

November 14, 2005

Dean Logan
Director
King County Records, Elections
& Licensing Services Division
553 King County Administration Bldg.
500 Fourth Avenue
Seattle, WA 98104-3280

Dear Mr. Logan:

As you know, King County is preparing to conduct voter registration hearings with respect to hundreds of voters whose right to vote has been challenged by an officer of the King County Republican Party. I write on behalf of the Washington State Democratic Central Committee and the King County Democratic Central Committee to bring to your attention several significant concerns we have with the challenges that have been filed and with the process that is apparently being followed with respect to those challenges.

Ms. Soletto and the King County Republican Party do not appear to have complied with the statutory requirements for initiating a challenge to a voter's registration. These requirements were put into place by the Legislature in order to provide an appropriate balance between protecting the public interest in integrity of the registration rolls and the public interest in avoiding undue consumption of public resources and tax dollars, as well as undue harassment and burden on individual voters. In particular, RCW 29A.08.830 requires that when a voter such as Ms. Soletto challenges the registration of another voter based on an allegation that the voter does not reside at the address shown in the registration records, the challenging voter must provide, under oath, "the address at which the voter actually resides." Ms. Soletto has not provided this information in connection with any challenge of which we are aware. Accordingly, Ms. Soletto has not properly commenced her challenges. Until such time as she does, all voters that were challenged by her are entitled to have their ballots processed and counted in the regular course because of the presumption of validity that attaches to their registration.

The intent behind the statutory limitation on challenges is clear. Consistent with the legislative framework of Washington's elections, the Legislature has reasonably required that challengers to voter registration provide actual sworn evidence of a different residence, not merely evidence of a disagreement with whether the existing address is the voter's residence. A challenge based solely on the voter's registration address by definition concedes that the voter meets in all respects the qualifications of a registered voter in Washington. Moreover, Washington law provides that absence by a voter from his or her residence does *not* invalidate the voter's registration unless the voter has adopted a new residence. And there are specific circumstances under which individuals may use nontraditional physical addresses. *See* WAC 434-208-100 ("No person registering to vote, who meets all the qualifications of a registered voter in the state of Washington, shall be disqualified because of a nontraditional physical

address being used as a residence address.”). For all of these reasons, the issue of whether a voter is properly registered cannot be determined simply from an examination of the voter’s registration address.

It is worth noting that pursuant to RCW 29A.08.850 the Secretary of State provides forms that are to be used to initiate challenges to voter registration. (The current form is in the Washington State Register at WSR 05-17-094.) Ms. Soletto has not used the required form. Instead, she has used a form which states an alternate form of challenge, not authorized by law, to the nature of the registration address itself. Not only is the challenge stated not authorized by law, Ms. Soletto has not sworn, under penalty of perjury, that she has personal knowledge of the facts upon which she purports to base her challenge. Her affidavit is a form affidavit that refers only to the challenges that are authorized by law and not to the basis upon which she purports to challenge these voters’ registrations.

Moreover, there is simply no statutory authority for the challenge that Ms. Soletto tries to state. Indeed, WAC 434-208-100 provides that:

No person registering to vote, who meets all the qualifications of a registered voter in the State of Washington, shall be disqualified because of a non-traditional physical address being used as a residence address.” Registering to vote – Nontraditional address. *No person registering to vote, who meets all the qualifications of a registered voter in the state of Washington, shall be disqualified because of a nontraditional physical address being used as a residence address.* Nontraditional addresses may include shelters, parks, or other identifiable locations which the voter deems to be his/her residence. Voters using such an address will be registered and precincted based on the location provided. Voters without a traditional address will be registered at the county courthouse, city hall or other public building near the area that the voter considers his/her residence. Registering at a nontraditional address will not disqualify a voter from requesting ongoing absentee voter status provided the voter designates a valid mailing address.

An address that does not appear to be a residence address may simply be a nontraditional address that the voter deems to be his or her residence. There is no basis for concluding that any address per se is an invalid registration address.

As a result of the recent close gubernatorial election, this State has recently undergone extensive litigation concerning the meaning of its election laws. One of the clearest judicial results in that exercise was the decision by Judge Bridges that voters could *not* be stripped of their votes (or registrations) based on just such assumptions. In connection with allegations of illegal felon voting, Judge Bridges required the challengers to *affirmatively prove* that the challenged voters had not had their rights restored, even though such proof might be difficult to obtain. He required that all challenges be supported by original records showing that a ballot had been issued and returned rather than merely a computer compilation of crediting. And, he clearly held that, where election official error led to the improper processing of provisional ballots submitted by registered voters, the ballots were to be counted.

Those principles were not enshrined by the Legislature and recognized by Judge Bridges

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simply to make it difficult to challenge elections or voter registrations. It shouldn't be easy for a private party to challenge a voter's registration and our state's law plainly imposes specific and high standards. A challenge which fails to include essential, statutorily-required elements is patently insufficient to meet those standards.

For all of these reasons, these challenges should be dismissed. At best, proceeding with the challenges is a waste of public funds and resources and of individual voter's time. At worst, government officials at the behest of Ms. Soletto and the Republican Party may be depriving voters of their most fundamental civil right—the right to vote and have the ballot counted.

Yours truly,



David T. McDonald

DTM:lra

cc. Dow Constantine
Dan Satterberg
Paul Berendt
Suzie Sheary
Kevin Hamilton