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**SUPREME COURT OF THE STATE OF WASHINGTON**

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ROBERT SNAZA, in his official capacity as Sheriff of Lewis County; SEAN SWOPE, in his official capacity as District 1 Commissioner of Lewis County; LINDSEY POLLOCK, in her official capacity as District 2 Commissioner of Lewis County; GARY STAMPER, in his official capacity as District 3 Commissioner and Chair of the Board of County Commissioners of Lewis County; JOSHEPH HELM, in his official capacity as Sheriff of Columbia County; RYAN RUNDELL, in his official capacity as District 1 Commissioner and Chair of the Board of County Commissioners for Columbia County; MARTY HALL, in his official capacity as District 2 Commissioner of Columbia County; CHARLES AMAAREIN, in his official capacity as District 3 Commissioner of Columbia County; RAYMOND MAYCUMBER, EREK GIANUKAKIS, in his official capacity as District 1 Commissioner of Ferry County; NATHAN DAVIS, in his official capacity as District 2 Commissioner and Chair of the Board of County Commissioners for Ferry County; MICHAEL HEATH, in his official capacity as District 3 Commissioner of Ferry County; DREW HYER, in his official capacity as Sheriff of Garfield County; JIM NELSON, in his official capacity of District 1 Commissioner of Garfield County; LARRY LEDGERWOOD, in his official capacity as District 2 Commissioner of Garfield County; JUSTIN DIXON, in his official capacity as District 3 Commissioner and Chair of the Board of County Commissioners for Garfield County; Tom Jones, in his official capacity as Sheriff of Grant County; DANNY STONE, in his official capacity as District 1 Commissioner of Grant County; ROB JONES, in his official capacity as District 2 Commissioner of Grant County; CINDY CARTER, in her capacity as District 3 Commissioner and Chair of the Board of County Commissioners for Grant County; DAVID S. BROWN, in his official capacity as Sheriff of Skamania County; RICHARD MAHAR, in his official capacity as District 1

Commissioner of Skamania County; TOM LANNEN, in his official capacity as District 2 Commissioner and Chair of the Board of County Commissioners for Skamania County; BOB HAMLIN, in his official capacity as District 3 Commissioner of Skamania County; OZZIE KNEZOVICH, in his official capacity as Sheriff of Spokane County; JOSH KERNS, in his official capacity as District 1 Commissioner of Spokane County; MARY KUNEY, in her official capacity as District 2 Commissioner of Spokane County; AL FRENCH, in his official capacity as District 3 Commissioner of Spokane County;

Respondents,

v.

STATE OF WASHINGTON,

Petitioner.

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**STATEMENT OF GROUNDS FOR DIRECT REVIEW**

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## I. INTRODUCTION

Following waves of protests across the State and country calling for racial justice and reform of police practices, the Legislature enacted comprehensive legislation to limit use of force by law enforcement, including regulating the use of tear gas. In the case of a riot outside of a correctional facility, the law requires law enforcement to receive authorization from the highest elected official of the jurisdiction before deploying tear gas. RCW 10.116.030(3).

The Sheriffs and County Commissioners of seven non-charter counties (Sheriffs and Commissioners) challenged RCW 10.116.030(3)(a). They claimed that the new statute's requirement that law enforcement receive authorization from the jurisdiction's highest elected official prior to deploying tear gas unlawfully transferred a "core function" of the sheriff to another elected county official in purported violation of article XI, section 5, of the state constitution. But that section expressly gives the Legislature authority to prescribe the duties of county

officers, and the Legislature's authority to enact a law is plenary and unrestrained unless limited by the state and federal constitutions.

This case merits direct review under both RAP 4.2(a)(2) and (4). The trial court agreed with the Sheriffs and Commissioners, invalidating a state statute enacted to reform law enforcement tactics. This case thus raises a fundamental and urgent issue of broad public import as to the scope of legislative authority to enact comprehensive statutes relating to the authority of county officers.

The trial court's order invalidating RCW 10.116.030(3) as to local enforcement agencies in non-charter counties would tie the hands of the Legislature to address 21st century challenges based on 19th century practices and "hermitically seal" the authority of county officers. *Cf. State v. Rice*, 174 Wn.2d 884, 900, 279 P.3d 849 (2012) (the powers of the branches of government are "not hermetically sealed," even though their fundamental functions remain inviolate). The order could

constrain the Legislature from undertaking future reforms related to any county office.

