COA 58509 0 II

IN THE SUPREME COURT

OF THE STATE OF WASHINGTON

Scott T. Collins

In his Individual Capacity

Appellant

V

Chief Brian Smith Carla Jacobi

Nathan West and Kari Martinez-Bailey

In Their Individual Capacities

Respondents

Petition For Review

Scott T. Collins

(pro se)

P O Box 2733

Port Angeles WA 98362

360 452-9458

scott@scotttcollins.com (3 Ts)

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Table of Authority

Review is De Novo RCW 42.56.550(3)

Summary Judgments

Identity

Scott T. Collins is, as in all cases regarding this greater issue(s), Petitioner and Appeals The Superior Court of Clallam County and WA ST Court of Appeals Court II decisions and of which concern The WA ST Public Records Act RCW 42.56 and also Summary Judgments, CR 56, both are reviewed De Novo.

Citation To The Court Of Appeals 58509 0 II

The letter explained that Collins' behavior towards City staff was regularly inappropriate, so the City was assigning him a single point of contact for all of his requests. pg 2

We have also previously held that a requester need not "submit their request to a designated PRA coordinator." O'Dea v. City of Tacoma, 19 Wn. App. 2d 67, 80, 493 P.3d 1245 (2021). Pg 6

Here, the City sent a letter to Collins "assigning" him specific contact information for all PRA requests and telling him not to contact any other City Staff regarding the requests except as the City arranged. CP at 271. pg 6, 7

Later that month, after Collins "appeared" not to use the assigned contact information, the city attorney sent Collins a letter recommending he follow the communication instructions from the prior letter. There is no language in the subsequent letter mandating that Collins use the contact information referenced in the November 7 letter, pg 7

The letters address, among other things, the "disrespectful" interactions with City staff and also advisory information on how to contact the City generally given the relationship between Collins and the City. pg 7

Even viewing the evidence in the light most favorable to Collins, the letters do not show that the City actually restricted the manner in which Collins could file a PRA request. pg 7

Because there is no evidence that the City used Collins' identity to deny him access to records, we conclude there is no genuine material issue of fact about whether the City violated the prohibition on distinguishing between requesters. pg 7-8

While it is true that the requester cannot be required to submit their request to only a designated PRA coordinator, that does not mean that an agency cannot internally direct requests to the designated PRA coordinator. pg 8

Issues Presented For Review

RCW 42.56.080(2) Copying, Availability (in it's relevant parts)

Agencies shall not distinguish among persons requesting records. Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency.

RCW 42.56.580 Public Records Officers (in it's relevant parts)

(3) For local agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records…

1. The Five Respondents were granted Summary Judgments, Clallam was vague but COA II erred by "interpreting" that the clear language in RCW 42.56.080(2) clearly states any claim under that Section can only be granted and (prevail) if records were denied or a threat to do so, thus, no "genuine issues" of which people could differ," does The Supreme Court agree?

2. RCW 42.56.100 states "agencies shall adopt reasonable rules and regulations" to assure that an agency does not disrupt itself, (no evidence of legislation by The City exists), but The PRA does not grant a records clerk unilateral authority to decide the definitions of "disrespect" or "inappropriate behavior" then act, by creating, then "assigning," a particular inbox for one specific requester to use as point of contact for all email requests and that "does not apply to all persons" thus, are "genuine issues" of which people could differ," does The Supreme Court agree.

3. The Nov 7 2019 Letter's effects can easily be "interpreted" as not just innocent recommendations considering "The Filters" continue the electronic restraints on two email accounts that had also blocked only Collins from City Council Members and still blocks only Collins' access to The Police Dept of which has it's own Records Dept and PRO and under the authority of both Respondents Smith and West yet no complaints of behavior and "does not apply to all persons" thus are indeed "genuine issues" of which people could differ," does The Supreme Court agree?

4. COA II ruled and erred that "assigning" a designated inbox, The PAPRR, for only Collins, allegedly due to "allegations" in The Nov 7 Letter, (though categorically refuted as untrue in the record and must also be, "viewed as true"), cp 131-132), does not "distinguish," nor "a particular mode of submission" "to a designated coordinator" thus are not, "genuine issue(s)" "of which people could differ," does The Supreme Court agree?

5. COA II also erred that clear language in RCW 42.56.080(2) clearly states, or omits, that Govt agencies can use software to "distinguish" among persons…" by blocking requests from a requester whose identity and email account information has been predetermined and entered into the email filtering system, (an electronic prior restraint), thus directing 'that' requester into a specific email inbox (PAPRR) are not "genuine issues" of which people could differ," does The Supreme Court agree?

