (addressing judges' decisions reviewing validity of individual signatures); *Edwards v. Hutchinson,* 178 Wash. 580, 583-84 (1934) (the law "is concerned only with the requisite number of signatures of legal voters and provides for a review by the courts of that question only"). This basis of Division Two is contrary to this Court's precedent on the propriety of reviewing governmental decisions, especially those on which a right to vote depends.

Division Two relies on *State ex rel Harris v. Hinkle*, 130 Wn. 419, 429 (1924) for the notion that the signature verification process was a matter of "authorized discretion." *Vangor v. Munro*, 115 Wn.2d 536, 543 (1990) cites this same phrase. But Division Two misapplies these precedents.

The *Hinkle* Court was merely contrasting the comparing of signatures with the act at issue in that case—allowing

people to withdraw their names from a petition. *Hinkle*, 130 Wash. at 429. In describing a process not at issue in the case—essentially *dicta*—as "authorized discretion," the *Hinkle* Court was not ruling that the results of that process were beyond judicial review.

Division Two includes an advocate's argument that "even Wiklem acknowledges that the language regarding the signature verification process in *Hinkle* was dicta." App. 12. Yes, the authorized discretion language about *signature verification* was dicta because the case was not about signature verification, but about whether the Secretary of State could allow people to withdraw their signatures from filed petitions. *Hinkle*, 130 Wash. at 420.

But, more importantly, even as *dicta*, the Court in *Hinkle* expressly was not suggesting as Division Two concludes that "authorized discretion" meant a court could never review the decisions on signatures. Anyone reading the decision will know that to be true because the *Hinkle*

Court said just the opposite of what Division Two concludes.

> An examination of the petition filed with respondent to ascertain ... if it has a sufficient number of signatures on the face of the petition to entitle it to be filed, involve administrative acts and matters of discretion.
>
> As to them this court **would not attempt to regulate the conduct** of respondent by an extraordinary writ **in advance of the act of the secretary**, **but would only attempt to rectify any erroneous, capricious, or arbitrary act after it had been made.**

Hinkle, 130 Wash. at 429 (emphasis added and paragraph break added).

Wiklem did not ask the trial court to regulate the conduct of the County in verifying signatures **in advance** of review of the signatures, but—as admonished by the Supreme Court in *Hinkle*—asks the court to rectify erroneous, capricious, or arbitrary decisions on signatures

after the County made determinations on signatures. This is exactly what the Court in *Hinkle* promises.

While *Vangor* cites *Hinkle,* the petitioner in *Vangor* specifically did not allege that valid signatures were rejected as Wiklem and numerous people who signed allege. 115 Wn.2d at 543. Instead, the petitioner in *Vangor* argued that the Secretary of State had not *maintained adequate voter registration records*. *Id*. at 538. The Court concluded that the **processes used to maintain records** was discretionary. *Id*. at 543. "While appellants suggest other procedures the Secretary might use, they make no argument that would reveal enough new voter registrations to assure certification of her initiative." *Id*. at 543.

In contrast, Wiklem contends that the errors in the actual signature count, if corrected, would provide certification of Referendum 1. Moreover, Wiklem is not suggesting other **procedures** the County should use, nor

could he, because the County never produced the record which would reveal the procedures it did use. Instead, and unlike the situation in *Vangor*, Wiklem is challenging the result—that the County has rejected signatures as invalid when they are perfectly valid under the law.

Division Two moved discretion a giant step in concluding that the County's decision to treat actual signatures as blank lines or actually registered voters as nonregistered simply related to "*how* the County exercised its discretion when verifying signatures." App-9. (emphasis in original). So, Division Two's decision is clear—that the conclusions made behind closed doors by the County are completely discretionary and completely unreviewable. Whether a person's decision to affix their name to a petition will be accepted or rejected, can be made on a whim and be completely unreviewable by any court.

Division Two's decision is inconsistent with this Court's precedent which calls for this Court's review.

2. Division Two's conclusion that a writ of review can be decided without the administrative record, but merely a self-serving, untested, declaration conflicts with this Court's precedent.

