

NO. MDS54541SC

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN RE THE MATTER OF RECALL CHARGES AGAINST

CITY OF SEATTLE

MAYOR JENNY DURKAN

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KING COUNTY

The Honorable Mary E. Roberts

PETITIONER'S EMERGENCY MOTION

TO SET A BRIEFING SCHEDULE

THAT COMPLIES WITH RCW 29A.56.270

PETITIONER ELLIOTT GRACE HARVEY, ET AL

I. IDENTITY OF PETITIONER FOR MOTION.

Petitioners were also Petitioners below, Elliott Grace Harvey, Alan L. Meekins, Jr., Courtney Scott, Leah Solomon, Charlie Stone, and Matthew Cromwell.

II. RELIEF SOUGHT.

Petitioners asks this Court to immediately set a briefing and argument schedule that complies with RCW 29A.56.270.

III. FACTS RELEVANT TO THIS MOTION.

Mayor Jenny Durkan has filed her Notice of Appeal today, August 12, 2020. This is 14 days after the last ruling on the case, Judge Roberts' order denying the Mayor's Motion for Reconsideration on July 29, 2020. Thus it is only one day before the 15-day time limit for both appealing and perfecting the record, under RCW 29A.56.270. Nothing else was filed beyond Mayor Durkan's Notice of Appeal, specifically no designation of the record on review, and no briefing. Only the mandatory minimum documents under RAP 5.3(a).

IV. ARGUMENT

In relevant part, RCW 29A.56.270 reads:

Appellate review of a decision of any superior court shall be begun and perfected within fifteen days after its decision in a recall election case and shall be considered an emergency matter of public concern by the supreme court, and heard and determined within thirty days after the decision of the superior court.

(Emphasis added.) This makes the date of oral argument before this Court to be on or before Friday, August 28, 2020.

Luckily, this case presents questions of law, and no testimony was taken below, as the Court below correctly noted that she should not weigh the evidence on this matter, but assume the allegations were true. RCW 29A.56.140. Also, review in the Supreme Court is de novo, so oral argument below is not relevant to this Court's review. In re Recall of Telford, 166 Wn.2d

148, 154, 206 P.3d 1248 (2009). Accordingly, the record can be designated as only briefing, if required, and exhibits, and no transcripts need be generated.

Still, this schedule would technically require Appellant’s brief be submitted tomorrow, when Petitioner has not yet seen any briefing from the Mayor’s office. Petitioners are alarmed that they have so little time to address these matters, based on Mayor Durkan’s last-minute Notice of Appeal. Petitioners therefore ask for the following case schedule, per RAP 10.1(f), which in the case of cross-appeals, allows for (1) brief of appellant, (2) brief of respondent/cross appellant, (3) reply brief of appellant/cross respondent, and (4) reply brief of cross appellant:

<u>DATE</u>	<u>ACTION</u>
Friday, August 14, 2020	Opening Brief is due from Mayor Durkan as Appellant, also, the record and any exhibits are designated by the parties.
Monday, August 17, 2020	Response Brief/Opening Brief of Respondent due from Respondent/Cross-Appellants
Wednesday, August 19, 2020	Reply Brief of Appellant/Cross-Respondent Mayor Durkan due
Friday, August 21, 2020	Reply Brief of Respondents/Cross-Appellants due
Mon-Fri August 24-28, 2020	Oral Argument is set for sometime in this week, on or before the statutory deadline of August 28.

V. CONCLUSION

Petitioners request the Supreme Court set the above schedule, or one functionally similar, as this is an “emergency matter of public concern,” as noted in RCW 29A.56.270.

Signed this 12th Day of August 2020 in Seattle, WA.

By Elliott Grace Harvey