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7 SUPERIOR COURT OF THE STATE OF WASHINGTON
8 FOR KING COUNTY

9 DANIEL MADISON, SEBRINA MOORE,
10 LARENCE BOLDEN, BEVERLY DUBOIS,
and DANIELLE GARNER,

11 Plaintiffs,

12 v.

13 STATE OF WASHINGTON; GARY LOCKE,
14 Governor, and SAM REED, Secretary of State,
in their official capacities,

15 Defendants.
16

No.

**COMPLAINT FOR DECLARATORY
RELIEF**

17 **I. INTRODUCTION**

18 1. This lawsuit seeks declaratory relief to invalidate Washington statutes that
19 condition restoration of ex-felons' voting rights on the payment of legal financial obligations.
20 By denying the vote to those who have not paid these financial obligations, the State violates
21 the fundamental right to vote and discriminates among citizens on the basis of wealth. The
22 lawsuit does not challenge the State statutes disenfranchising convicted felons while they are in
23 prison, the State's ability to impose legal financial obligations at the time of sentencing, or its
24 ability to collect those debts by methods other than the refusal to restore voting rights upon
25 completion of the non-financial terms of the sentence. It does challenge the systematic
26 disenfranchisement of those ex-felons who have not paid their outstanding legal financial
27 obligations.
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II. JURISDICTION AND VENUE

2. The superior court has personal and subject matter jurisdiction over claims for declaratory relief against the State and state officers. RCW 7.24.010. Plaintiffs have arranged for timely service of process on the attorney general pursuant to RCW 7.24.110.

3. Venue is proper in this court because one or more plaintiffs reside in King County. RCW 4.92.010(1).

III. PARTIES

4. Plaintiff Daniel Madison is a citizen of the United States and a resident of the State of Washington and of King County. Before being convicted of a felony in Washington State, he was registered to vote and regularly exercised his right to vote. In 1996 he was convicted of a felony. He thereafter completed all nonfinancial terms of his sentence. Mr. Madison was released from jail in 1996, and from all remaining forms of community custody or supervision in 1998. His sentence included an order to pay a total of \$583.25, including \$483.25 for restitution and \$100 for a victim assessment fee. To date, Mr. Madison, who is indigent, has paid \$260 toward these legal financial obligations, but he still owes more than \$300. Mr. Madison wishes to vote in upcoming elections, but is unable to do so because his outstanding legal financial obligations make it illegal for him to sign the oath required for voter registration under RCW 29A.08.230.

5. Plaintiff Sebrina Moore is a citizen of the United States and a resident of the State of Washington and of King County. Before being convicted of a felony in Washington State, she was registered to vote and regularly exercised her right to vote. When she was registered to vote, Ms. Moore also volunteered as a poll watcher. In 1999 she was convicted of a felony. She thereafter completed all nonfinancial terms of her sentence. Ms. Moore was released from prison in 2001, and from all remaining forms of community custody or supervision in 2001. Her sentence included an order to pay a total of \$3,668,707 in restitution. To date, she has paid \$5,296.14 toward these legal financial obligations, but with accrued interest and late fees she still owes in excess of \$6 million. Ms. Moore wishes to vote in

1 upcoming elections, but is unable to do so because her outstanding legal financial obligations
2 make it illegal for her to sign the oath required for voter registration under RCW 29A.08.230.

3 6. Plaintiff Larence Bolden is a citizen of the United States and a resident of the
4 State of Washington and of King County. Before being convicted of a felony in Washington
5 State, he was registered to vote and regularly exercised his right to vote. He was convicted of
6 felonies in 1985, 1986, and 2002. He thereafter completed all terms of his 1985 and 1986
7 sentences, and all nonfinancial terms of his 2002 sentence. Mr. Bolden was released from jail
8 in 2002, and from all remaining forms of community custody or supervision in 2003. His
9 sentence included an order to pay a \$500 victim assessment fee. To date, Mr. Bolden, who is
10 indigent, has paid \$20 toward these legal financial obligations, but, with late fees, still owes
11 \$580. Mr. Bolden wishes to vote in upcoming elections, but is unable to do so because his
12 outstanding legal financial obligations make it illegal for him to sign the oath required for voter
13 registration under RCW 29A.08.230.