The trial court's order also results in the fragmented application of the statute across county lines by maintaining this check on sheriffs of charter counties, city and town police, and state law enforcement but eliminating this check on sheriffs of non-charter counties. The invalidation undermines legislative efforts to uniformly address law enforcement use-of-force concerns. These are issues of broad public import requiring prompt and ultimate determination.

## **II. NATURE OF THE CASE AND DECISION**

The Sheriffs and Commissioners brought their action to challenge an important feature of legislation regulating the use of tear gas by law enforcement.<sup>1</sup> In April 2021, the Legislature adopted Engrossed Substitute H.B. 1064, 67th Leg., Reg. Sess.

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<sup>1</sup> "Tear gas" means chloroacetophenone (CN), O-chlorobenzylidene malononitrile (CS), and any similar chemical irritant dispersed in the air for the purpose of producing temporary physical discomfort or permanent injury. RCW 10.116.030(4)(d).



(Wash. 2021), *enacted as* Laws of 2021, ch. 320 (*codified as* RCW 10.116, which established limitations and requirements for certain tactics and equipment used by peace officers. One provision of the act specifies that tear gas may only be used when “necessary to alleviate a present risk of serious harm posed by a (a) riot; (b) barricaded subject; or (c) hostage situation.” RCW 10.116 030(1).

The statute also specifies certain steps that law enforcement must take before using tear gas. RCW 10.116.030(2). These steps include exhausting available and appropriate alternatives, obtaining authorization from a supervising officer, announcing to the subject(s) the intent to use tear gas, and allowing sufficient time and space for compliance with directives. *Id.*

Solely in the case of riots “outside of a correctional, jail, or detention facility,” the statute further requires that prior to using tear gas, law enforcement must receive authorization “from the highest elected official of the jurisdiction in which the tear

gas is to be used.” RCW 10.116.030(3). The statute defines “highest elected official” to mean, in the case of non-charter counties, the chair of the county legislative authority, which is the board of county commissioners. RCW 10.116.030(4)(b); *see* Const. art. XI, § 5. In the case of charter counties, the term applies to the county executive. *Id.* For city police and town marshals, it means the mayor. *Id.* For the Washington State Patrol, the term applies to the Governor. *Id.*

The Sheriffs and Commissioners from Lewis, Columbia, Ferry, Garfield, Grant, Skamania, and Spokane counties brought their action to challenge only the provision of RCW 10.116.030 requiring the approval of the chair of the board of county commissioners before a sheriff of a non-charter county may deploy tear gas to suppress a riot outside the jail. Am. Compl. for Declaratory J., ¶¶ 4.1-4.8 (attached as App. A). The Sheriffs and Commissioners did not challenge the statute’s other limits on the use of tear gas, instead challenging ESHB 1054 § (4)(3)(a), in

the specific context of elected sheriffs of non-charter counties.

*Id.*

The Sheriffs and Commissioners raised two claims for declaratory relief, one applicable to the Sheriffs and the other applicable to the Commissioners. They alleged that RCW 10.116.030(3) violates article XI, section 5 as to Sheriffs by requiring that a Sheriff obtain the approval of the chair of the board of county commissioners before employing tear gas in riot suppression. Am. Compl., ¶ 4.8. They also alleged that RCW 10.116.030(3) violates article XI, section 5 as to the Commissioners by vesting the authority to approve tear gas use in a single commissioner (the chair) rather than in all of the Commissioners as a body. *Id.*, ¶ 4.7.

The trial court resolved this case on cross motions for summary judgment. Notice of Appeal, Attach. A (attached as App. B). The trial court granted summary judgment in favor of the Sheriffs and Commissioners regarding their claim that RCW 10.116.030 unconstitutionally transferred some authority

of the Sheriff to the chair of the board of county commissioners by requiring approval for the use of tear gas. *Id.* But the trial court ruled in favor of the State with regard to the powers of the office of the chair of the board of county commissioners. Notice of Appeal, Attach. A. That is, the trial court agreed with the Sheriffs and Commissioners that requiring Sheriffs to obtain the approval of the chair of the board of county commissioners before using tear gas violated article XI, section 5, as to the powers of the Sheriffs. *Id.* But the trial court also agreed with the State that adding a new function to the powers of the chair of the board of county commissioners did not violate article XI, section 5, with regard to the powers of the Commissioners. *See* Notice of Appeal, Attach. B at 16:22-17:14.