Wiklem sought writs of review, asking the Court to review the County's determinations on the validity of signatures.[1] CP 327, *et seq.* The Court dismissed the petition prematurely before a writ was issued that would require the County to provide the record for the Court to review. Therefore, the Court never had the County's record to review. Wiklem issued discovery to the County which required production of that record. The County refused and Wiklem was forced to file a motion to compel. Before the record was ever sought, the trial court granted the County's motion to dismiss and declared the motion to compel moot. Wiklem provided evidence indicating the

[1] Under the constitutional writ of review, courts "review administrative decisions for illegal or manifestly arbitrary acts." *Saldin Securities, Inc. v. Snohomish County*, 134 Wn.2d 288, 292 (1998).

County's decisions were erroneous, but the County's record was never provided for the Court to review.

Division Two takes a single declaration from a County staff member as to what was done without Wiklem having any opportunity to probe the basis for the statements made or reviewing any underlying facts. A self-serving declaration from the County that says that someone "check[ed] all name variations and nicknames" cannot be sufficient. CP 346. This is especially true when people like Hyun Kun Yi (CP 840-41), Andrew Steven Talbert (CP 810-11) and Lijuon Yu, (CP 867-68), Kenny instead of Hyun Kun Yi (CP 840), all declared that they signed the petition using nicknames, but their signatures were rejected with no explanation by the County. To be disenfranchised on such a technicality, when there is no question that a registered voter chose to endorse a petition, is inconsistent with every understanding of democratic fairness.

Even though the actual record—the documents used by the County to make its decisions was never provided—Division Two concludes:

> Garber's declaration provided detailed information about the County's signature verification process and demonstrated that the County exercised due diligence. This declaration provided enough information for the trial court to determine whether the County's process in verifying signatures was performed illegally or in an arbitrary manner.

App-15. In other words, Division Two ruled that a generalized declaration that "we did everything right" was sufficient to conclude that nothing done was illegal or arbitrary or capricious when the trial court cannot review the documents the County supposedly used to conclude that numerous signatures were not valid.

Nevertheless, the critical problem with Division Two's decision is that it decided that it was impossible to find that the County acted in an arbitrary or capricious manner based on the record that it and the trial court does not have. While this Court has allowed consideration of

evidence outside the record, "[u]nder a writ of review, a municipality or agency must return a *complete* record concerning the challenged action." *Responsible Urban Growth Group v. City of Kent,* 123 Wn.2d 376, 384 (1994) (emphasis added); *see also See State v. Clausen*, 82 Wash. 1, 5 (1914) (writ of review needs complete record to review).

The judicial process cannot be considered fair if courts can make decisions about a record that it doesn't have and conclude that a government official did not act arbitrarily when it is not known exactly what was done or the basis for its decision to effectively disenfranchise individuals from their affirmation on wanting a vote in a petition.

Conclusion

Impropriety arising from the signature verification process may not be common, but these processes may typically run smoothly and properly precisely because

judicial review remains a possibility. Here, there is no doubt that something was wrong in that signature lines with signatures were declared to be "blank" even though they were not, just as wrong as the County declaring people who actually signed the petition to have not signed. Division Two improperly concludes the choices of Joseph Torres, Dominic Choong Jr., Lijuon (aka Leslie) Yu, and numerous others, simply don't count.

The average person would be shocked to believe that is true—that whatever goes on behind closed doors can never come to light, even though that process is what determines whether a public vote will be held. Only this Court can reign in unbridled discretion to reject a signature on a whim and avoid ever having to explain the decision.

Division Two's decision is inconsistent with well-established Supreme Court authority and the case concerns fundamental issues of broad public import. Without this Court's intervention, public confidence in

democratic processes is weakened if the agency which ultimately decides whether a matter qualifies for a public vote can make decisions—obviously erroneous in some respects—without any judicial review whatsoever. Wiklem requests this Court to grant this Petition for Review.

The undersigned certifies that this Petition for Review contains 4852 words in compliance with RAP 18.17(c)(10).

Respectfully submitted this 8th day of August 2024, by

STEPHENS & KLINGE LLP

/s/ Richard M. Stephens
Richard M. Stephens, WSBA 21776

Attorneys for Appellant and Petitioner Below

Declaration of Service

I, Richard M. Stephens, declare as follows pursuant to GR 13 that counsel for Respondents was served through the Court's electronic filing portal on August 8, 2024.

Executed this 8th day of August 2024, at Woodinville, Washington.

