

FILED
SUPREME COURT
STATE OF WASHINGTON
8/25/2025 8:00 AM
BY SARAH R. PENDLETON
CLERK

SUPREME COURT CASE No. 1040849

COURT OF APPEALS, DIVISION I CASE No. 870840

SUPREME COURT OF THE STATE OF WASHINGTON

MARCUS GERLACH and SUZANNE GERLACH

Petitioners

v.

CITY OF BAINBRIDGE ISLAND et al.

Respondents

PETITIONERS' ADDITIONAL AUTHORITIES AND EVIDENCE

TO THE WASHINGTON STATE SUPREME COURT

TREATED AS A MOTION TO SUPPLEMENT PETITION

Marcus Gerlach WSBA # 33963
Attorney for Petitioners
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Telephone: (206) 842 8193
msg2x4@yahoo.com

I. ADDITIONAL AUTHORITIES RAP 10.8

The Petition for Review (“Petition”) to the Washington State Supreme Court (“WSSC”) was based on evidence known in April 2025. On August 20, 2025, Petitioners became aware of authorities and evidence relevant to the Petition, demonstrating bias, prejudice and partiality by the appeal court in its opinion.

The Washington State Court of Appeals (“COA”) manufactured “facts” in their opinion. That COA later filed a false/misleading document regarding Petitioner’s counsel in July 2025, via surrogate, claiming counsel’s argument implied others “could easily discover details about the judge’s adult children and target them.” COA suggested Petitioners’ Zoom argument amounted to “serious threats.” Petitioner’s counsel never threatened anyone.

COA’s surrogate also falsely declared the “time has passed to seek reconsideration” and appeal. This case is before WSSC after filing reconsideration and an appeal.

COA’s acts of malice and malevolence violated Code of Judicial Conduct (“CJC”) Rule 2.3, “A judge shall perform the duties of judicial office, including administrative duties, without prejudice.” COA judges, acting through an administrative surrogate, filed a false/speculative document.

COA violated CJC Rule 2.2, which stated, “A judge shall perform all duties of judicial office fairly...impartially.” COA’s acts, via surrogate administrator, were untrue, incorrect and dishonest. COA’s violations call into question their neutrality and impartiality, as well as being “irresponsible, unprofessional and unacceptable.”

COA violated CJC Rule 2.1, which stated, “A judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary...” COA’s false accusations should result in automatic reversal.

II. ADDITIONAL EVIDENCE ON REVIEW RAP 9.11

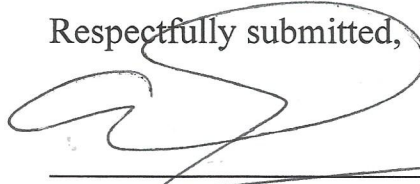
On February 18, 2025, Petitioner’s counsel filed a reply brief in *Suzanne Gerlach v Bainbridge Island School District* [COA #873440]. On June 23, 2025, July 21, 2025 and August 18, 2025 (Appendices A, B & C) Counsel requested a hearing date. COA ignored counsel’s letters based on the bias and prejudicial nature of the same COA in the instant case.

III. CONCLUSION

COA violated CJC Rules and issued a flawed decision based on malice. Because of COA's continued acts of personal prejudice, WSSC must review the instant case.

Dated: August 25, 2025

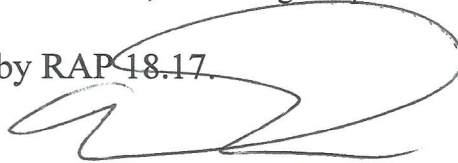
Respectfully submitted,



Marcus Gerlach WSBA # 33963
Attorney for Appellants

CERTIFICATE OF COMPLIANCE

This document contains 350 words, excluding the parts of the document exempted by RAP 18.17.



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APPENDIX A

MARCUS GERLACH

579 Stetson Place
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June 23, 2025

Washington State Court of Appeals, Division I
One Union Square
600 University Street
Seattle, WA 98101-4170

RE: Washington State Court of Appeals Case # 873440

Dear Court Administrator:

On February 18, 2025, Appellant, Suzanne Gerlach (Appellant), filed a Reply Brief in the above-referenced Public Records Act (“PRA”) case. The Court of Appeals (“COA”) has not yet set a date for argument, which is an inexplicable 125-day delay by the COA.