This appeal follows. The State appeals only from the summary judgment order as it relates to the functions of the Sheriffs.

### **III. ISSUE PRESENTED FOR REVIEW**

The State seeks direct review by this Court of the following issue:

Does article XI, section 5 of the Washington Constitution allow the Legislature to require the approval of the Chair of the Board of County Commissioners in order for law enforcement to deploy tear gas?

### **IV. STATEMENT OF GROUNDS FOR DIRECT REVIEW**

The trial court held part of RCW 10.116.030 unconstitutional with regard to non-charter counties, making direct review of that order appropriate for this case. RAP 4.2(a)(2). Direct review is also appropriate because whether and how a statutory limitation on the use of tear gas by law enforcement in emergent situations applies is “a fundamental and urgent issue of broad public import which requires prompt and ultimate determination.” RAP 4.2(a)(4).

RAP 4.2(a)(2) straightforwardly applies to this case because the trial court invalidated RCW 10.116.030 as applied to

sheriffs of non-charter counties. The court's order declaring the statute unconstitutional with regard to the powers of the office of the sheriff in non-charter counties raises an issue appropriate for direct review.

This appeal also meets RAP 4.2(a)(4) because the trial court's decision calls into question the scope of the Legislature's authority to comprehensively address basic questions about law enforcement in general and about local governmental structure more generally. The trial court's order declaring RCW 10.116.030 invalid as to non-charter counties undermines the Legislature's efforts to address use of force by law enforcement in a uniform and consistent way, resulting in a statute with fragmented application by county.

The trial court's ruling creates two different legal regimes governing the use of tear gas depending on what jurisdiction is involved. The Sheriffs and Commissioners ground their arguments in article XI, section 5, of the Washington Constitution, which lists them among county officers required by

the Constitution. But that constitutional provision has no application to counties that adopt home rule charters. Const. art. XI, § 4 (“Any home rule charter . . . may provide for such county officers as may be deemed necessary to carry out and perform all county functions as provided by charter or by general law . . .”). Neither does article XI, section 5 apply to the officers of cities or towns, because it applies only to counties. *See* Const. art. XI, § 10 (providing for municipal corporations, including cities and towns).

In effect, the trial court’s ruling creates an eccentric dichotomy regarding legislative authority to provide for the use of tear gas to suppress riots. The trial court concluded that article XI, section 5, deprives the Legislature of authority to safeguard public safety when the law enforcement agency at issue is the Sheriff of a non-charter county, but not when the law enforcement agency is the sheriff of a charter county or of a city or town (or Washington State Patrol for that matter). The trial court’s ruling cannot be correct because, if it were, then the

Legislature could only protect the public by providing for a check on law enforcement in some jurisdictions but not in others; such a jurisdictionally-driven result would create a disparity wholly unrelated to the actual needs of the citizens the Legislature intended to protect.

The issue raised on appeal is even more important because of its effect on legislative authority to prescribe the duties of local officers under article XI, section 5, and even more fundamentally, to establish a general and uniform system of county government under article XI, section 4. The conclusion below places a breathtaking limitation on legislative authority over local government without any corresponding constitutional text indicating such clear restraint. As this Court recently emphasized, the Washington Constitution grants the Legislature constitutional authority to provide for a general and uniform system of county government. *Spokane Cnty. v. State*, 196 Wn.2d 79, 86, 469 P.3d 1173 (2020) (construing article XI, section 4). And the Constitution similarly grants the Legislature the



authority to prescribe the duties of county officers. Const. art. XI, § 5.

The trial court’s rationale carves out a legislative “no fly zone,” which would disempower the Legislature from changing the distribution of the authority vested in county officers existing at the time of statehood and restrict future legislative changes. This Court has previously reasoned that “the legislature cannot transfer to other officers . . . important powers and functions which from time immemorial have belonged to the office of sheriff.” *State ex rel. Johnston v. Melton*, 192 Wash. 379, 389, 73 P.2d 1334 (1937). But that limitation extends only to the wholesale transfer of power to another officer such that the sheriff ceases to be recognizable as a sheriff. *See id.* at 380-85 (describing the creation of other investigators holding the same powers as the sheriff); *see also State v. Rice*, 174 Wn.2d 884, 905, 279 P.3d 849 (2012) (Legislature cannot divest a county prosecuting attorney of criminal charging discretion, because without that discretion “a prosecuting attorney would cease to be

a ‘prosecuting attorney’”). But article XI, section 5 in no way casts such a pall over otherwise plenary legislative authority to prescribe the duties of county officers and create checks for their actions. A holding that it has such an effect would limit legislative authority over county officers to a staggering degree.