/s/ Richard M. Stephens
Richard M. Stephens

Appendix

Filed
Washington State
Court of Appeals
Division Two

July 9, 2024

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

BRIAN WIKLEM, Appellant, v. CITY OF CAMAS, a municipal corporation of the State of Washington, and CLARK COUNTY, a political subdivision of the State of Washington, Respondents.	No.59307-6-II PUBLISHED OPINION

MAXA, P.J. – Brian Wiklem appeals the trial court's order granting Clark County's motion to dismiss. The city of Camas enacted an ordinance that imposed a new utility tax. As provided by RCW 35.21.706, Wiklem sought to subject the ordinance to a referendum vote and submitted petitions with over 3,000 signatures to the city of Camas. The County conducted its signature verification process and after rejecting a number of signatures, determined that the petitions lacked 91 valid signatures.

Wiklem filed an amended complaint against Camas and the County, alleging that the County's conclusion was erroneous and seeking a writ of mandamus, a writ of review, and declaratory relief. The County filed a motion to dismiss, supported by an affidavit from the County's election director explaining the process through which the County examined the validity of petition signatures. After the trial court granted the motion to dismiss, Wiklem filed a motion for reconsideration in which he provided evidence suggesting that the County had made multiple errors in validating the signatures.

We hold that (1) the trial court did not err in dismissing Wiklem's petition for a writ of mandamus because the act of comparing and certifying signatures on a petition is an act of authorized discretion for which a writ of mandamus is not appropriate; (2) the trial court did not err in dismissing Wiklem's petition for a writ of review because the declaration that the County provided had enough information for the trial court to determine whether the County's discretionary actions in verifying signatures were done illegally or in an arbitrary and capricious manner; (3) because Wiklem failed to make a meaningful argument regarding declaratory relief, we decline to address the issue; and (4) because we hold that the trial court did not err in granting the County's motion to dismiss, we also hold that the trial court did not abuse its discretion in denying Wiklem's motion for reconsideration.

Accordingly, we affirm the trial court's orders granting the County's motion to dismiss and denying Wiklem's motion for reconsideration.

FACTS

Camas enacted an ordinance that imposed a new utility tax. Wiklem sought to subject the ordinance to a referendum vote, and under RCW 35.21.706 he was required to obtain the signatures of 15 percent of Camas's registered voters. Wiklem submitted petitions with over 3,000 signatures of people who purported to be registered voters to Camas. The County conducted its signature verification process and determined that the petitions were short 91 valid signatures.

Wiklem filed an amended and supplemental petition for writ of mandate and complaint.[1] He claimed that the County breached its duty to verify the signatures on the petitions and sought

[1] Wiklem originally filed a petition for writ of mandate and complaint and a motion for entry of writ and mandate when Camas and the County refused to determine the sufficiency of the signatures because the ordinance was not attached to the referendum petitions. The trial court

a writ of mandamus ordering the County to validate the signatures. Wiklem also sought either a statutory or constitutional writ of review for the trial court to determine whether the County improperly rejected signatures. He claimed that the County rejected valid signatures and that this decision was illegal and arbitrary and capricious. Wiklem also sought declaratory judgment.

The County filed a motion to dismiss under CR 12(b)(6) for failure to state a claim upon which relief could be granted. The County argued that there were no statutory provisions for challenging its signature verification process and there was no evidence that the County conducted its signature verification process in an arbitrary and capricious manner.

The County submitted a declaration from Catherine Garber, the elections director who managed voter registration and conducted elections in the County. Garber declared,

> When the Elections Office receives petition sheets from a city for an initiative or referendum, my office verifies the signatures received to determine if a sufficient number of signatures have been provided to have the initiative or referendum placed on the ballot.
> . . . .
>
> All full-time and seasonal employees of the Clark County Elections Office receive signature verification training by the Washington State Patrol (WSP) Fraud Unit . . . . The initial training is a two-hour class which includes, but is not limited to, in-class activities on comparing handwriting examples. . . . Before a new seasonal employee begins signature verification, they are paired with a senior verifier for a one-on-one training for a full day to ensure they understand the signature verification process fully.
> . . . .
>
> During the review of signatures on a petition, we allow certified elections observers to be present at all times. . . . We also contacted the petitioner's attorney to let them know they may observe the signature verification process. The certified elections observer's duty is to watch and make sure verifiers are being thorough when searching for the voter.
> . . . .

