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Honorable MICHAEL SPEARMAN
Hearing Date: January 20, 2006
Hearing Time: 10:00 a.m.

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

DANIEL MADISON, SEBRINA MOORE, LARENCE BOLDEN, BEVERLY DUBOIS, and DANNIELLE GARNER, Plaintiffs, v. STATE OF WASHINGTON, CHRISTINE O. GREGOIRE, Governor, and SAM REED, Secretary of State, in their official capacities, Defendants.	NO. 04-2-33414-4SEA DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I. RELIEF REQUESTED

The Washington State Constitution explicitly denies the right to vote to convicted felons whose civil rights have not been restored. Wash. Const. art. VI, § 3. And such a denial is plainly permissible under the Fourteenth Amendment, U.S. Cont. Amend XIV, § 2. *Richardson v. Ramirez*, 418 U.S. 24, 43, 94 S. Ct. 2655, 41 L. Ed. 2d 551 (1974) (disenfranchisement of convicted felons who have completed sentences and paroles but have not had civil rights restored does not violate equal protection). Plaintiffs in this case are

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convicted felons whose civil rights have not been restored because they have not completed their felony sentences. Compl. for Declaratory Relief, ¶¶ 4, 7, 8.

Defendants State of Washington, Governor Christine O. Gregoire, and Secretary of State Sam Reed (hereinafter "Defendants" or "the State") request that this Court grant summary judgment in favor of Defendants on the basis that there is no dispute of material fact and that Defendants are entitled to judgment as a matter of law. The uncontested facts reveal that Plaintiffs are denied the right to vote because they are convicted felons whose civil rights have not been restored. Washington's felon disenfranchisement provision, itself part of the Washington Constitution, comports with the Washington Constitution and with the Fourteenth Amendment.

II. STATEMENT OF FACTS

Plaintiffs in this action are three convicted felons.[1] Daniel Madison was convicted of assault in King County Superior Court. Even Decl., Ex. A. Dannielle Garner was convicted of forgery in Skagit County Superior Court. *Id.* at Ex. B. Beverly DuBois was convicted of manufacture and delivery of marijuana in Stevens County Superior Court. *Id.* at Ex. C. Each sentencing court entered felony sentences against the respective plaintiffs, including payment of legal financial obligations.

None of the Plaintiffs have completed their felony sentences because none have fully paid the legal financial obligations imposed upon them as a consequence of their criminal misconduct and conviction.

III. STATEMENT OF ISSUE

Does Washington's law disenfranchising felons whose civil rights have not been restored violate the equal protection clause of the Fourteenth Amendment to the United States

[1] Plaintiffs voluntarily dismissed the claims of two Plaintiffs who were originally named in this action. Stipulation and Order of Voluntary Dismissal of Claims Brought by Plaintiffs Larence Bolden and Sebrina Moore (Nov. 28, 2005).

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Constitution or the privileges and immunities clause of the Washington Constitution with respect to felons who have not completed their sentences and thus have not secured restoration of their civil rights?

IV. EVIDENCE RELIED UPON

Defendants rely upon the accompanying Declaration of Jeffrey T. Even in Support of Defendants' Cross-Motion for Summary Judgment, and exhibits attached thereto, and upon the records and files in this case, including declarations filed in support of Plaintiffs' Motion for Summary Judgment.

V. AUTHORITY

A. This Case Should Be Resolved On Summary Judgment

Summary judgment is appropriate where the record reveals no genuine dispute as to any issue of material fact, and the moving party is entitled to judgment as a matter of law. *Brower v. State*, 137 Wn.2d 44, 52, 969 P.2d 42 (1998) (citing CR 56(c)). In this case, both sides seek summary judgment upon a record that reveals no factual dispute. The questions presented for resolution are issues of law, making summary judgment the appropriate mechanism for deciding the case.

B. Washington's Law

Consistent with the federal constitution, the Washington Constitution provides that the right to vote does not extend to those "convicted of infamous crime unless restored to their civil rights". Wash. Const. art. VI, § 3. The Legislature has defined "infamous crime" to mean, in essence, any felony. RCW 29A.04.079. The Legislature has also established that civil rights are to be restored upon the issuance of a certificate of discharge by the sentencing court (RCW 9.94A.637(4)), or by pardon by the Governor. RCW 9.96.010. State law further provides that a convicted felon is eligible to receive a certificate of discharge upon completion

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of "all requirements of the sentence, including any and all legal financial obligations". RCW 9.94A.637(1)(a).[2]

C. Washington's Constitutional Provision Disqualifying Convicted Felons From The Right To Vote Until Their Civil Rights Are Restored Does Not Deny Equal Protection Of The Law

1. Absent Restoration Of Civil Rights, Felons Do Not Enjoy A Constitutionally Protected Right To Vote, Let Alone A Fundamental Right

The United States Constitution provides that elections, including elections for federal office, are primarily governed by state law. U.S. Const. art. I, § 4 (reserving the time, place, and manner of federal elections to state law); U.S. Const. art. I, § 2 (providing that the electors qualified to vote in congressional elections shall be those qualified to vote in state elections).