Additionally, the Sheriffs and Commissioners themselves asserted in the trial court proceedings that “this case presents a fundamental issue affecting the government of all non-charter Washington counties.” Pls. Mot. Summ. J. at 1. Their characterization of the case further supports direct review under RAP 4.2(a)(4).

## **V. CONCLUSION**

For these reasons, this Court should retain this matter for determination on direct review.

This document contains 2046 words, excluding the parts of the document exempted from the word count by RAP 18.17.

RESPECTFULLY SUBMITTED this 25th day of  
October, 2022.

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## CERTIFICATE OF SERVICE

I certify, under penalty of perjury under the laws of the State of Washington, that the foregoing was electronically filed in the Washington State Supreme Court and electronically served on all parties of record, according to the Court's protocols for electronic filing and service.

DATED this 25th day of October 2022, at Olympia, Washington.

*s/ Stephanie N. Lindey*  
\_\_\_\_\_  
STEPHANIE N. LINDEY  
*Legal Assistant*

AUG 26 2021

Scott Tinney  
Lewis County Clerk

IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR LEWIS COUNTY

ROBERT SNAZA, in his official capacity  
as Sheriff of Lewis County, Washington;

Case No. 21-2-00374-21

SEAN SWOPE, in his official capacity as  
District 1 Commissioner of Lewis County,  
Washington;

AMENDED COMPLAINT FOR  
DECLARATORY JUDGMENT

LINDSEY POLLOCK, in her official  
capacity as District 2 Commissioner of  
Lewis County, Washington;

GARY STAMPER, in his official capacity  
as District 3 Commissioner and Chair of  
the Board of County Commissioners for  
Lewis County, Washington;

JOSEPH HELM, in his official capacity as  
Sheriff of Columbia County, Washington;

RYAN RUNDELL, in his official capacity  
as District 1 Commissioner and Chair of  
the Board of County Commissioners for  
Columbia County, Washington;

MARTY HALL, in his official capacity as  
District 2 Commissioner of Columbia  
County, Washington;

CHARLES AMAAREIN, in his official  
capacity as District 3 Commissioner of  
Columbia County, Washington;

RAYMOND MAYCUMBER, in his official  
capacity of as Sheriff of Ferry County,  
Washington;

COPY

COMPLAINT FOR  
DECLARATORY JUDGMENT

LEWIS COUNTY PROSECUTING  
ATTORNEY'S OFFICE  
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Chehalis, WA 98532  
360-740-1240 (Voice) 360-740-1497 (Fax)

- 1 DEREK GIANUKAKIS, in his official  
2 capacity as District 1 Commissioner of  
3 Ferry County, Washington;
- 4 NATHAN DAVIS, in his official capacity  
5 as District 2 Commissioner and Chair of  
6 the Board of County Commissioners for  
7 Ferry County, Washington;
- 8 MICHAEL HEATH, in his official capacity  
9 as District 3 Commissioner of Ferry  
10 County, Washington;
- 11 DREW HYER, in his official capacity as  
12 Sheriff of Garfield County, Washington;
- 13 JIM NELSON, in his official capacity of  
14 District 1 Commissioner of Garfield  
15 County, Washington;
- 16 LARRY LEDGERWOOD, in his official  
17 capacity as District 2 Commissioner of  
18 Garfield County, Washington;
- 19 JUSTIN DIXON, in his official capacity as  
20 District 3 Commissioner and Chair of the  
21 Board of County Commissioners for  
22 Garfield County, Washington;
- 23 Tom Jones, in his official capacity as  
24 Sheriff of Grant County, Washington;
- 25 DANNY STONE, in his official capacity  
26 as District 1 Commissioner of Grant  
County, Washington;
- ROB JONES, in his official capacity as  
District 2 Commissioner of Grant County,  
Washington;
- CINDY CARTER, in her capacity as  
District 3 Commissioner and Chair of the  
Board of County Commissioners for  
Grant County, Washington;
- DAVID S. BROWN, in his official capacity  
as Sheriff of Skamania County,  
Washington;