Statement Why Review Should Be Granted

Review should be granted because the issues concern public interests, WA ST Statute RCW 42.56, (The PRA) and errors.

The Superior Court of Clallam and COA II erred in law, the electronic prior restraints on Collins' two private email accounts remain yet that compels a "particular mode of submission" and "to "a "designated PRA coordinator" even though COA II had quoted their previous opinions (below), The August 20 2024 opinion has errors by making permissible, forcing only Collins submit email requests using the designated form of submission. Court of Appeals II…

While it is true that the requester cannot be required to submit their request to only a designated PRA coordinator… pg 6.

No other WA ST opinion has used the adjective, "only."

O'Dea v. City of Tacoma, 493 P.3d 1245, 1251-52 (Wash. Ct. App. 2021)

"agencies may recommend that requestors submit requests using an agency provided form or web page." RCW 42.56.080(2). Nor **must** a requester submit their request to a designated PRA coordinator. Id. at 806 n.17, 271 P.3d 932.

And, although the requests did not arrive through the City's online PRA submission form, agencies cannot mandate a particular mode of submission. RCW 42.56.080(2) ; Germeau , 166 Wash. App. at 806 n.17, 271 P.3d 932.

As our Supreme Court has made clear, "[T]here is no official format for a valid P[R]A request." Hangartner,151 Wash.2d at 447, 90 P.3d 26; see also Beal,150 Wash.App. at 874, 877, 209 P.3d 872.

Statement And Initial Argument

First The Trial Court, then COA II have dealt a huge blow to The PRA RCW 42.56 via Summary Judgments. COA II failed to view the record of a Pro Se and nonmovant liberally, failed to scrutinize allegations against Collins, assumes facts not in evidence, the intent of The Respondents, multiple errors, invents new law, and cites to only (unsubstantiated) allegations most 'unfavorable' to Collins not to any established Exhibits containing 'material facts in dispute' beneficial to Collins and found throughout the record if not in the prior opening brief.

COA II cited The Nov 7 2019 Letter and yet ignored and did not "cite" (Collins' Ex 11 & 12, cp 131-132) on record that had created genuine issue(s) allegedly responsible for "the filters." "Alleged" conduct, though frivolous and defamatory, was an excuse to place, and continue, "filters" on Collins' two accounts because Collins simply dared to file a few complaints regarding the conduct and service of Local Government under it's current management of which, used to be permissible here in America.

WA ST Const Art 1 sec (5 per se); Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right.

No evidence exists or adjudicated Collins "abused that right."

The record also indicates this is a case that clearly implicates The PRA and specifically 'RCW 42.56.080(2)' because Collins is clearly being distinguished under The PRA's clear language.

Argument

The Five Respondents and The City of Port Angeles placed electronic filters on Collins' two private email accounts forcing Collins to use a Govt "assigned," "mode" of submission," to a "designated PRA coordinator" when requesting via email.

RCW 42.56.080(2), "shall not distinguish among persons…" is clear and unequivocal, nowhere does it state, even imply or tie, "distinguishing" among persons," based on identity, to only if records are denied as COA II asserted and erred, coa pg 7-8. Collins' "identity" is the only reason for the disparate treatment, in fact, if Collins uses alias accounts, the email(s) go directly to intended recipients without "the filters" blocking the emails.

Collins succeeded partially throughout and on one main issue, the second half of the first para however is vague and irrelevant. Court of Appeals II…

While it is true that the requester cannot be required to submit their request to only a designated PRA coordinator, *that does not mean that an agency cannot internally direct requests to the designated PRA coordinator. Pg 8

*Collins does not dispute what agencies can do, after the fact.

Reading on, And the City's provision of a recommended e-mail address, telephone number, and portal to submit PRA request is permissible under the plain language in RCW 42.56.080(2).

The various recommended contacts are not the cause of action, however, all contacts, listed above, are not plural nor to various clerks, but to one, specific, "distinguished" destination.

The Five Respondents spent 40 days scheming, then created and entered Collins' email addresses into "electronic filters" to block, then redirect, only Collins' requests to a particular inbox, The PAPRR, a violation also per "Parmelee" and of which there is substantial evidence, Ex 1-5 & 13, cp 120-124 & 133 et al.