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granted Wiklem's motion for entry of writ of mandate, directing Camas to verify the sufficiency of the signatures on the petition.

> When the Elections Office receives a petition, each individual sheet must be scanned into the petition module. Once it is uploaded, each sheet must be viewed in the module and compared with the original petition sheet to determine exactly which lines have a signature to be reviewed. Each individual line must be marked in the petition module whether there is a signature to be reviewed.
>
> . . . .
>
> [All verifiers] are reminded that petition sheets are typically signed outside on a clipboard and possible in unfavorable weather conditions and to keep this in mind while making their decision on whether or not to accept the signature. We review one signature at a time to determine if it matches the signature(s) in the voter registration database. The voter registration database contains all signatures that have been provided by the voter. We are able to view all versions of the voter's signature when comparing. Since we set parameters into the petition module, the system will show an error message if the voter does not live within the jurisdiction. Because there were several months from when the voters signed the petition to when we began verification, we also double-checked if there were any recent address changes so that we could ensure that the voter received credit if they resided within Camas city limits at the time of signing. If a voter signs the petition more than once, the first signature is accepted and the second signature is marked as a duplicate and excluded from the count of sufficient signatures.
>
> . . . .
>
> If the verifier rejects [the signature] for any reason, a second review is performed by our lead signature verification person. . . . We check all name variations, nicknames, combination of name variations including first name and date of birth . . . . We reviewed prior signatures on ballot affidavit envelopes to consider any deterioration or progression of a voter's signature if questionable. Every possible resource that is available to the Elections Office is utilized to try to locate the voter.

Clerk's Papers (CP) at 387-90.

The County provided various reasons why signatures were rejected: (1) 29 people signed the petition more than once; (2) 252 people were not registered to vote within Camas; (3) 153 people were not registered to vote; (4) 87 signatures did not match the signatures in the voter registration files; (5) three signatures were not provided; and (6) one signature was illegible.

The trial court granted the County's motion to dismiss. The court ruled that Wiklem did not have a statutory remedy to review the signature verification process and that because verifying signatures was a discretionary act, it was not a judicial function that was subject to a

writ of mandamus. In addition, Wiklem failed to show that the County exceeded its authority or acted illegally or that Garber and her office acted arbitrarily and capriciously.

Wiklem then filed a motion for reconsideration. He submitted a declaration from Brian Lewallen, who reviewed the County's report regarding the signature gathering process. Lewallen asserted that seven times the County stated that a line on the petition had been left blank, when in fact the petition showed signatures on those lines. He also asserted that the County committed clear errors on two other signatures.

Lewallen also submitted declarations from multiple people whose signatures the County determined did not match their voter registration cards, stating that they in fact had signed the petition. And he asserted that his research had revealed that multiple people the County listed as not within the jurisdiction did in fact live in Camas and were registered voters. Lewallen concluded that the County's errors added up to at least 110 signatures, more than the 91 signatures the County determined the petition was short.

The trial court denied the motion for reconsideration. The court explained that it had determined that the signature verification process was a discretionary process and the determination of the sufficiency of a signature is a discretionary act, and therefore a writ of mandamus was not appropriate. The court also stated that it had determined that the County had not acted in an arbitrary and capricious or illegal manner in reviewing the signatures. The court emphasized that the County engaged in a "very thorough and contemplated process." CP at 991. The court stated, "The post-signature declarations fail to convince the court that . . . they override the legislative and administrative process, nor that a legally sufficient claim exists." CP at 991. Therefore, a writ of review also was inappropriate.

Wiklem appeals the trial court's orders granting the County's motion to dismiss and denying his motion for reconsideration.

ANALYSIS

A. STATUTORY OVERVIEW

RCW 35.21.706 addresses the referendum procedure that applies to an ordinance imposing a business and occupation tax or increasing the rate of the tax.[2] RCW 35.21.706 states,

> This referendum procedure shall specify that a referendum petition may be filed within seven days of passage of the ordinance with a filing officer, as identified in the ordinance. Within ten days, the filing officer shall confer with the petitioner concerning form and style of the petition, issue the petition an identification number, and secure an accurate, concise, and positive ballot title from the designated local official. The petitioner shall have thirty days in which to secure the signatures of not less than fifteen percent of the registered voters of the city, as of the last municipal general election, upon petition forms which contain the ballot title and the full text of the measure to be referred. *The filing officer shall verify the sufficiency of the signatures on the petition* and, if sufficient valid signatures are properly submitted, shall certify the referendum measure to the next election ballot within the city or at a special election ballot as provided pursuant to RCW 35.17.260(2).