14 7. Plaintiff Beverly DuBois is a citizen of the United States and a resident of the
15 State of Washington and of Spokane County. Before being convicted of a felony in
16 Washington State, she was registered to vote and regularly exercised her right to vote. In 2002
17 she was convicted of a felony. She thereafter completed all nonfinancial terms of her sentence.
18 Ms. DuBois was released from jail in 2003, and from all remaining forms of community
19 custody or supervision in 2004. Her sentence included an order to pay a total of \$1,610,
20 including a \$500 victim assessment fee, \$110 in court costs, and \$1,000 to the Stevens County
21 Drug Enforcement Fund. To date Ms. DuBois, who is indigent, has paid \$130 toward these
22 legal financial obligations, but with accrued interest she still owes \$1,083.30. Ms. DuBois
23 wishes to vote in upcoming elections, but is unable to do so because her outstanding legal
24 financial obligations make it illegal for her to sign the oath required for voter registration under
25 RCW 29A.08.230.

26 8. Plaintiff Dannielle Garner is a citizen of the United States and a resident of the
27 State of Washington and of Snohomish County. Before being convicted of a felony in
28 Washington State, she was registered to vote and regularly exercised her right to vote. In 2002

1 she was convicted of a felony. She thereafter completed all nonfinancial terms of her sentence.
2 Ms. Garner was released from jail in 2003, and from all remaining forms of community
3 custody or supervision in 2003. Her sentence included an order to pay a total of \$610,
4 including a \$500 a victim assessment fee and \$110 in court fees. To date, Ms. Garner, who is
5 indigent, has paid \$200 toward these legal financial obligations, but with accrued interest she
6 still owes \$520.68. Ms. Garner wishes to vote in upcoming elections, but is unable to do so,
7 because her outstanding legal financial obligations make it illegal for her to sign the oath
8 required for voter registration under RCW 29A.08.230.

9 9. Defendant State of Washington (“the State”) is responsible for enforcing and
10 defending the laws of the State of Washington, including the Washington Constitution.

11 10. Defendant Gary Locke is the Governor of the State of Washington, and as the
12 chief executive officer has ultimate responsibility for implementing Washington law. He is
13 sued in his official capacity. Defendant Locke acted under the color of state law during the
14 course of the actions alleged herein.

15 11. Defendant Sam Reed is the Secretary of State for the State of Washington, and
16 therefore is the State’s chief elections officer (RCW 29A.04.230), responsible for
17 implementing voting regulations throughout the state (RCW 29A.04.610). He is sued in his
18 official capacity. Defendant Reed acted under color of state law during the course of the
19 actions alleged herein.

20 IV. RELEVANT ALLEGATIONS

21 12. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

22 13. Article I, § 19 of the Washington Constitution guarantees the right to vote in
23 Washington, and provides that “[a]ll elections shall be free and equal, and no power, civil or
24 military, shall at any time interfere to prevent the free exercise of the right of suffrage.”

25 14. Article VI, § 3 of the Washington Constitution prohibits all persons convicted of
26 “infamous crimes” from voting until they have their civil rights restored. Today, all felonies
27 are considered “infamous crimes.” RCW 29A.04.079.
28

1 15. No one may register to vote without signing an oath stating: “I am not presently
2 denied my civil rights as a result of being convicted of a felony.” RCW 29A.08.230.
3 Washington voters convicted of felonies are removed from the voter registration rolls.
4 RCW 29A.08.520.

5 16. A person convicted of a felony under the Washington Sentencing Reform Act of
6 1981 may restore their civil rights, including the right to vote, only after completing “all the
7 requirements of the sentence, including any and all legal financial obligations.”
8 RCW 9.94A.637. Once a person convicted of a felony has completed all terms of their
9 sentence, they may receive a “certificate of discharge” restoring their civil rights.