The Fourteenth Amendment—the very provision upon which Plaintiffs base their principal argument—expressly provides that states need not extend the right to vote to convicted felons. U.S. Const. amend. XIV, § 2 (recognizing that the right to vote may be denied based upon criminal conviction). In *Richardson v. Ramirez*, 418 U.S. 24, 43, 94 S. Ct. 2655, 41 L. Ed. 2d 551 (1974), the United States Supreme Court held that a California law disenfranchising felons who had completed the terms of their sentences and paroles does not violate equal protection. Under the California law considered in *Richardson*, the voting rights of such felons could be restored by court order "after completion of probation, or if a prison

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[2] Plaintiffs' discussion of the process for issuing a certificate of discharge seems to bear no relationship to their theory of the case, which is that somehow convicted felons must be permitted to vote even if they have not satisfied all of their sentence requirements, and accordingly do not qualify for the issuance of a certificate of discharge. As the Ninth Circuit recently ruled in a Washington case, a convicted felon lacks standing to challenge the procedure for restoring civil rights when he or she presents no evidence that they are eligible to receive a certificate of discharge. *Farrakhan v. Washington*, 338 F.3d 1009, 1022 (9th Cir.), *reh'g denied*, 359 F.3d 1116, *cert. denied*, 125 S. Ct. 477 (2004). "Plaintiffs' argument glosses over the fact that they have not been denied the right to vote because of the restoration process, but rather due to the disenfranchisement provision . . . and because they have not satisfied all the requirements of their sentences to become statutorily eligible for discharge of their convictions." *Id.* Since a convicted felon is not eligible to receive a certificate of discharge until all sentence terms are fulfilled (RCW 9.94A.637(1)), and because all of the present Plaintiffs admit that they have not done this, a discussion of the precise procedures for issuing a certificate of discharge is irrelevant. *Farrakhan*, 338 F.3d at 1022.

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term was served, by executive pardon after completion of rehabilitation proceedings". *Id.*, 418 U.S. at 29-30.

The *Richardson* plaintiffs were a group of convicted felons who had "completed the service of their respective sentences and paroles". *Id.*, 418 U.S. at 26. California law, like Washington's, denied the right to vote to those convicted of felonies, and made provision for the restoration of voting rights to those who had completed their sentences. *Id.* at 29-30. Like the Plaintiffs in this case, the plaintiffs there claimed that California's failure to extend to them the right to vote violated their right to equal protection. *Id.* at 27. The Supreme Court upheld California's practice, based upon a detailed examination of the constitutional history of the Fourteenth Amendment. The Court relied upon "the demonstrably sound proposition" that the equal protection clause cannot be read to prohibit the practice of felon disenfranchisement that the same amendment expressly sanctions. *Id.* at 55.

Notably, *Richardson* does not analyze the validity of California's law as the Plaintiffs in this case would have the Court analyze Washington's law. Any constitutional challenge must begin with the fundamental premise that, "[a] statute is presumed to be constitutional and the challenger bears the burden of establishing the unconstitutionality of the legislation beyond a reasonable doubt". *Brower*, 137 Wn.2d at 52. When the constitutional challenge is based upon equal protection, courts have similarly made clear that strict scrutiny applies to that analysis only when "a classification affects a fundamental right or a suspect class". *Habitat Watch v. Skagit County*, 155 Wn.2d 397, __, 120 P.3d 56, 64 (2005) (quoting *State v. Harner*, 153 Wn.2d 228, 235-36, 103 P.3d 738 (2004)). Absent such a showing, an equal protection challenge ordinarily applies a "rational basis" analysis, under which the law is upheld unless the "classification rests on grounds wholly irrelevant to the achievement of legitimate state objectives". *Id.*

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Plaintiffs base their argument in favor of the application of strict scrutiny upon the principle that the right to vote is a fundamental right. They do not assert the presence of any "suspect class".[3] Plaintiffs fail to take into account in making this argument that neither the federal nor the state constitution extends the right to vote to convicted felons. U.S. Const. amend. XIV, § 2; Const. art VI, § 3. Since the class to which they belong—convicted felons—does not enjoy a constitutionally-protected right to vote, their claim is not subject to strict scrutiny.