(Emphasis added.) RCW 35.21.706 does not provide a mechanism for reviewing the signature verification process.

RCW 35A.01.040(5) states, "Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved."

B. MOTION TO DISMISS

Wiklem argues that the trial court erroneously dismissed his petition for a writ of mandamus and a writ of review. We disagree.

[2] Camas adopted the utility tax ordinance at issue subject to the referendum procedures outlined in RCW 35.21.706 through Camas municipal codes 1.18.010-.030.

1. Standard of Review

We review de novo a trial court's ruling on a CR 12(b)(6) motion to dismiss. *Wash. Trucking Ass'ns v. Emp't Sec. Dep't*, 188 Wn.2d 198, 207, 393 P.3d 761 (2017). Dismissal is appropriate where it appears beyond doubt that a plaintiff will be unable to prove any set of facts that would justify recovery. *Id.* We assume the truth of the allegations in the plaintiff's complaint and may consider hypothetical facts not included in the record. *Id.*

However, the County submitted Garber's declaration with its motion to dismiss, which the trial court necessarily reviewed. If the trial court considers information outside the complaint, the motion must be converted to a summary judgment motion under CR 56. *LaRose v. King County*, 8 Wn. App. 2d 90, 103, 437 P.3d 701 (2019).

We review summary judgment orders de novo. *Mihaila v. Troth*, 21 Wn. App. 2d 227, 231, 505 P.3d 163 (2022). We view all evidence in the light most favorable to the nonmoving party, including reasonable inferences. *Id.* Summary judgment is appropriate when no genuine issues of material fact exist and the moving party is entitled to judgment as a matter of law. *Id.* A genuine issue of material fact exists if reasonable minds can come to different conclusions on a factual issue. *Id.*

2. Writ of Mandamus

Wiklem argues that the trial court erred in dismissing his petition for a writ of mandamus. We disagree.

a. Legal Principles

A writ of mandamus "is a rare and extraordinary remedy because it allows courts to command another branch of government to take a specific action, something the separation of powers typically forbids." *Colvin v. Inslee*, 195 Wn.2d 879, 890-91, 467 P.3d 953 (2020).

Courts have the power to issue a writ of mandamus only "[w]hen the law requires a government official to take a particular action." *Id.* at 892. And "mandamus cannot control the discretion that the law entrusts to an official." *Id.* at 893.

" '[M]andamus may not be used to compel the performance of acts or duties which involve discretion on the part of a public official.' " *SEIU Healthcare 775NW v. Gregoire*, 168 Wn.2d 593, 599, 229 P.3d 774 (2010) (quoting *Walker v. Munro*, 124 Wn.2d 402, 410, 879 P.2d 920(1994)). Therefore, a writ of mandamus is an appropriate remedy only " '[w]here the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment.' " *Colvin*, 195 Wn.2d at 893 (quoting *SEIU Healthcare 775NW*, 168 Wn.2d at 599).

"[T]he acts of registration officers in comparing and certifying genuine and spurious signatures on petitions are acts of 'authorized discretion.' " *Vangor v. Munro*, 115 Wn.2d 536, 543, 798 P.2d 1151 (1990) (quoting *State ex rel. Harris v. Hinkle*, 130 Wash. 419, 429, 227 P. 861 (1924)). A court can issue a writ of mandamus only when it finds a clear abuse of discretion amounting to a failure to exercise discretion. *Vangor*, 115 Wn.2d at 543. In other words, a "court may compel a state officer to perform a discretionary duty but cannot direct how such discretion shall be exercised." *Brown v. Owen*, 165 Wn.2d 706, 725, 206 P.3d 310 (2009).