10 17. All felony sentences include one or more legal financial obligations.
11 RCW 9.94A.030(27) (definition); RCW 9.94A.505(4) & (7); RCW 9.94A.760. Numerous
12 statutes and court rules result in imposition of legal financial obligations. A partial list of legal
13 financial obligations includes a victim penalty assessment fee of \$500 per cause number,
14 whether or not the crime had a victim (RCW 7.68.035); a penalty of up to \$100 in cases of
15 domestic violence (RCW 10.99.080); orders of restitution that cannot be reduced or waived on
16 the basis of the defendant’s indigency (RCW 9.94A.753); county or interlocal drug fund
17 penalties (RCW 9.94A.030(27)); trial costs including fees for court-appointed attorneys, costs
18 of defense, or jury fees, *id.*; costs of incarceration (RCW 9.94A.760(2)); costs of community
19 supervision (RCW 9.94A.780); and the costs of putting one’s DNA into a law enforcement
20 database (RCW 43.43.7541). The number and amount of legal financial obligations have
21 continuously grown over the last twenty years.

22 18. Interest accrues on unpaid financial obligations at 12% per year from the date of
23 judgment. RCW 10.82.090; RCW 4.56.110(3); RCW 19.52.020(1). Sentencing courts are
24 restricted in their ability to waive interest. RCW 10.82.090(2). The sentencing court or the
25 Washington Department of Corrections sets a minimum monthly payment for the felon, but this
26 payment is not required to meet or exceed the rate at which interest accrues.
27 RCW 9.94A.760(1), (5)-(7); RCW 9.94A.753(2) (restitution).

1 19. In addition to the interest that accumulates on legal financial obligations, many
2 counties also charge late fees on the unpaid financial obligations. RCW 19.16.500. King
3 County, for example, imposes a 100% late fee on legal financial obligations, up to \$100 per
4 year.

5 20. Even felons who have fully paid their legal financial obligations face challenges
6 in restoring their voting rights. Washington counties have no consistent set of procedures to
7 follow in determining whether a felon has satisfied his or her legal financial obligations. This
8 has led to confusion and error in the procedures used by counties.

9 21. The Washington Department of Corrections estimates that as of December 2001,
10 46,500 convicted felons remained disenfranchised solely because of pending legal financial
11 obligations. Many of these are permanently disenfranchised due to their inability to pay.

12
13 22. Washington's laws governing restoration of voting rights distinguish between
14 two groups of ex-felons: those who have paid all of their legal financial obligations and are
15 allowed to vote, and those who have not and are not allowed to vote.

16 23. Washington's laws governing restoration of voting rights to ex-felons violate
17 several provisions of the United States Constitution and the Washington Constitution.
18 Plaintiffs have no adequate remedy at law for the deprivation of their rights and privileges.

19 **V. CLAIMS FOR RELIEF**

20 24. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

21 25. The State denies Plaintiffs certain fundamental rights, privileges or immunities,
22 and protections of equality, including the right to vote.

23 26. Plaintiffs seek declaratory relief on grounds including but not limited to the
24 following:

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26 **A. Violation of the U.S. Constitution, Amendment XIV, and 42 U.S.C. § 1983**

27 27. The Equal Protection Clause of the Fourteenth Amendment to the Constitution
28 of the United States provides:

1 No State shall ...deny to any person within its jurisdiction the equal protection
2 of the laws.

3 28. State restrictions that deny the fundamental right to vote based upon the failure
4 to pay legal financial obligations unlawfully deprive Plaintiffs, who are citizens of the United
5 States, of the equal protection of the laws.

6 29. Because such voting restrictions violate the Equal Protection Clause of the
7 Fourteenth Amendment, Plaintiffs are entitled to a judgment declaring such restrictions
8 unconstitutional and void.