The Supreme Court in *Richardson* rejected reliance upon other voting rights cases for the proposition that a challenge to felon disenfranchisement is entitled to strict scrutiny. Plaintiffs specifically rely upon such cases as *Kramer v. Union Free Sch. Dist.*, 395 U.S. 621, 89 S. Ct. 1886, 23 L. Ed. 2d 583 (1969), and *Dunn v.Blumstein*, 405 U.S. 330, 92 S. Ct. 995, 31 L. Ed. 2d 274 (1972), for the proposition that a challenge to a statute related to voting must be subject to strict scrutiny. Pls.' Mot. at 14. The Supreme Court observed in *Richardson*, however, that the plaintiffs in that case relied upon those same cases in support of an argument in favor of strict scrutiny. *Richardson*, 418 U.S. at 54. The Court rejected that reliance, noting that "the exclusion of felons from the vote has an affirmative sanction in . . . the Fourteenth Amendment, a sanction which was not present in the case of the other restrictions on the franchise which were invalidated in the cases on which respondents rely". *Id.* Since that distinction was "of controlling significance", strict scrutiny could not apply and, indeed, the law would be upheld. *Id.* at 54-55.[4]

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[3] Although Plaintiffs make reference to wealth, it is well established that wealth, at most, constitutes a "semi-suspect class". *In re Runyan*, 121 Wn.2d 432, 448, 853 P.2d 424 (1993). In any event, however, the classes drawn by Washington's felon disenfranchisement law are based not on wealth but on completion of a felony sentence and restoration of civil rights.

[4] Plaintiffs do not allege that Washington's law is in any way the product of intentional discrimination. This case is therefore unlike *Hunter v. Underwood*, 471 U.S. 222, 105 S. Ct. 1916, 85 L. Ed. 2d 222 (1985). In that case, the Court concluded that the legislative history behind the Alabama disenfranchisement law demonstrated a purposeful attempt to deny the right to vote based upon race. *Id.* at 226-31. Based upon this purposeful discrimination, the Court struck down Alabama's disenfranchisement law based upon equal protection

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Far from suggesting that as to convicted felons the right to vote is fundamental and subject to restriction based only on a compelling state interest, *Richardson* can only be read as recognizing that as to convicted felons, the right to vote is not a constitutionally protected right, let alone a fundamental right, and may be denied by the state. As noted, a decision by a state not to extend the right to vote to convicted felons enjoys express constitutional sanction. U.S. Const. amend. XIV, § 2; Wash. Const. art VI, § 3. The Legislature's policy judgment that civil rights should be restored only upon completion of *all* terms of a felony judgment and sentence bears a rational relationship to this objective. That a different policy judgment might have been reached is no answer. The constitutional question is whether the inclusion of legal financial obligations is wholly irrelevant. *Habitat Watch*, 155 Wn.2d at __, 120 P.3d at 64. Plaintiffs suggest no more reason to single out this sentence element than any other.

The Third Circuit followed *Richardson* and declined to apply strict scrutiny to a Pennsylvania felon disenfranchisement law. The court rejected that standard, "because the right of convicted felons to vote is not fundamental". *Owens v. Barnes*, 711 F.2d 25, 27 (3rd Cir.), *cert. denied*, 464 U.S. 963 (1983) (citing *Richardson*). "It follows that the standard of equal protection scrutiny to be applied when the state makes classifications relating to disenfranchisement of felons is the traditional rational basis standard." *Id.*

This is entirely consistent with American legal tradition that has not recognized a right of felons to vote. *See, e.g., Harmelin v. Michigan*, 501 U.S. 957, 982-83, 111 S. Ct. 2680, 115 L. Ed. 2d 836 (1991) (quoting *Barker v. People*, 20 Johns. 457 (NY Sup. Ct. 1823) ("'The disenfranchisement of a citizen,' he said, 'is not an unusual punishment; it was the consequence of treason, and of infamous crimes, and it was altogether discretionary in the

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considerations. *Id.* Since felon disenfranchisement is explicitly endorsed by the Fourteenth Amendment, such provisions are presumptively constitutional, and *Hunter* represents only "a narrow subset of them—those enacted with an invidious, racially discriminatory purpose". *Farrakhan*, 359 F.3d at 1121 (Kozinski, J., dissenting from denial of rehearing en banc); *see also Johnson v. Bush*, 405 F.3d 1214, 1223-27 (11th Cir. en banc), *cert. denied*, 126 S. Ct. 650 (2005) (similarly limiting the application of *Hunter*).