On February 18, 2025, Appellant filed a Motion To Strike/Seal after Respondent, Bainbridge Island School District (“BISD”), identified Appellant’s son/student by name and date of birth in pleadings filed with the COA on January 27, 2025. On March 14, 2025 BISD filed a Response to the Motion to Strike stating, “Article I, Section 10, of the Washington State Constitution establishes that the records of the court should be open to the public” [Resp Brf Pg 1] BISD further stated, “FERPA designates name and date of birth, as well as numerous other types of information contained in an education record, as directory information.” [Resp Brf Pg 4] BISD’s legal pleadings *never* constituted a student directory. BISD’s absurd rationale was inaccurate regarding court records and contradicted BISD’s own FERPA exemptions for redacted student names, which BISD concealed to protect criminal cyber-harassment perpetrators that targeted the Appellant’s student/son in a case nearly identical to the facts in *CSA v Bellevue* 32 Wash.App.2d 544, 557 P.3d 268 (2024). BISD’s improper FERPA redactions are part of the underlying PRA case and part of BISD’s bad faith/overdue PRA production, which is still outstanding.

On March 18, 2025, COA’s Masako Kanazawa made a notation ruling on the Motion to Strike and stated, “To the extent respondent’s reference to appellant’s adult son’s name and birthday is already in the clerk’s papers designated by appellant, appellant’s motion to strike, redact or seal the reference should be directed to the trial court.” The notation ruling failed to address BISD’s Responsive Brief- filed with COA- not the trial court.

Appellant is still awaiting an appealable Order from the COA regarding the Motion to Strike pleadings filed directly with the COA. COA previously ignored Appellants’ two Motions to Strike in COA # 868462, which is presently before the Washington State Supreme Court for review. COA’s Masako Kanazawa must issue an appealable Order.

Appellant is genuinely concerned about COA Division I's impartiality regarding this simple appeal following Kitsap County Superior Court's flawed Orders. COA Division II already issued a decision in favor of BISD in *M.G. v BISD* 31 Wash.App.2d 1066 (2024) despite BISD's failure to provide hearing transcripts [RCW 28A.645.020]. The Washington State Supreme Court declined to require compliance with RCW 28A.645.020 and further protected BISD in *MG. BISD* 4 Wash.3d 1002, 561 P.3d 739 (2025). Appellant now anticipates COA will again protect BISD in the PRA case.

In an effort to obtain a decision from this COA, which should be issued *sometime before BISD finally decides to furnish all outstanding/unredacted records next year*, please indicate the date for argument before the COA and any appealable COA Order on the Motion to Strike from Commissioner Masako Kanazawa. Established case law by COA [Div I] in *CSA v Bellevue* 32 Wash.App.2d 544, 557 P.3d 268 (2024) regarding BISD's PRA violations requires an immediate hearing date. Further delays, simply to further protect BISD from an inevitable decision based on *CSA v Bellevue*, are unwarranted.

Very truly yours,

Marcus S. Gerlach, WSBA #33963
Attorney for Appellant, S. Gerlach

cc: Service on attorneys representing BISD via COA portal

APPENDIX B

MARCUS GERLACH

579 Stetson Place
Bainbridge Island, WA 98110
msg2x4@yahoo.com

July 21, 2025

Washington State Court of Appeals, Division I
One Union Square
600 University Street
Seattle, WA 98101-4170

RE: Washington State Court of Appeals (“COA”) Case # 873440

Dear Court Administrator:

On February 18, 2025, Appellant, Suzanne Gerlach (“Appellant”) filed a Reply Brief in the above-referenced Public Records Act (“RPA”) case. On June 23, 2025, the Appellant requested a hearing date for this case to obtain a published decision imposing sanctions, attorney’s fees and costs against the Bainbridge Island School District (“BISD”) To date, the COA has not responded to Appellant’s June 23, 2025 letter and the Appellant is still awaiting a hearing date with this court, which is now more than 150 days since the matter was properly at issue.

On February 18, 2025, the Appellant also filed a Motion to Strike/Seal the case after the Respondent, BISD identified the Appellant’s son by name and identified his date of birth in a January 27, 2025 pleading. The COA failed to issue an Order on Appellant’s Motion to Strike/Seal and apparently continued to disregard Appellant’s outstanding Motion while refusing to set a hearing date for a case with clear legal precedent.

The Appellant’s Motion to Strike/Seal is a simple matter to address by the COA’s Commissioner, Masako Kanazawa. BISD erroneously claimed that the Washington State Constitution, Article 1, Section 10, mandated that the record should be open to the public, including the full student’s name and date of birth in the pleading, but failed to recognize Federal Rule of Civil Procedure 5.2, which mandated “[A] party making a filing may include only: (a)(2) the year of the individual’s birth.” Washington Courts often look to federal court cases for guidance. *Beal v City of Seattle* 134 Wn.2d 769, 954 P.3d 237 (1998) Under the Family Educational Rights and Privacy Act (“FERPA”) BISD is not permitted to disclose a student’s full name and date of birth in a legal pleading. [see 20 U.S.C. §1232(g); 34 CFR§ 99.3]. BISD’s January 27, 2025 pleadings violated FERPA.