Parmelee v. Clarke, 148 Wn. App. 748, 757 (Wash. Ct. App. 2008)

But the policy does not mandate the use of a particular form. The requirement that public records requests be submitted to the designated public disclosure coordinator does not distinguish among persons because it applies to all persons seeking public records, including inmates.

COA II…

To the extent the November 7 letter could be interpreted as an order to use only the listed contact information, it still would not create a genuine issue of material fact because the City did not state that it would deny Collins access to the records if he sought the records through other means. Pg 7

There is no other way to "interpret" "the letter," good gosh…! The, "do not contact staff, for all records requests," "the filters," placed on only Collins' email accounts, or when Collins was in fact denied in person access by Jacobi Nov 14 2019 and told to "go talk to the manager" and in late 2020, a secondary account was also "filtered" thus yes "mandated" to the particular inbox.

COA II ruled Respondent Bloor in fact viewed Collins as uncooperative for not adhering to the "assigned" contacts thus, Bloor's Nov 19 letter after a Collins 'in person' records request.

Electronically blocking requests (to intended recipients) by redirecting requests to a predetermined location and before it even reaches "internally" violates The PRA as COA II affirmed.

"While it is true that the requester cannot be required to submit their request to only a designated PRA coordinator" but states,

*"that does not mean that an agency cannot internally direct requests to the designated PRA coordinator." coa pg 8

*What exactly, does the second half of that reasoning mean?

This is not a cause of action that requests to public works, i. e, are viewed, then benignly "internally routed" to a clerk nor do the "electronic filters" "apply to all persons" of which is clearly "distinguishing" as Parmelee v. Clarke et al also prohibited."

"The requirement that public records requests be submitted to the designated public disclosure coordinator does not distinguish among persons because it applies to all persons seeking public records, including inmates."

"Alternative channels" and requests to different Depts is a given and irrelevant, but using "electronic filters" to force a predetermined, particular mode of submission, is a violation.

Port Angeles City Ordinance 2.74.030

Each department of the City identifies some records as "over the counter" records and are routinely made available to the public. Requests for an over the counter record may be directed to the City department that has control of the record.

COA II does not cite any case making it permissible for Govt to devise and place "electronic filters" that block, then redirect one specific requester, to a specific inbox, Collins' Ex 1-5 & 13.

COA II' opinions are errors in law and fact and if continued, agencies will use that twisted reasoning of "internally directing" and make "electronic filters" permissible under The PRA.

The filters, placed on only Collins' two email accounts, are also no different than "requiring an "online submission form" of which agencies can only recommend, not mandate.

"agencies may recommend that requestors submit requests using an agency provided form or web page." RCW 42.56.080(2).

COA II had cited, twice, coa pg 7, "it "appeared" Collins did not use the "assigned" contact information," (after Collins simply requested records "in person" on Nov 8 & 14 2019) thus ruled that The Respondents' Nov 7 and Nov 19 2019 letters are "not orders" but clearly Bloor viewed the requests as violations as did Respondent Jacobi whom denied The Nov 14 Requests.

COA II ruled the letters only "recommend" using the contacts, using aliases and anonymous accounts to bypass "the "filters" then would not invoke any legal enforcement or consequence.

"There is no language in the subsequent letter mandating that Collins use the contact information referenced in the November 7 letter," quoting from herein pg iii para 4 and coa II pg 7.

COA II granted 'Collins,' (no doubt unwittingly), victories and though if only 'veiled,' throughout and, but, not grant remedy to remove "the filters" of which still violates RCW 42.56.080(2) thus, asks The Supreme Court to rule "the filters" unlawful and so to not become a permissible mandate and blow to The PRA.

COA II had cited the "allegations" but failed to scrutinize Respondent Martinez-Bailey's Nov 7 2019 Letter, coa pg 2 & 7, with analysis considering Collins' Ex 11 & 12, cp 131-132 are on record refuting all "allegations" that exonerate Collins and of which, were all provided by Martinez-Bailey thus then she admitted she was never a "direct witness," (of anything), nor that, even if true, was during a "records request," appx A & B.

COA II did not rule, give argument, cite any Statute defining behavior nor that violated a PRA provision regarding requesters nor did The Respondents or The City of Port Angeles produce or cite to a Code, Ordinance or Statute regarding "disrespect," unprotected speech, nor for COA II' misquoting of (coa pg 2) the statutorily undefined "regularly" inappropriate" concoction said to be the impetus thus are "genuine issues of material fact."