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legislature to extend that punishment to other offences.'"); *see also Romer v. Evans*, 517 U.S. 620, 634, 116 S. Ct. 1620, 134 L. Ed. 2d 855 (1996) (referring to its holding in *Richardson*, allowing states to disenfranchise felons as "unexceptionable", and citing *Davis v. Beason*, 133 U.S. 333, 10 S. Ct. 299, 33 L. Ed. 637 (1890)). More recently, courts have continued to reject all claims that voting rights extend to convicted felons. One federal court, rejecting a challenge to Illinois' felon disenfranchisement provision, stated: "This court finds no decision from any court holding that the disenfranchisement of felons is invalid." *Jones v. Edgar*, 3 F. Supp. 2d 979, 980 (C.D. Ill. 1998). A Pennsylvania court has upheld that state's disenfranchisement of incarcerated felons, finding it well within established norms as a "nonpenal exercise of the power to regulate the franchise". *Mixon v. Pennsylvania*, 759 A.2d 442, 448 (Pa. Commw. Ct. 2000), *affirmed*, 783 A.2d 763 (Pa. 2001). *See also Fischer v. Governor*, 749 A.2d 321 (N.H. 2000) (upholding New Hampshire's felon disenfranchisement provision); and *Emery v. Montana*, 580 P.2d 445 (Mont.), *cert. denied*, 439 U.S. 874 (1978) (upholding Montana's provision). As the Sixth Circuit has reasoned: "It is undisputed that a state may constitutionally disenfranchise convicted felons . . . and that the right of felons to vote is not fundamental." *Wesley v. Collins*, 791 F.2d 1255, 1261 (6th Cir. 1986).

Neither the federal nor the state constitutions grant convicted felons the right to vote; to the contrary, the federal constitution expressly sanctions a state's decision not to extend the right to vote in this manner, and the state constitution expressly disqualifies convicted felons from the right to vote. Washington has constitutionally taken prior criminal convictions into account in determining the necessary qualifications for voting. *Fernandez v. Kiner*, 36 Wn. App. 210, 212, 673 P.2d 191 (1983) (upholding Wash. Const. art. VI, § 3 from a federal equal protection challenge by a convicted felon).

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2. Absent Restoration Of Civil Rights, Washington Law Does Not Allow Any Felon To Vote; It Does Not Discriminate Between Classes Of "Ex-Felons"

Plaintiffs erroneously characterize Washington's law as discriminating between "classes of ex-felons in Washington: those felons who are able to pay their LFOs and regain the right to vote and those ex-felons who are unable to pay their LFOs and remain permanently unable to vote". Pls.' Mot. at 1. To the extent Plaintiffs use the term "ex-felons" to mean those who have completed the terms of their felony sentences, Plaintiffs are not "ex-felons" at all. It is undisputed that they have not completed their felony sentences. To the extent that the Plaintiffs use the term "ex-felons" simply to mean those persons who have committed a felony in the past, the classes drawn by Washington's law are not those posited by Plaintiffs. Instead, the more appropriate comparison is between those who have completed all of the terms of their sentences and those who have not. *Richardson* makes it plain that under the Fourteenth Amendment a state may disenfranchise "ex-felons" who *have completed* their felony sentences, but have not had their rights restored. *A fortiori*, under *Richardson*, a state may disenfranchise so-called "ex-felons" who *have not completed* their sentences and so have not secured restoration of rights.

3. The Equal Protection Clause Does Not Require States To Treat Legal Financial Obligations Differently Than Other Sentence Elements

Plaintiffs single out one of many elements of a felony sentence and maintain that somehow it, in exclusion of all others, is entitled to special constitutional consideration. A felony sentence can include a number of elements. Obviously, these include a term of confinement, but they may also include community placement or community custody. RCW 9.94A.505(1). State law also authorizes the sentencing court to impose a fine, with specific dollar ranges set according to the seriousness of the offense. RCW 9.94A.550. The sentencing court may also impose "crime-related prohibitions and affirmative conditions". RCW 9.94A.505(8). Other terms might include a mental status evaluation, work release, or in-home detention. RCW 9.94A.505(9), (10). Additionally, a court may require the service

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of "community restitution hours". RCW 9.94A.680(2). Finally, a sentence will generally include some form of legal financial obligations, in addition to potential fines. RCW 9.94A.760.