9 30. Defendants' actions taken under color of state law violate the Equal Protection
10 Clause of the Fourteenth Amendment to the United States Constitution, and are thus made
11 actionable through 42 U.S.C. § 1983.

12
13 **B. Violation of Washington Const. Art. I, § 19**

14 31. Washington Const. Art. I, § 19 provides:

15 All elections shall be free and equal, and no power, civil or military, shall at any
16 time interfere to prevent the free exercise of the right of suffrage.

17 32. State restrictions that deny the fundamental right to vote based upon the failure
18 to pay legal financial obligations unlawfully deny the free exercise of the right of suffrage
19 afforded by Washington Const. Art. I, § 19.

20 33. Because such voting restrictions violate Washington Const. Art. I, § 19,
21 Plaintiffs are entitled to a judgment declaring such restrictions unconstitutional and void.

22
23 **C. Violation of Washington Const. Art. I, § 12**

24 34. Washington Const. Art. I, § 12 provides:

25 No law shall be passed granting to any citizen, class of citizens, or corporation
26 other than municipal, privileges or immunities which upon the same terms shall
27 not equally belong to all citizens, or corporations.
28

1 35. State restrictions that deny the fundamental right to vote based upon the failure
2 to pay legal financial obligations unlawfully deny rights, privileges, immunities and the
3 protections of equality afforded by Washington Const. Art. I, § 12.

4 36. Because such voting restrictions violate Washington Const. Art. I, § 12,
5 Plaintiffs are entitled to a judgment declaring such restrictions unconstitutional and void.

6
7 **VI. ENTITLEMENT TO DECLARATORY RELIEF**

8 37. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

9 38. For reasons including but not limited to those stated herein, an actual dispute
10 exists between Plaintiffs and the State, which parties have genuine and opposing interests,
11 which interests are direct and substantial, and of which a judicial determination will be final
12 and conclusive.

13 39. Plaintiffs are barred by the statutory scheme outlined above from attempting to
14 register to vote, and any such attempt would be illegal and futile.

15 40. Plaintiffs are, therefore, entitled to a declaratory judgment that the State laws
16 restricting their civil rights, including the right to vote, based on non-payment of legal financial
17 obligations are unconstitutional, as well as such other and further relief as may follow from the
18 entry of such a declaratory judgment.

19 **VII. PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiffs respectfully pray for the following relief:

21 A. Entry of a declaratory judgment that Washington's laws that withhold
22 restoration of civil rights to ex-felons based solely upon their failure to pay legal financial
23 obligations violate Plaintiffs' rights under the federal and state constitutions;

24 B. Entry of a declaratory judgment that Plaintiffs are entitled to register to vote and
25 are eligible to sign the oath required under RCW 29A.04.079;
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1 C. An award to Plaintiffs of their expenses, costs, fees, and other disbursements
2 associated with the filing and maintenance of this action, including reasonable attorneys' fees
3 under 42 U.S.C. § 1988 or other applicable law;

4 D. That the Court exercise continuing jurisdiction during the enforcement of its
5 judgment;

6 E. Such other and further relief as may follow from the entry of a declaratory
7 judgment; and

8 F. Any further relief that this Court may deem just and proper.

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10 DATED this ____ day of _____, 2004.

11 HELLER EHRMAN WHITE & McAULIFFE LLP

12
13 By: _____
14 Peter A. Danelo (WSBA No. 1981)
15 Molly A. Terwilliger (WSBA No. 28449)
16 Darwin P. Roberts (WSBA No. 32539)

17 On behalf of the American Civil Liberties Union of
18 Washington

19 AMERICAN CIVIL LIBERTIES UNION
20 OF WASHINGTON
21 Aaron H. Caplan, WSBA #22525

22 THE VOTING RIGHTS PROJECT OF THE
23 AMERICAN CIVIL LIBERTIES UNION
24 Neil Bradley, subject to *pro hac vice* admission

25 Attorneys for Plaintiffs

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