Appellant’s case is nearly identical to a student’s case in *CSA v Bellevue School Dist* 32 Wash.App.2d 544, 557 P.3d 268 (2024). In *CSA* the school district improperly relied on FERPA to redact records necessary to prosecute a case against the district. Appellant requests an appealable COA Order on the outstanding Motion to Strike and a prompt hearing date to address BISD’s untimely production and improper redactions.

Further delays are unwarranted except to protect BISD from any liability. The COA previously eviscerated the Appearance of Fairness Doctrine (“AFD”) in *Gerlach v City of Bainbridge Island* 185 Wash.App. 1004 (2014). The Washington State Supreme Court (“WSSC”) declined review in *Gerlach v City of Bainbridge Island* 182 Wash.2d 1025 (2015) in order to protect the municipality and destroy the AFD. Thereafter, the COA protected BISD from any liability in *M.G. v BISD* 31 Wash.App.2d 1066 (2024) by eviscerating RCW 28A.645.020. The WSSC declined review in *M.G. v BISD* 4 Wash.3d 1002 (2025) in another effort to insulate the COA’s decision in apparent defense of the municipality. The Appellant is accurately concerned that the COA will continue to ignore the Motion to Strike/Seal in yet another effort to further protect the municipality from any liability.

A hearing date is simple to set and would allow the matter to be heard in the furtherance of justice. The COA’s delays deny the Appellant justice. The Appellant agrees with the legal maxim “Justice delayed is justice denied.” Please provide the appealable Order on the Motion to Strike and the hearing date to msg2x4@yahoo.com. This correspondence, as well as all publicly filed documents regarding municipal employees, are matters of public concern.

Very truly yours,



Marcus Gerlach

cc: Mark O'Donnell, Amber Hazlequist, Ronald Boy

APPENDIX C

MARCUS GERLACH

579 Stetson Place
Bainbridge Island, WA 98110
msg2x4@yahoo.com

August 18, 2025

Washington State Court of Appeals, Division I
One Union Square
600 University Street
Seattle, WA 98101-4170

RE: Washington State Court of Appeals (“COA”) Case # 873440

Dear Court Administrator:

On February 18, 2025, Appellant, Suzanne Gerlach (“Appellant”) filed a Reply Brief in the above-referenced Public Records Act (“RPA”) case. On June 23, 2025, and July 21, 2025 the Appellant requested a hearing date for this case to obtain a published decision imposing sanctions, attorney’s fees and costs against the Bainbridge Island School District (“BISD”) To date, the COA has not responded to Appellant’s June 23, 2025 and July 15, 2025 letters. The Appellant is still awaiting a hearing date with this court, which is now more than 180 days since the matter was properly at issue.

On February 18, 2025, the Appellant also filed a Motion to Strike/Seal the case after the Respondent, BISD identified the Appellant’s son by name and identified his date of birth in a January 27, 2025 pleading. The COA failed to issue an Order on Appellant’s Motion to Strike/Seal and apparently continued to disregard Appellant’s outstanding Motion while refusing to set a hearing date for a case with clear legal precedent. Please advise when COA’s Commissioner, Masako Kanazawa will issue an appealable Order regarding BISD’s Federal Rule of Civil Procedure 5.2, abuse and Family Educational Rights and Privacy Act (“FERPA”) violation. Disclosure of a student’s full name and date of birth in a legal pleading is a 20 U.S.C. §1232(g); 34 CFR §99.3 violation.

CSA v Bellevue School Dist 32 Wash.App.2d 544, 557 P.3d 268 (2024) cited nearly identical issues to the instant case. COA must not overturn itself regarding the *CSA* case just to shield BISD from liability. A hearing date should be set and any delays to preserve BISD’s Proposition 1 levy lid increase on the November 4, 2025 ballot is insufficient to stay proceedings. This correspondence, as well as all publicly filed documents regarding state and municipal employees, are matters of public concern.

Very truly yours,

Marcus Gerlach

cc: Mark O’Donnell, Amber Hazlequist, Ronald Boy

August 25, 2025 - 7:42 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 104,084-9
Appellate Court Case Title: Marcus Gerlach, et al. v. City of Bainbridge Island, et al.
Superior Court Case Number: 23-2-02347-3

The following documents have been uploaded:

- 1040849_Cert_of_Service_20250825074030SC563847_8271.pdf
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The Original File Name was Pets Ger v CBI Add Auth Evid 1040849 cert.pdf
- 1040849_State_of_Add_Authorities_20250825074030SC563847_4586.pdf
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Statement of Additional Authorities
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A copy of the uploaded files will be sent to:

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- dpollom42@gmail.com
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- hlynch@kellerrohrback.com
- jhaney@omwlaw.com
- mfirst@kellerrohrback.com
- zloll@omwlaw.com

Comments:

Sender Name: marcus gerlach - Email: msg2x4@yahoo.com

Address:

579 STETSON PL SW

BAINBRIDGE ISLAND, WA, 98110-2551

Phone: 206-471-8382

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