Legal financial obligations are, accordingly, only one element among many terms and conditions that form a felony sentence. As the inclusion of fines illustrates, this has been a long historical practice. There is no constitutional basis to assert that this element alone compels different treatment with respect to sentence completion and attendant restoration of civil rights. The state constitution specifies that the right to vote extends to a convicted felon only upon restoration of civil rights. Wash. Const. art. VI, § 3. State law provides for the restoration of civil rights only when "all" requirements of the sentence have been completed. RCW 9.94A.637(1). The Legislature recently amended this statute to specifically state that "all requirements of the sentence" include "any and all legal financial obligations". Laws of 2002, ch. 16, § 2 (amending RCW 9.94A.637(1)).

Washington law treats all terms of a felony judgment and sentence the same in terms of the restoration of civil rights. Plaintiffs do not argue that, for example, a convicted felon should be permitted to vote because he or she has served some, but not all, of a period of confinement; Plaintiffs similarly do not contend that a convicted felon should be permitted to vote if he or she has not completed a period of community supervision, or fully satisfied a community service obligation. A convicted felon who has failed to satisfy his or her legal financial obligations has no more fully completed his or her sentence than a felon who has served only 1 year on a 5-year prison term or who remains subject to community supervision.

Plaintiffs seem to view felons whose only remaining requirement consists of legal financial obligations as somehow being similarly situated to those members of our community who have never chosen to commit a felony in the first place. In fact, they are similarly

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situated to their fellow felons with unfulfilled sentence requirements—whatever those requirements may be.

4. Legal Financial Obligations Are Not Poll Taxes

Requiring the payment of a poll tax as a qualification for voting is unconstitutional because it bears "no relation to voting qualifications". *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663, 670, 86 S. Ct. 1079, 16 L. Ed. 2d 169 (1966). By contrast, both the federal and state constitutions recognize the State's legitimate policy decision not to extend the right to vote to convicted felons whose civil rights have not been restored. U.S. Const. Amend XIV, § 2; Wash. Const. art. VI, § 3; *Richardson*, 418 U.S. at 43. Felony conviction, unlike the application of the poll tax, is linked to the individual choices and conscious behavior of the particular person. Felon disenfranchisement "does not deny any citizen, *ab initio*, the equal opportunity to participate in the political process and elect candidates of their choice". *Wesley*, 791 F.2d at 1262. The cause of disenfranchisement is simply the felon's "conscious decision to commit a criminal act for which they assume the risks of detection and punishment." *Id.*

D. The Felon Disenfranchisement Clause Of The State Constitution Is Not Rendered Unconstitutional By The State Privileges And Immunities Clause

Plaintiffs' argument based on the state privileges and immunities clause[5] fares no better than their federal theory. Their argument that the state privileges and immunities clause mandates extending the right to vote to convicted felons who have not completed their sentences conflicts directly with another provision of the state constitution. The state constitution expressly provides that the right to vote does not extend to any convicted felon "unless restored to their civil rights". Wash. Const. art. VI, § 3. The constitution leaves it to the Legislature to determine when civil rights should be restored. The Legislature's

[5] Wash. Const. art. I, § 12.

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determination in this respect is reasonable, and its implementation of one constitutional provision can hardly violate another provision of the same constitution.

A person who makes the conscious decision to break the law can fairly be regarded as having abandoned the right to further participate in making the law, or in electing officials who do so. *Green v. Bd. of Elections*, 380 F.2d 445, 451 (2d Cir. 1967), *cert. denied*, 389 U.S. 1048 (1968). As the federal court there recognized, this policy determination has a long pedigree, extending historically to the works of John Locke, whose thinking provided an intellectual basis for the early development of the American legal and political systems. *Id.* "On a less theoretical plane, it can scarcely be deemed unreasonable for a state to decide that perpetrators of serious crimes shall not take part in electing the legislators who make the laws, the executives who enforce these, the prosecutors who must try them for further violations, or the judges who are to consider their cases." *Id.* Courts have acknowledged that "a state has a valid interest in ensuring that the rules of its society are made by those who have not shown an unwillingness to abide by those rules". *Mixon*, 759 A.2d at 449. The state may also decide that, in addition to the other losses of liberty attendant upon the commission and conviction of a felony, is the loss of "participation in the democratic process which governs those who are at liberty." *Owens*, 711 F.2d at 28.