The Defense' perpetual allegations including that Collins was "not cooperating" and that ???? was "escalating" then the, crazy new allegations of "disruptions," (rob pg 6), were also not only slapped down but time barred and made moot by the ruling that the letters are not "orders," emails direct to a single inbox since Nov 7 2019, and Collins has not been in City Hall since 2019.

Zink v. City of Mesa, 140 Wn. App. 328, 140 Wash. App. 328, 166 P.3d 738 (Wash. Ct. App. 2007)

The record does not support a finding of unlawful harassment. her description of Ms. Zink's conduct in this regard does not satisfy the statutory definition of "unlawful harassment. RP 377.

The Fed Interrogatories also added "genuine issues of fact" by Respondent West' own words which exposed him to counts of perjury created by The Defenses' motions and Clallam's CR 56, thus, were also "viewed as true," Collins' 77 k (8) cp 078 @ 12.

Respondent West was also incorrect in asserting Collins had no right to use a secondary email account, (cp 078), the same document containing multiple counts of false testimony. Collins can create and use as many email accounts as darn well pleases.

COA II ruled the letters are not "orders" yet Collins was again penalized in late 2020 for using the other (self-named account) and had that account "filtered" thus mandated to use only the "particular mode of submission" to a "designated email inbox," The PRA was violated not once, but twice, and in fact for all "150" requests," if Collins were to use alias accounts that were exposed, then filtered, that would create new causes of action.

No Statute of Limitations apply for the dozen of requests still "in progress" and RCW 42.56.080 is 2 Year Catch All 4.16.130.

""Equitable tolling permits a court to allow an action to proceed when justice requires it, even though a statutory time period has nominally elapsed." Price v. Gonzalez, 4 Wn.App. 2d 67, 75, 419 P.3d 858 (2018). " O'Dea v. City of Tacoma, No. 56000-3-II, 7 (Wash. Ct. App. Jan. 17, 2023)

There are also at least a dozen qualified clerks available for requests via email but not on the list quoted by COA II, pg 2, of which are not plural in nature, even requests to PRO Jacobi get directed to Respondents Martinez-Bailey and Bloor.

COA II' interpretations of Section RCW 42.56.080 are errors, nowhere does it state that a "denial of a request(s)" is required for a "distinguishing" among persons" claim, "distinguishing," is clearly prohibited in the four corners of RCW 42.56.080(2).

Summary Judgments

"A genuine issue of material fact exists if reasonable minds could disagree on the conclusion of a factual issue. Zonnebloem, 200 Wn.App. at 182-83. We view all facts and reasonable inferences drawn from those facts in the light most favorable to the nonmoving party. Id. at 182." Schnitzer W, LLC v. City of Puyallup, No. 54984-1-II, 4 (Wash. Ct. App. Oct. 12, 2021)

WA ST Const Art 1 Sec 5 Per Se

Collins had also established cognizable arguments "the filters" are a prior restraint or (post conduct sanction) as admitted by The Defense though all allegations are frivolous and refuted.

Voters Educ. Comm. v. Pub. Disclosure Comm'n, 161 Wn.2d 470, 493-94, 166 P.3d 1174 (2007)

"article 1, section 5 categorically rules out prior restraints on constitutionally protected speech under any circumstances."

"a prior restraint is an administrative or judicial order forbidding communications prior to their occurrence."

The Five Respondents used software to place electronic filters on not one, but two of Collins' private email accounts of which is "forbidding communications prior to their occurrence," even "communications" to Respondent Chief Smith's, Police Dept.

Conclusion

The Public Records Act and Collins' rights have been clearly violated thus respectfully asks this court to accept review and De Novo as required by The PRA and Summary Judgements and rule the actions by The Respondents unlawful, reverse and remand so Collins can seek the relief to remove "the filters" placed on two private email accounts via injunctive relief order and or a cease and desist order from the lower court(s) and thus the subsequently increasing non-economic damages and costs of which has increased to $1,016.75 ($653.00 on appeal) and $60,000 for each of the two non-economic damages claimed. *These erroneous PRA decisions are lasting and will be cited forever as historically inaccurate thus making Collins, a martyr.