When obtaining a writ of mandamus, "the petitioner must demonstrate that (1) the party subject to the writ has a clear duty to act, (2) the petitioner has no plain, speedy, and adequate remedy in the ordinary course of law, and (3) the petitioner is beneficially interested." *Am. Prop. Cas. Ins. Ass'n on Behalf of Washington-Licensed Members v. Kreidler*, 200 Wn.2d 654, 659, 520 P.3d 979 (2022). And even satisfying these requirements does not automatically entitle a

party to a writ of mandamus because the court retains discretion whether to issue the writ even where all of the prerequisites are met. *See id.*

b. Analysis

Here, Wiklem petitioned for a writ of mandamus so that the trial court could order the County to validate signatures on the petition. But the County already had conducted its signature validation review. So a writ of mandamus could not order the County to compel performance of something that already had occurred. Instead, Wiklem essentially was asking the trial court to determine that the County's signature validation was erroneous. But the act of comparing and certifying signatures on a petition is an act of authorized discretion. *Vangor*, 115 Wn.2d at 543. As noted above, a writ of mandamus cannot be issued to compel the performance of acts that involve a public official's discretion. *SEIU Healthcare 775NW*, 168 Wn.2d at 599. And Wiklem has not shown that the County failed to exercise its discretion in verifying the signatures.

Wiklem claims that the County mistakenly concluded that various signatures were invalid because they either did not match the signatures on the voter registration cards, the signature lines were left blank, or the signatories were not registered voters. But this claim relates to *how* the County exercised its discretion when verifying signatures, not that the County did not perform its discretionary duty of verifying the signatures.

Further, the County submitted a declaration that explained in detail the process that registration officers used when verifying signatures, showing that it did perform its duty of verifying signatures. Each sheet in the petition was scanned into a petition module, where the sheets in the module were compared with the original sheets to determine which lines had signatures to be reviewed. Each signature was compared to the signature in the voter registration

base and verifiers viewed all versions of the voter's signature and checked all name variations. The system indicated an error if the voter did not live within the jurisdiction and verifiers double checked if there had been any recent address changes. And if a signature did end up being rejected, the lead signature verification person would perform a second review. This process clearly represents an extensive exercise of discretion.

Wiklem makes several arguments as to why the trial court erred in dismissing his petition for a writ of mandamus. First, he claims that the County had a duty to confirm that valid signatures on a referendum petition were valid. But the County fulfilled this duty when the verifiers went through the process of verifying signatures.

Second, Wiklem argues that a writ of mandamus is the appropriate way to challenge the invalidation of signatures on a petition. He relies on *Sudduth v. Chapman*, 88 Wn.2d 247, 558 P.2d 806 (1977) and *Filo Foods LLC v. City of SeaTac*, 179 Wn. App. 401, 319 P.3d 817 (2014).

In *Sudduth*, a petitioner sought a writ of mandamus to compel the secretary of state to certify a ballot initiative. 88 Wn.2d at 249. The petitioner showed that the secretary of state had determined that the petitions lacked sufficient signatures based in part on the fact that he did not have any record, or current record, of voters' registrations and failed to looked beyond the cards on file in his office to determine whether the people signing the petition were registered voters. *Id.* The Supreme Court concluded that the secretary of state "must be diligent in maintaining the records in his office so that signatures can be effectively and accurately checked" and "[w]hile the Secretary of State necessarily has discretion in selecting the methods of keeping his records current and orderly, some action must be taken when the records are known to be incomplete." *Id.* at 254-55.

Here, the County kept an extensive record of registrations in a voter registration database and took multiple steps in determining whether the signatories were registered voters. The secretary of state in *Sudduth* failed to exercise his discretion when he did not look beyond the cards on file in his office, ignoring his duty under the statute to maintain reasonable records. 88 Wn.2d at 249. But unlike the secretary of state in *Sudduth*, the County did not ignore this duty. And the Supreme Court in *Vangor* concluded that *Sudduth* did not compel a different result when holding that the trial court correctly denied a writ of mandamus because comparing and certifying signatures on petitions are acts of authorized discretion. *Vangor*, 115 Wn.2d at 543-44.

In *Filo Foods*, a committee collected 2,506 signatures on supporting petitions for a proposed ballot initiative. 179 Wn. App. at 403. King County validated 1,780 signatures where only 1,536 signatures were required and issued a certificate of sufficiency. *Id.* at 403-04. Challengers filed a challenge to the certificate of sufficiency. *Id.* at 404. They sought a writ of review and writ of mandamus, raising the single issue of whether RCW 35A.01.040(7) required the city to strike all signatures, including the original, of each person who signed the petition more than once. *Id.*

The court held that denying a voter who signs petitions more than once the right to have one signature counted does not guard against fraud and mistake. *Id.* at 410. And therefore, the provision of RCW 35A.01.040(7) that required the striking of all a voter's multiple signatures was unconstitutional. *Id.*

Wiklem did not seek a writ of mandamus to determine whether a specific statute was constitutional; he sought to determine whether the County properly invalidated signatures on his petition. Therefore, *Filo Foods* does not apply here.