Plaintiffs discount this policy reason upon the thin notion that somehow a convicted felon who is in the process of completing his or her sentence must become eligible for restoration of civil rights. It is hardly irrational for the Legislature to determine that one who has chosen to forfeit civil rights by commission of a felony should enjoy restoration of those rights only upon successfully satisfying all of the terms of the sentence occasioned by that criminal misconduct. The relevant, rational and permissible standard under Washington law is not whether the convicted felon is making progress toward completing a sentence as

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required by law, but whether he or she has in fact "completed" all sentence requirements. RCW 9.94A.637(1).

Plaintiffs base their argument to the contrary on *Grant County Fire Prot. Dist. No. 5 v. City of Moses Lake*, 150 Wn.2d 791, 83 P.3d 419 (2004) (*Grant County* II).[6] As noted in that very decision, the state privileges and immunities clause reflects a concern with granting special favoritism, or privileges, to a select group within society. *Id.* at 807-08. "For a violation of article I, section 12 to occur, the law, or its application, must confer a privilege to a class of citizens". *Id.* at 812. Washington law, however, confers no special privilege to any class of potential voters based upon whether they have or have not paid their legal financial obligations.

Plaintiffs fail to identify any class of people to whom Washington law confers any special privilege. Those individuals who have never committed a felony, and who otherwise qualify to vote, certainly have not been bestowed with a special privilege; rather, they exercise a basic right available to all citizens. Wash. Const. art. VI, § 1 (establishing the right to vote). Similarly, those convicted felons who fully comply with all sentence requirements also are not bestowed a special privilege. Like those voters who never committed a felony in the first place, they simply exercise the right to vote that is generally available to all.

The case upon which Plaintiffs principally rely in advancing their privileges and immunities argument demonstrates why their argument fails. In *Grant County* II, a group of property owners challenged the constitutionality of a state law that permitted property to be annexed into a city based upon a petition method. They alleged that this system granted a special privilege. *Grant County* II, 150 Wn.2d at 812. The court observed that "not every statute authorizing a particular class to do or obtain something involves a 'privilege' subject to

[6] The case is referred to as *Grant County* II, because the cited decision was issued after the court granted a motion to reconsider an earlier opinion in the same case. *Grant County* II, 150 Wn.2d at 797.

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article I, section 12". *Id.* Rather, the court has clearly established that the term "privileges and immunities" relates only to "those fundamental rights which belong to the citizens of the state by reason of such citizenship". *Id.* at 812-813 (quoting *State v. Vance*, 29 Wash. 435, 458, 70 P. 34 (1902)). As already noted, neither the state nor the federal constitution compel the right to vote be extended to convicted felons. U.S. Const. Amend. XIV, § 2; Wash. Const. art. VI, § 3.[7]

Plaintiffs' reliance upon the state privileges and immunities clause accordingly adds nothing to the arguments espoused with regard to the federal constitution. Since felons do not possess a fundamental right to vote, the requirement that they satisfy all of the terms of their sentences prior to restoring their civil rights implicates no special privilege protected by article I, section 12 of the Washington Constitution. Just as Washington law describing the restoration of civil rights satisfies the federal constitutional analysis set forth above, it also satisfies scrutiny under the state constitution.

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[7] Plaintiffs also cite, but offer no analysis of, article I, section 19, of the Washington Constitution, which provides for "free and equal" elections. Since they offer no analysis of this provision, the Court need not consider it. It is well established that courts do not consider arguments that are unsupported by pertinent authority or meaningful legal analysis. *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992) (arguments not supported by authority); *Saunders v. Lloyd's of London*, 113 Wn.2d 330, 345, 779 P.2d 249 (1989) (issues unsupported by adequate argument and authority). Moreover, there can be no argument that the "free and equal vote" provision guarantees felons a right to vote that is explicitly denied elsewhere in the federal and state constitutions. U.S. Const. amend. XIV, § 2; Wash. Const. art. VI, § 3. The Washington Supreme Court has explained that article I, section 19, relates only to the rights of "otherwise qualified voters". *Brower*, 137 Wn.2d at 68; *see also Mixon*, 759 A.2d at 449 (felon disenfranchisement does not violate a "free and equal vote" provision because, "[i]t denies no qualified elector the right to vote").

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VI. CONCLUSION

For these reasons, the Court should deny the Plaintiffs' motion for summary judgment and grant the State's cross-motion for summary judgment.

DATED this 21st day of December, 2005.

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