Word Count 3525

September 9 2024 Scott T. Collins

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scott@scotttcollins.com (3 Ts)

Jeremy W. Culumber
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Seattle WA 98104
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jculumber@kbmlawyers.com

--- Please respond above this line ---

Ex 11

RE: Public Records Request # W015116-060622

Dear Mr. Scott T. Collins:

The City of Port Angeles received your request on 6/6/2022, for the following records:

Records,
Please provide all if any record created by Defendant Kari Martinez-Bailey that may depict the "consistently disrespectful" and "inappropriate behavior" allegations contained in her November 7 2019 letter to me, Mr. Collins, and which may have occurred during the few times I, Collins, had filed lawful "complaints" and "records request" between the dates of January 1 2019 to the date of this request(s).
Please do not again provide, return, copies of any "email" communications filed as lawful "complaints" from me, Collins, provide only entries pertaining to the two allegations that she or anyone in the clerk's office may have experienced and contemporaneously logged into record arising from any "in person" visit by me, Mr. Collins to The City Hall..
Also, for clarity, this is a different request than the most recent for any record of a "disruption."

We have completed our search and have located no other records responsive to your request.

We now consider your request for records complete. If you have any questions, please respond to this email.

The Port Angeles Public Record Center

Appendix A

From: "Port Angeles Public Records Center" <PortAngelesWA@mycust[illegible]p.net>
Subject: Public Records Request :: W015165-061622
Date: Fri, July 29, 2022 5:46 pm
To: "scott@scotttcollins.com" <scott@scotttcollins.com>

Ex 12

--- Please respond above this line ---

RE: Public Records Request # W015165-061622

Dear Mr. Scott T. Collins:

The City of Port Angeles received your request on 6/16/2022, for the following records:

Please provide all if any record(s) created by Manager and Defendant Nathan West that may depict the "consistently disrespectful," "inappropriate behavior" and or any "disruptions" that may have been witnessed by Defendant West or conveyed by staff and which may have occurred during the few times I, Collins, had visited City Hall or any City Property between the dates of January 1 2018 to the date of this request(s).

We have completed our search and have located no records responsive to this request. We now consider your request for records complete. If you have any questions, or if we have misunderstood your request in any way, please respond to this email.

The Port Angeles Public Record Center

--- Please respond above this line ---

Ex 13

RE: Public Records Request # W016240-030623

Dear Mr. Scott Collins:

The City of Port Angeles received your request on 3/6/2023, for the following records:

Provide a record, list, of all requests, excluding from me, Scott T. Collins, by other requesters that were received at The PAPRR inbox.

We have searched the PAPRR box and have located no responsive records.

We now consider your request for records complete and closed. If you have any questions, please respond to this email.

The Port Angeles Public Record Center

Appendix C

Ex 1

From:
To:
Subject: RE: Email "Box"
Date: Friday, September 27, 2019 10:23:36 AM

Please call me so I have a better understanding of the question.
Thank you,
e

From: Kari Martinez-Bailey <Kmbailey@cityofpa.us>
Sent: Friday, September 27, 2019 10:05 AM
To: Helpdesk <helpdesk@cityofpa.us>
Cc: Elizabeth Strait <Estrait@cityofpa.us>
Subject: Email "Box"
Hello,
Would it be possible to direct an email to one specific mailbox, not matter what employee it was sent to?

Kari Martinez-Bailey
City Clerk
City Manager's Office
(p) 360-417-4634 | (f) 360-417-4509

City of Port Angeles
321 East Fifth Street
Port Angeles, WA 98362

22-2-00762-05
MTDSM 27
Motion to Dismiss
14553330

FILED
CLALLAM CO CLERK
2023 MAY 24 A 8:34
VICKI BOTHEN

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLALLAM

Scott T. Collins
In His Individual Capacity

Plaintiff,

V

Chief Brian Smith, Carla Jacobi,
Nathan West and Kari Martinez-Bailey
In Their Individual Capacities

Defendants

22-2-00762-05

Opposition To Motion To Dismiss
(Oral Arguments 5/26/23) (Filed Per 77 K (8))

Violations of The PRA,
Administrative and Statutory Duties,
WA ST Const Art 1 Sec 3, 4 and 5

Jury Demanded

City Manager Nathan West May Have Committed Federal Perjury

21. Were you aware at the time you gave the order to Todd Weeks to place the filter that it blocked access to all Port Angeles Council Members, a separate governmental body?

West; As explained above, routing of your emails to a single inbox did not block your access to City officials, I would also note that (1) you immediately established a second email address through which you began sending correspondence directly to City Council Members, and (2) you are well aware that emails to Council Members from your scott@scottcollins.com email address are NOT rerouted, but are received directly by the Council Members, I know you are aware of this because you have emailed Council Members as recently as a couple of weeks ago, and have received responses from them directly. (Federal Suit Filed November 4 2020, Interrogatory April 2021)

1. November 7 2019, Ex 3, Defendant West imposed A Restraint and Injunction on Collins' Email Account scott@scotttcollins.com.

