

IN THE SUPREME COURT FOR THE STATE OF OREGON

STATE OF OREGON,

Plaintiff-Appellant/respondent on Review,

v.

THOMAS PAUL MOYER,

Defendant-Respondent-Petitioner on Review.

**Supreme Court
No. S056990**

**Court of Appeals
No: A128796**

**Multnomah County
Circuit Court
No. 040935104**

STATE OF OREGON,

Plaintiff-Appellant/Respondent on Review,

v.

**VANESSA COLLEEN STURGEON, aka Vanessa
Sturgeon, aka Vanessa Colleen Kassab,**

Defendant-Respondent-Petitioner on Review.

**Court of Appeals
No: A128797**

**Multnomah County
Circuit Court
No. 040935105**

STATE OF OREGON,

Plaintiff-Appellant/Respondent on Review,

v.

SONJA R. TUNE,

Defendant-Respondent-Petitioner on Review.

**Court of Appeals
No: A128798**

**Multnomah County
Circuit Court
No. 040935106**

**REFILED APPLICATION FOR LEAVE TO APPEAR AND FILE BRIEF ON
BEHALF OF AMICUS CURIAE POLICY INITIATIVES GROUP
AND SEVEN INDIVIDUAL OREGON ELECTORS**

Review of the Decision of the Court of Appeals on Appeal from the Circuit Court
for Multnomah County, Honorable John A. Wittmayer

OPINION FILED: January 7, 2009

AUTHOR OF OPINION: Landau, joined by Haselton and Ortega

CONCURRING OPINION: Brewer, joined by Edmonds

CONCURRING OPINION: Schuman

DISSENTING OPINION: Sercombe, joined by Wollheim, Rosenblum and Armstrong

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APPLICATION

The Policy Initiatives Group and seven individual Oregon electors request leave to appear and to file their Brief of Amici Curiae, submitted herewith. This brief is aligned with the position of the Plaintiff-Appellant-Respondent on Review, State of Oregon. The brief of Appellant was due July 29, 2009, and Amici are generally aligned with the Appellant's position. Therefore, applicants Efiled a Motion to Appear and the proffered Amicus Brief and the Appendix to the Amicus Brief as supplemental documents in the same transaction by Efile timely on July 29, 2009.

We received confirmation that the filing met the technical requirements. However, we received notice today, July 30, 9:47 am, by e-mail from the clerk, that the documents have been rejected, and that "the motion to appear amicus curiae and the amicus brief must e-filed separately."

We request that the Efiling of July 30, 2009 be accepted, and that the Application be reviewed and the Amicus Brief accepted for filing for the following good cause under ORAP 8.15(5)(c)(i). Undersigned Efiled the documents in one transaction because ORAP 8.15(3) states that, "[i]n the Supreme Court, the application [to appear Amicus Curiae] shall be accompanied by the brief sought to be filed." We understood this to mean that the application and Amicus Brief had to be filed together (the one "accompanied by" the other), and not separately, as the clerk's e-mail states.

We therefore ask leave to file this date under ORAP 8.15(5)(c)(i), because Applicants (1) behaved diligently and prepared the Amicus Brief timely; (2) they conventionally served those parties who are not Efile-registered in a timely fashion, plus one counsel who was Efile-registered (Mr. Garone); and (3) the Efiling rejection

was caused by an ambiguity between the language of ORAP 8.15 and the technical requirements of the Efiling system.

The interests of the amici are in the application of a the correct rule of law, and the specific interests of these applicants are as follows.

Applicants Bryn Hazell, Francis Nelson, Tom Civiletti, David Delk, and Gary Duell (the "Hazell Plaintiffs") and Joan Horton and Ken Lewis (the "Horton Plaintiffs") are plaintiffs and appellants in *Hazell v. Brown*, Court of Appeals No. A137397. Hazell, Nelson, and Delk were chief petitioners on statewide campaign finance reform measures in 2006, including the successful Measure 47 (2006). Horton, Lewis, and Civiletti were supporters of the measures.¹ During the years 2004-2006, all of them spent countless hours in the processes of drafting Measure 47, collecting thousands of signatures to put the measure on the statewide ballot, engaging in public forums and educational events about campaign finance measures, writing Voters' Pamphlet statements, and urging other Oregon voters to support the measure. They all seek in *Hazell v. Brown* to require the Secretary of State and Attorney General to implement Measure 47 or show that it is impermissible under the Oregon Constitution.

Their immediate interest in the instant case is to correct misstatements about the history of campaign finance regulation in Oregon, including requirements for truthful disclosure of the sources of political campaign contributions.

Policy Initiatives Group is an Oregon nonprofit corporation which since 1992 has supported research and programs, *inter alia*, to encourage civic engagement. Among its projects are those that investigate voter attitudes towards the initiative process and

1. Ken Lewis currently serves on the Oregon Government Ethics Commission. He appears here in his capacity as an Oregon elector and not as a representative of the Commission.

the history of voting reforms in Oregon. The immediate interest of the group and its supporters is to present accurate historical research on laws protecting suffrage in the United States and, particularly, Oregon.

The Amici offer extensive primary research conducted after *Vannatta v. Keisling*, 324 Or 514, 931 P2d 770 (1997), was decided. None of the early primary source evidence or early legal authority cited in this brief was presented to the Supreme Court in that case or to the attention of the Court of Appeals in the instant case below. The primary source research on the early 19th century evolution of the words "election" and "campaign" is original, compiled for the first time by undersigned for preparations for the trial court and appeal in *Hazell v. Brown*.

Dated: July 30, 2009

Respectfully Submitted,

s/Linda K. Williams

s/Daniel W. Meek

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that I filed the foregoing REVISED APPLICATION FOR LEAVE TO APPEAR AND FILE BRIEF OF BRIEF OF AMICUS CURIAE POLICY INITIATIVES GROUP AND SEVEN INDIVIDUAL OREGON ELECTORS by Efile and further that I SERVED the parties indicated by "*" through the Efile system, and for the parties not registered with Efile, by mailing one true copy of the Foregoing to all other parties listed below, deposited in the U.S. Postal Service at Portland, Oregon, with first class postage prepaid. In addition, I served the foregoing document by emailing the document in PDF format to the email address of each such party provided on the website of the Oregon State Bar.

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