Wiklem also cites to *State ex rel. La Follette v. Hinkle*, 131 Wash. 86, 229 P. 317 (1924), and *State v. Superior Court of Spokane County.*, 59 Wash. 670, 110 P. 622 (1910). He argues that these cases involved issuing a writ of mandamus for election-related matters. But neither of these cases addressed the issue of the signature verification process. In fact, even Wiklem acknowledges that the language regarding the signature verification process in *Hinkle* was dicta.

Third, Wiklem claims that the verification of signatures on a petition is not discretionary. But the Supreme Court in *Vangor* expressly held that "the acts of registration officers in comparing and certifying genuine and spurious signatures on petitions are acts of 'authorized discretion.' " 115 Wn.2d at 543 (quoting *Hinkle*, 130 Wash. at 429).

Fourth, Wiklem claims that the requirements for signatures on a petition should be liberally construed and so we should hold that the County failed to treat valid signatures as valid as required under RCW 35A.01.040(5). As noted above, RCW 35A.01.040(5) states, "Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved." But there is no indication that the County did not treat the signatures as valid until they proved based on their analysis that certain signatures were not valid.

The verifiers were instructed to keep in mind that typically people signed the petition sheets outside on a clipboard and possibly in unfavorable weather conditions; verifiers were able to view all versions of a voter's signature when comparing; verifiers checked all name variations and nicknames; and verifiers considered any deterioration or progressions of a voter's signature by reviewing all prior signatures on ballot affidavit envelopes. These steps allowed for the County to liberally construe signatures on a petition.

Fifth, Wiklem argues that the lack of a remedy in RCW 35.21.706 fulfills the requirement that he must have no plain, speedy, and adequate remedy in the ordinary course of the law. But this requirement is not at issue here. The issue is the first requirement, that "the party subject to the writ has a clear duty to act." *Am. Prop. Cas. Ins. Ass'n*, 200 Wn.2d at 659.

RCW 35.21.706 provides for the filing officer to verify the sufficiency of the signatures. This process involves discretionary acts for which a writ of mandamus is not appropriate. Therefore, we hold that the trial court did not err in granting the County's motion to dismiss regarding the writ of mandamus.

3. Writ of Review

Wiklem argues that the trial court erred in dismissing his petition for a writ of review. We disagree.

a. Legal Principles

There are two classes of writs of review – the statutory writ and the constitutional writ. *Washington State Dep't of Corr. v. Barnett*, 24 Wn. App. 2d 961, 966, 522 P.3d 52 (2022), *review denied*, 1 Wn.3d 1018 (2023)). Wiklem sought both writs.

Regarding a statutory writ of review, RCW 7.16.040 provides,

> A writ of review shall be granted by any court, except a municipal or district court, when an inferior tribunal, board or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board or officer, or one acting illegally, or to correct any erroneous or void proceeding, or a proceeding not according to the course of the common law, and there is no appeal, nor in the judgment of the court, any plain, speedy and adequate remedy at law.

Under this statute, " 'the petitioner must show (1) that an inferior tribunal (2) exercising judicial functions (3) exceeded its jurisdiction or acted illegally, and (4) there is no adequate remedy at law.' " *Barnett*, 24 Wn. App. 2d at 967 (quoting *Wash. Pub. Emps. Ass'n v. Wash. Pers. Res.*

Bd., 91 Wn. App. 640, 646, 959 P.2d 143 (1998)). There is no basis for superior court review if any of these elements are absent. *Barnett*, 24 Wn. App. 2d at 967.

"To determine whether an agency was exercising judicial functions, courts weigh the following factors: (1) whether a court has been charged with making the agency's decision, (2) whether the decision is the type that courts historically have made, (3) whether the decision involved the application of law to fact, and (4) whether the decision resembled the ordinary business of courts as opposed to legislators or administrators." *Id.* at 968.