2. August 18 2020 Public Record; Defendant West, "via a "phone call" to The I T Dept, placed a Restraint and Injunction on Collins' Email Account collins.scott.t@gmail.com.

3. October 02 2020, Ex 8, Defendant West admitting to The City Council that indeed the Restraints and Injunctions have blocked All of Collins' Requests to Council Members.

27 (P

Appendix E

SCOTT COLLINS - FILING PRO SE

September 10, 2024 - 7:27 AM

Transmittal Information

Filed with Court:	Court of Appeals Division II
Appellate Court Case Number:	58509-0
Appellate Court Case Title:	Scott T. Collins, Appellant v. Chief Brian Smith, et al, Respondents
Superior Court Case Number:	22-2-00762-4

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Phone: (360) 452-9458

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Filed
Washington State
Court of Appeals
Division Two

August 20, 2024

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

SCOTT T. COLLINS, IN HIS INDIVIDUAL CAPACITY, Appellant, v. CHIEF BRIAN SMITH, CARLA JACOBI, NATHAN WEST AND KARI MARTINEZ-BAILEY, IN THEIR INDIVIDUAL CAPACITIES, Respondents.	NO. 58509-0-II UNPUBLISHED OPINION

CHE, J. — Collins appeals a summary judgment order dismissing his Public Records Act (PRA), ch. 42.56, claim against the City of Port Angeles (City) and various employees (collectively, the defendants).

The defendants filtered Collins' e-mails to city employees to an e-mail inbox monitored by the public records officer and instructed Collins to submit PRA requests by calling a specific number, using the City's PRA portal, or sending them to a specific e-mail address. Collins filed a lawsuit, alleging that such conduct violated the PRA. The defendants moved to dismiss the lawsuit under CR 12 based on claim preclusion, the statute of limitations, and for failure to state a cause of action under the PRA and the state constitution. The trial court converted the motion into a summary judgment motion, which it then granted.

Collins argues the trial court erred by granting summary judgment. He reasons that there was a genuine issue of material fact about whether the defendants improperly distinguished

Collins from other PRA requesters by restricting the manner in which he could file PRA requests and by filtering his e-mails to City employees to the PRA officer.

We affirm. We hold that, viewing the evidence in the light most favorable to Collins, there was no genuine issue of material fact regarding whether the defendants violated RCW 42.56.080(2). Thus, the defendants were entitled to summary judgment. Finally, we deny Collins' cost request.

FACTS

Collins has filed numerous PRA requests—approximately 150 according to the defendants—with the City since February 2019.

On November 7, 2019, the city manager, Nathan West, ordered the information technology department to filter all e-mails from Collins to city employees to an e-mail account monitored by both the public records officer, Kari Martinez-Bailey, and the City's legal department.[1] The same day, Martinez-Bailey sent a letter to Collins instructing him to submit PRA requests by calling a specific phone number, by using the City's PRA portal, or by sending a request to a specific e-mail address.

The letter explained that Collins' behavior towards City staff was regularly inappropriate, so the City was assigning him a single point of contact for all of his requests. The letter instructed, "Do not contact City staff except as arranged through the assigned contacts." Clerk's Papers (CP) at 271. Collins sent notices to the City to cease and desist this practice. In response, the city attorney sent Collins a letter "re-direct[ing] [Collins'] attention to the letter . . . dated

[1] When e-mails were received, the PRA officer would convey the PRA requests to the appropriate recipients. Around October 2020, the City changed the filter to allow Collins' e-mails addressed to city council to be sent directly to the city council members.

November 7." CP at 125. This subsequent letter did not contain language ordering Collins to comply with the November 7 letter; rather, the letter appeared to be largely an attempt to communicate to Collins that he could have ameliorated his communication frustrations by using the contact information the City provided. The letter also suggests that the City will continuing using its e-mail filter for Collins' requests.

The following year, Collins sued West and Bailey-Martinez in federal district court, arguing that they had violated his free speech and due process rights under the Washington Constitution and the First Amendment. The complaint referenced and discussed the PRA, but did not appear to state a cause of action based upon the PRA. The district court dismissed the case for failure to state a claim, engaging in a First Amendment analysis.