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RICHARD MAHAR, in his official capacity as District 1 Commissioner of Skamania County, Washington;

TOM LANNEN, in his official capacity as District 2 Commissioner and Chair of the Board of County Commissioners for Skamania County, Washington;

BOB HAMLIN, in his official capacity as District 3 Commissioner of Skamania County, Washington;

OZZIE KNEZOVICH, in his official capacity as Sheriff of Spokane County, Washington;

JOSH KERNS, in his official capacity as District 1 Commissioner of Spokane County, Washington;

MARY KUNEY, in her official capacity as District 2 Commissioner of Spokane County, Washington;

AL FRENCH, in his official capacity as District 3 Commissioner of Spokane County, Washington;

Plaintiffs,

v.

STATE OF WASHINGTON,

Defendant.

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### I. Introduction

- 1.1. Plaintiffs seek judgment declaring that ESHB 1054, Section 3, improperly, and without lawful authority, transfers emergent decision making authority in the case of a riot from an independently elected Sheriff to the Chair of the Board of County Commissioners.
- 1.2. Further, Plaintiffs seek judgment declaring that ESHB 1054, Section 4(b) improperly designates the Chair of the Board of County Commissioners as the "highest elected official" empowered with the sole authority to approve/disapprove the use of tear gas in the case of a riot not occurring within a jail or correctional facility when, in fact, the Chair lacks authority to act without approval of the majority of the Board.

### II. Parties, Jurisdiction, Venue, and Standing

- 2.1. Each Plaintiff Sheriff has standing as the Elected Sheriff for their respective county. ESHB 1054 effects a partial forfeiture of the office by improperly depriving the Sheriff of authority that has historically been, and under current law and the Constitution of the State of Washington, is within the sole purview of the Sheriff.
- 2.2. The Plaintiff Commissioners are each duly elected County Commissioners of their respective county, and together constitute each respective county's Board of County Commissioners (BOCC). Each County has a member that serves as Chair of its BOCC as identified.
- 2.3. Each Plaintiff Commissioner has standing because ESB 1054 vests authority in a single Commissioner where no such authority exists, is authorized, nor is such power contemplated within the Constitution of the State of Washington. As a result, the entire premise of the Board of County Commissioners is undermined. Such action makes the Commissioners substantively unequal, when under the law and Constitution, each Commissioner has equal power, and effects a partial forfeiture of each of their offices.
- 2.4. Jurisdiction lies in the Superior Court by virtue of RCW 2.08.010 and RCW 7.24.010 *et seq.* Interested persons whose "legal relations are affected by a statute" may seek declaratory judgment. RCW 7.24.020; *see also* RCW 7.24.130 (including municipal corporations in the definition of person).
- 2.5. Each of the originally named Plaintiffs reside in and has a principal place of business in Lewis County, Washington. Venue therefore is proper within Lewis County under RCW 4.92.010(1) and (2). The remaining individually named Plaintiffs have joined by agreement of the Defendant.



1 **III. Facts**

2 3.1. On May 18, 2021, Governor Jay Inslee signed ESHB 1054 into law.

3 3.2. ESHB 1054 took effect on July 25, 2021.

4 3.3. ESHB 1054, Section 4, addresses the use of tear gas by law enforcement is  
5 addressed.

6 3.3.1. ESHB 1054, Section 4(3) dictates that: “[i]n the case of a riot outside of a  
7 correctional, jail, or detention facility, the officer or employee may use tear  
8 gas only after: (a) Receiving authorization from the highest elected official  
9 of the jurisdiction in which the tear gas is to be used, and (b) meeting the  
10 requirements of subsection (2) of this section.

11 3.3.2. ESHB 1054, Section (4)(4)(b) declares that the “[h]ighest elected official’  
12 means the county executive in those charter counties with an elective office  
13 county executive, however designated, and in the case of other counties,  
14 the chair of the county legislative authority. In the case of cities and towns,  
15 it means the mayor, regardless of whether the mayor is directly elected,  
16 selected by the council or legislative body pursuant to RCW 35.18.190 or  
17 35A.13.030, or selected according to a process in established city charter.  
18 In the case of actions by the Washington state patrol [sic], it means the  
19 governor.”

