

THE SUPREME COURT OF WASHINGTON

In Re the Petition for Recall of)	No. 98683-5
)	
ADAM FORTNEY,)	ORDER
)	
Appellant.)	Snohomish County
)	No. 20-2-02972-4
_____)	

On June 24, 2020, a Notice of Appeal was filed by Appellant Adam Fortney seeking Supreme Court review of the trial court’s decision on this recall case. On June 26, 2020, the Respondents’ “MOTION FOR ACCELERATED REVIEW” was filed. An answer to the motion for accelerated review was filed on June 29, 2020, and a reply to the answer was filed on June 30, 2020. On July 2, 2020, an order granting the motion for accelerated review was filed and a briefing schedule was established. On July 27, 2020, the “APPELLANT’S OPENING BRIEF” was filed. The “BRIEF OF RESPONDENT” was filed on August 14, 2020, and the “APPELLANT’S REPLY BRIEF” was filed on August 20, 2020. After consideration by the Court at the September 10, 2020, En Banc Conference, the Court determined to enter the following order with opinions to follow.

Now, therefore, it is hereby

ORDERED:

The trial court’s order that four of the five charges in the petition to recall Adam Fortney, Snohomish County Sheriff, are factually and legally sufficient is affirmed in part and reversed in part as follows:

The Court unanimously declines to address Sheriff Adam Fortney’s challenge to the ballot synopsis.

The Court unanimously affirms the trial court's order denying Sheriff Adam Fortney's motion for reconsideration.

A majority of the Court affirms the trial court's order that the following two charges are factually and legally sufficient to proceed:

- (1) "Adam Fortney endangered the peace and safety of the community and violated his statutory duties under RCW 36.28.010 and/or 36.28.011 and/or oath of office by inciting the public to violate Governor Inslee's 'Stay Home – Stay Healthy' proclamation," and
- (2) "Adam Fortney endangered the peace and safety of the community, violated his statutory duties under RCW 36.28.010, and exercised discretion in a manifestly unreasonable manner by rehiring three deputy sheriffs previously discharged following investigation and findings of misconduct."

The Court unanimously reverses the trial court's order that the following charge is factually and legally sufficient to proceed: "Adam Fortney violated his statutory duties under RCW 36.28.011 and/or 36.28.020 and exercised discretion in a manifestly unreasonable manner by making a public statement on March 27, 2020 that absolved a deputy sheriff of asserted wrongdoing for tackling a black woman related to a jaywalking incident without ensuring a proper investigation."

An opinion by the Court will be filed in due course.

DATED at Olympia, Washington this 10th day of September, 2020.

For the Court


CHIEF JUSTICE