Collins then brought the present action in Clallam County Superior Court.[2] Collins moved to amend his complaint. The defendants moved to dismiss the lawsuit under CR 12 arguing that the present claims in the complaint and the proposed amended complaint fail based on claim preclusion, failure to state a cause of action under the PRA and the state constitution, and the statute of limitations.

The trial court granted Collins leave to amend his complaint. The amended complaint alleged the following causes of actions: (1) violations of Article I, Sections 3, 4, and 5 of the Washington Constitution, (2) violations of the PRA—by routing all e-mails from Collins' e-mail addresses to the public records officer and by not allowing in-person PRA requests, (3) a violation of Port Angeles Municipal Code 2.64.030, (4) a violation of the Washington State

[2] The defendants moved to remove the matter to federal court. The federal district court remanded the matter to superior court based on an amended complaint Collins filed.

Open Public Meetings Act of 1971 (OPMA), ch. 42.30 RCW, and (5) violations of various RCWs based on the defendants exceeding their statutory authority by implementing the e-mail filter. Collins sought an order directing the removal of the e-mail filter as a form of relief in the amended complaint.

Ultimately, the trial court converted the defendants' motion to dismiss into a summary judgment motion and ruled for the defendants.

Collins appeals the grant of summary judgment for the defendants.

ANALYSIS

I. UNDEVELOPED ASSIGNMENTS OF ERROR

As a preliminary matter, Collins assigns error to the summary judgment order based on several state constitutional provisions, various sections of the PRA, the OPMA, various statutes pertaining to the authority of City employees, and various rules of evidence. Br. of Appellant at 7-8.

"[A]n appellant is deemed to have waived any issues that are not raised as assignments of error and argued by brief." *State v. Sims*, 171 Wn.2d 436, 441, 256 P.3d 285 (2011); RAP 10.3(a)(4), (g).

In Collins' appellate brief, despite assigning error to several issues based on state constitutional provisions, the OPMA, statutes, rules of evidence, and the PRA, Collins provides argument pertaining only to the PRA. Thus, his other assignments of error are waived. Arguments for some of Collins' assignments of error were made for the first time in the reply brief. But "because [these] argument[s] [were] not made in the opening brief, we do not consider [them]." *State v. Mohamed*, 195 Wn. App. 161, 168, 380 P.3d 603 (2016).

II. PRA

Collins argues that the trial court erred in granting summary judgment against him because there was a genuine issue of material fact about whether the defendants improperly distinguished Collins from other PRA requesters by restricting the manner in which he could file PRA requests and by filtering his e-mails to City employees to the PRA officer.[3] Br. of Appellant at 12. Thus, he asserts that there was a genuine dispute of material fact about whether the defendants violated the PRA.

The defendants argue that Collins did not make a cognizable PRA claim. Br. of Resp't at 23. The defendants also argue that even if Collins made a cognizable PRA claim, the PRA's statute of limitations bars Collins' lawsuit. Br. of Resp't at 25. We conclude that, even assuming Collins made a cognizable PRA claim that is not barred by the statute of limitations, Collins' argument fails because there is no genuine dispute about whether the defendants violated the PRA.

We review de novo challenged agency actions under the PRA. RCW 42.56.550(3); *Associated Press v. Wash. State Legis.*, 194 Wn.2d 915, 920, 454 P.3d 93 (2019). "The PRA is 'a strongly worded mandate for broad disclosure of public records.'" *Associated Press*, 194

[3] Collins' briefing contains allegations that lack either coherent argument or citation to legal authority. For instance, Collins repeats that the defendants altered his PRA requests and that certain exhibits were inadmissible and fraudulent. Br. of Appellant 14. Collins provides no legal authority and analysis to support these assertions. Our rules require "argument in support of the issues presented for review, together with citations to legal authority and references to relevant parts of the record." RAP 10.3(a)(6). And when claims are unsupported by cogent argument, we may decline to reach those claims. *State v. Moses*, 193 Wn. App. 341, 357 n.10, 372 P.3d 147 (2016). Here, we decline to reach Collins' assertions lacking cogent argument and unsupported by legal authority.

Wn.2d at 920 (internal quotation marks omitted) (quoting *Bainbridge Island Police Guild v. City of Puyallup*, 172 Wn.2d 398, 408, 259 P.3d 190 (2011)).

