

Judge John E. Bridges
February 4, 2005 at 9:00 a.m.

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

Timothy Borders, et al.

Petitioners,

vs.

King County, et al.

Respondents,

Washington State Democratic Central
Committee,

Intervenor,

Libertarian Party of Washington State, and
Ruth Bennett campaign,

Intervenors..

No. 05-2-00027-3

DECLARATION OF
BOB TERWILLIGER

BOB TERWILLIGER hereby declares under penalty of perjury pursuant to
the laws of the State of Washington as follows:

1. I am over the age of 18 and otherwise competent to testify herein.

This Declaration is based upon my personal knowledge.

2. I have served as the Snohomish County Auditor since July 1, 1993 .

In my capacity as County Auditor, I supervised the November 2, 2004 general
election in Snohomish County and served on the Canvassing Board for Snohomish
County regarding that election.

3. Petitioners allege that Snohomish County election officials "counted
votes in excess of the number of lawfully registered voters that participated in the

DECLARATION OF BOB TERWILLIGER 1

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Snohomish County
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1 election.” This is a false statement. I have reviewed the records in Snohomish
2 County pertaining to the November 2004 general election. As of election day,
3 November 2, 2004, there were 352,238 registered voters in the county. My office
4 received ballots from 96,231 polling place voters, 194,019 absentee voters and
5 9234 provisional voters, for a total of 299,484.

6 4. A tabulation of the number of voters listed in the poll books for polling
7 place voters indicates that, county wide, 126,087 voters were listed in the poll
8 books as eligible registered voters. A total of 96,231 ballots were received from
9 polling place voters.
10

11 5. Regarding absentee voters, 219,219 absentee ballots were mailed
12 out to eligible voters prior to the election. Of these, 194,019 absentee ballots were
13 returned to the county for processing.

14 6. On Election Day, 9234 provisional ballots were cast. After research
15 to determine voter eligibility, 6937 provisional ballots were counted and 2297
16 ballots were not accepted.
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18 7. From the foregoing, it is clear that significantly fewer ballots were cast
19 by polling place voters than the number of registered voters who were eligible to
20 vote at the polls. Likewise, significantly fewer absentee ballots were properly voted
21 and returned to my office than the number of voters who were eligible to vote by
22 absentee ballot.
23

24 8. Snohomish County has security measures, policies and procedures
25 in place to ensure only ballots cast by eligible voters are counted. For example, at
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1 polling places, voters are required to sign in the poll book, created from the voter
2 registration database, prior to being issued a voter activation card for the Direct
3 Recording Electronic (DRE) voting machines. The voter activation cards are
4 issued only by official poll judges. A vote cannot be cast on an electronic voting
5 machine without a voter activation card and an individual cannot receive a voter
6 activation card without being listed in the poll book as a validly registered voter.
7 Each DRE machine tracks the number of ballots cast during the day and this
8 information is reconciled with the number of voter signatures in the poll books at
9 the end of the day.
10

11 9. At a polling place, if an individual's name does not appear in the poll
12 book, they must sign in the provisional ballot poll book and are issued a provisional
13 ballot. These ballots are returned to the Auditor's Office and extensive research is
14 conducted to ensure the persons submitting them are eligible to vote and that
15 these voters have not previously voted either by absentee ballot, polling place
16 ballot or a provisional ballot at another polling place. Only those provisional ballots
17 cast by individuals eligible to vote are tabulated.
18

19 10. Only individuals listed on the voter registration database and who
20 have asked for an absentee ballot are mailed a ballot. To ensure only eligible
21 voters vote an absentee ballot, as the envelopes are returned to this office, the
22 signature on the return envelope is compared with the signature on file from the
23 voter's voter registration application. If the signatures match, the ballot is
24 counted. If the signatures do not match, the ballot is not counted. When an
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1 absentee ballot is returned to this office, the voter's voter registration file is flagged
2 to indicate their ballot has been returned. Should an absentee voter request a
3 duplicate ballot, the flagging showing a returned ballot prevents the issuance of a
4 second ballot and, therefore, prevents more than one ballot being counted for that
5 voter.

6 11. Regarding provisional ballots, Petitioners allege that, "Snohomish
7 County counted provisional ballots without first investigating whether the persons
8 casting the ballots were properly registered to vote and had not previously voted in
9 the election." This again is a false statement. The only provisional ballots that
10 were counted in Snohomish County were those received at various precinct polling
11 places throughout the county. These provisional ballots were in the form of paper,
12 optical scan ballots identical to absentee ballots. Votes cast by polling place voters
13 were cast using a DRE system that was totally incompatible with the provisional
14 ballots. It was physically impossible for votes recorded on paper provisional ballots
15 to be entered into or read by the DRE voting machines. Prior to tabulating
16 provisional ballots, these ballots were returned to the Auditor's Office where
17 extensive research was conducted to determine the eligibility of the voter. Only
18 after the voter was determined eligible to vote, as detailed in paragraph 9, was the
19 ballot accepted and tabulated. If a voter was not eligible, their ballot was set aside
20 and not tabulated.
21
22

23 12. Prior to the conduct of the November 2004 general election,
24 Snohomish County's registered voter data base was purged of persons known by
25

1 this office to be felons who were ineligible to vote in accordance with RCW
2 29A.08.510 and purged of known deceased persons in accordance with RCW
3 29A.08.520. Thus, no voters who were known to be ineligible felons prior to the
4 election were permitted to vote. Likewise, no ballots were accepted or counted
5 from persons purporting to be persons known to be deceased prior to the election.

6 SIGNED at Everett, Washington this 31st day of January 2005.

7
8
9 /s/ Bob Terwilliger
10 BOB TERWILLIGER