A statutory writ is an extraordinary remedy and should be used sparingly. *Id.* at 967. " 'Although the writ [of review] may be convenient, no authority supports its use as a matter of expediency.' " *Id.* (quoting *Dep't of Lab. & Indus. v. Bd. of Indus. Ins. Appeals*, 186 Wn. App. 240, 246-47, 347 P.3d 63 (2015)).

A constitutional right to judicial review still exists even when a petitioner fails to obtain a statutory writ. *Barnett*, 24 Wn. App. 2d at 971. The fundamental purpose of a constitutional writ is " 'to enable a court of review to determine whether the proceedings below were within the lower tribunal's jurisdiction and authority.' " *Id.* at 971-72 (quoting *Saldin Sec., Inc. v. Snohomish County*, 134 Wn.2d 288, 292, 949 P.2d 370 (1998)). Therefore, a court will accept review if the petitioner can allege facts that would establish the lower decision was "illegal or arbitrary and capricious." *Barnett*, 24 Wn. App. 2d at 972 (quoting *Saldin*, 134 Wn.2d at 292). However, the trial court has broad discretion when determining whether to accept review. *Barnett*, 24 Wn. App. 2d at 972.

b. Analysis

Here, the statutory writ of review is unavailable because the County was not exercising a judicial function. As noted above, the County was exercising a discretionary function delegated

to it by RCW 35.21.706. Wiklem does not argue otherwise and in fact does not directly address the statutory writ of review in his briefing.

Regarding the constitutional writ of review, Wiklem argues that the County did not provide a full record and that without the record, the trial court could not have made a ruling on whether the County's actions were illegal or arbitrary and capricious.

However, Garber's declaration provided detailed information about the County's signature verification process and demonstrated that the County exercised due diligence. This declaration provided enough information for the trial court to determine whether the County's process in verifying signatures was performed illegally or in an arbitrary and capricious manner.

Wiklem argues that in his reconsideration motion he produced evidence that the County made decisions in the verification process that were erroneous and arbitrary. Therefore, the trial court should have reviewed the entire record. However, we are reviewing the trial court's order on the motion to dismiss. The trial court did not have the evidence Wiklem produced on reconsideration when it entered its dismissal order.

We hold that the trial court did not err in granting the County's motion to dismiss regarding the writ of review.

4. Declaratory Relief

In the alternative, Wiklem argues that this case may be properly resolved by declaratory relief. Therefore, upon reversal of the trial court's order granting the County's motion to dismiss, the court should be free to determine whether declaratory relief is appropriate.

Camas and the County argue that Wiklem failed to preserve this issue for appeal because he did not claim that dismissal was improper regarding declaratory relief in the trial court. But even on appeal, Wiklem fails to explain why we should reverse the trial court's order granting

the County's motion to dismiss regarding declaratory relief. Wiklem spends only three sentences in his brief discussing declaratory relief. We generally decline to consider an issue when the appellant has failed to provide meaningful argument. *Billings v. Town of Steilacoom*, 2 Wn. App. 2d 1, 21, 408 P.3d 1123 (2017). Therefore, we decline to address this issue.

C. MOTION FOR RECONSIDERATION

Wiklem argues that the trial court erred in denying his motion for reconsideration. We disagree.

We review a trial court's decision granting or denying a motion for reconsideration for abuse of discretion. *Hively v. Port of Skamania Cnty.*, 193 Wn. App. 11, 14, 372 P.3d 781 (2016).

CR 59(a) states as grounds for granting a motion for reconsideration:

> (7) That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is contrary to law;
> . . . .
> (9) That substantial justice has not been done.

Wiklem spends only four sentences in his brief on the trial court's denial of his motion for reconsideration. His only "argument" is that the trial court should have granted his motion for reconsideration for all the reasons he claimed the trial court erred in granting the County's motion to dismiss. Again, we generally decline to consider an issue when the appellant has failed to provide meaningful argument. *Billings*, 2 Wn. App. 2d at 21. However, Wiklem relies only on his arguments regarding the dismissal order. Because we hold that the trial court did not err in granting the County's motion to dismiss, we also hold that the trial court did not abuse its discretion in denying Wiklem's motion for reconsideration.

CONCLUSION

We affirm the trial court's orders granting the County's motion to dismiss and denying Wiklem's motion for reconsideration.

MAXA, P.J.

We concur:

GLASGOW, J.

CHE, J.

STEPHENS & KLINGE LLP

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