RCW 42.56.080(2) provides,

> Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person . . . . *Agencies shall not distinguish among persons requesting records*, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(8) or 42.56.240(14), or other statute which exempts or prohibits disclosure of specific information or records to certain persons. . . . *Agencies shall honor requests received in person during an agency's normal office hours, or by mail or email, for identifiable public records unless exempted by provisions of this chapter. No official format is required for making a records request; however, agencies may recommend that requestors submit requests using an agency provided form or web page.*

RCW 42.56.080(2) (emphasis added).

We have previously held, "To violate RCW 42.56.080, then, the agency must use the requester's identity to deny access to records." *City of Lakewood v. Koenig*, 160 Wn. App. 883, 891, 250 P.3d 113 (2011) (dealing with the RCW 42.56.080(2) prohibition on distinguishing among PRA requesters). The prohibition on distinguishing among PRA requesters is meant to prevent agencies from denying PRA requests based on the requester's identity or purpose. *See SEIU Healthcare 775NW v. Dep't of Soc. & Health Servs.*, 193 Wn. App. 377, 405, 377 P.3d 214 (2016); *Koenig*, 160 Wn. App. at 891. We have also previously held that a requester need not "submit their request to a designated PRA coordinator." *O'Dea v. City of Tacoma*, 19 Wn. App. 2d 67, 80, 493 P.3d 1245 (2021).

Here, the City sent a letter to Collins "assigning" him specific contact information for all PRA requests and telling him not to contact any other City Staff regarding the requests except as

the City arranged. CP at 271. The City concluded its letter with the sentiment that it wished to offer Collins "the most efficient customer service." CP at 271.

Later that month, after Collins appeared not to use the assigned contact information, the city attorney sent Collins a letter recommending he follow the communication instructions from the prior letter. There is no language in the subsequent letter mandating that Collins use the contact information referenced in the November 7 letter, nor did the City threaten to not fulfill the requests unless he used their recommended method. The thrust of the subsequent letter appears to be that the City believes if Collins uses the recommended contact information, it will ameliorate Collins' future communication frustrations. The letters do not indicate that the City would not consider a PRA request if Collins did not utilize the recommended communication channels.

Even viewing the evidence in the light most favorable to Collins, the letters do not show that the City actually restricted the manner in which Collins could file a PRA request. The letters address, among other things, the "disrespectful" interactions with City staff and also advisory information on how to contact the City generally given the relationship between Collins and the City. This includes how to contact the City if Collins wants to speak with a specific City employee, even if the matter was unrelated to a PRA request. To the extent the November 7 letter could be interpreted as an order to use only the listed contact information, it still would not create a genuine issue of material fact because the City did not state that it would deny Collins access to the records if he sought the records through other means.

Because there is no evidence that the City used Collins' identity to deny him access to records, we conclude there is no genuine material issue of fact about whether the City violated

the prohibition on distinguishing between requesters. And more generally, RCW 42.56.080(2) does not appear to regulate how an agency must internally process PRA requests—so the e-mail filtering decision is not implicated by this prohibition. While it is true that the requester cannot be required to submit their request to only a designated PRA coordinator, that does not mean that an agency cannot internally direct requests to the designated PRA coordinator. And the City's provision of a recommended e-mail address, telephone number, and portal to submit PRA request is permissible under the plain language in RCW 42.56.080(2).

Viewing the evidence in the light most favorable to Collins, we hold that there is no genuine issue of material fact regarding whether the defendants violated RCW 42.56.080(2). The defendants were entitled to summary judgment. Because we affirm, we need not address the defendants' arguments regarding other grounds for affirming, including claim preclusion, the cognizable types of PRA actions, and the statute of limitations. *Matter of Gilbert Miller Testamentary Credit Shelter Tr. & Estate of Miller*, 13 Wn. App. 2d 99, 107, 462 P.3d 878 (2020).

III. COSTS

Collins requests costs, reimbursement for noneconomic damages and inconvenience, as well as remand for the trial court to impose penalties. We deny his request.

We may award attorney fees or expenses on appeal if applicable law grants the party such a right. RAP 18.1(a). "The party must devote a section of its opening brief to the request for the fees or expenses." RAP 18.1(b). The requirement set out in RAP 18.1(b) is mandatory. *Gardner v. First Heritage Bank*, 175 Wn. App. 650, 677, 303 P.3d 1065 (2013).

Here, Collins is not the prevailing party and he fails to devote a section of his opening brief on this issue as required by RAP 18.1(b). Thus, we deny his request.

CONCLUSION

We affirm the summary judgment.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

Che, J.

We concur:

Cruser, C.J.

Veljacic, J.