20 3.3.2.1. Each Plaintiff serves a county that is a non-charter county.

21 3.4. Each county to this suit has an elected Sheriff.

22 3.5. Each county to this suit has an elected three (3) member Board of County  
23 Commissioners.

24 3.6. Each county to this suit has a Chair that, under ESHB 1054, would be declared  
25 the “highest elected official.”

26 3.7. The only powers of the Chair of the Board of County Commissioners are  
contained within RCW 36.32.100.

**IV. Causes of Action for Declaratory Judgment:  
Declaration of Rights, Status, and Obligations**

4.1. All Plaintiffs reiterate, and incorporates by reference, all of the assertions set out  
above.

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- 4.2. Both the Office of the County Sheriff and the Offices of County Commissioner were created by the Constitution of the State of Washington. See Const. Art. XI, §5.
- 4.2.1. "...[S]uch powers as are specially conferred by the constitution...upon any...specified officer, the legislature cannot require or authorize to be performed by any other officer or authority; and from those duties which the constitution requires of him he cannot be excused by law." *Constitutional Limitations* (5<sup>th</sup> ed.), at 135-136).
- 4.2.2. The legislature lacks the ability to remove functions historically vested in one office those functions to another office. See Const. Art. XI, §5; *State ex rel. Johnston v. Melton*, 192 Wash. 370, 388, 73 P.2d 1334 (1937) ("In naming the county officers in § 5, Article 11 of the constitution, the people intended that those officers should exercise the powers and perform the duties then recognized as appertaining to the respective offices which they were to hold."); *State ex rel. Kennedy v. Brunst*, 26 Wis. 412 (1870).
- 4.2.3. Public safety, including the quelling of riotous activities, are, and have been historically, a function for law enforcement, not the legislative authority of a county.
- 4.2.4. While the legislature may change duties of a Constitutional office, it lacks the authority to strip a Constitutional office, even on a temporary basis, of a function inherent in an office and vest it into another office.
- 4.3. In the case of the Board of County Commissioners, nowhere within the historic functions of the Board of County Commissioners, nowhere in the Constitution of the State of Washington, and nowhere in the law does it contemplate the Board of County Commissioners acting in any other fashion than that of a Board.
- 4.4. The only authority in law for the Board to act as a single person is the authority granted within RCW 36.32.100. However, even within that statute, the power is derived only through a vote/consent of the majority of the Board of County Commissioners.
- 4.5. Likewise, the main function of the Board of County Commissioners is that of a legislative body, not law enforcement.
- 4.6. Plaintiff Commissioners are entitled to a declaration that they, either acting as a body, or through the Chair, lack the authority imposed pursuant to ESHB 1054(4)(3).

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4.7. Plaintiff Commissioners are entitled to a declaration that each Commissioner is of equal authority under the law, and can act independently only by delegated authority of the full three-member Board.

4.8. Plaintiff Sheriffs are entitled to a declaration that, in the case of a non-charter County, ESHB 1054(4)(3)(a) is an unlawful/improper removal of authority vested solely in the independently elected Sheriff.

**V. Prayer for Relief**

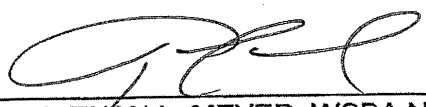
**Wherefore Plaintiffs pray that this Court issue judgment:**

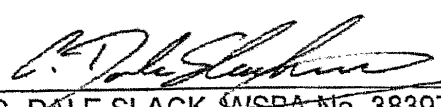
5.1. Declaring that, as applied to non-charter counties, ESHB 1054, Section 3, improperly, and without lawful authority, transfers emergent decision making authority in the case of a riot from an independently elected Sheriff to the Chair of the Board of County Commissioners;

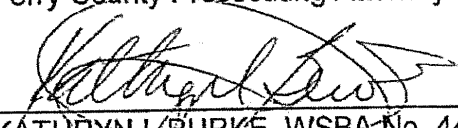
5.2. Awarding Plaintiffs' costs of suit; and

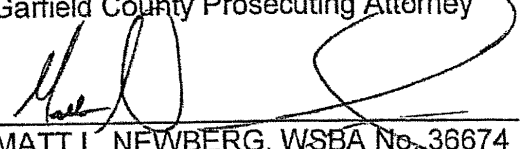
5.3. Awarding such other and further relief as the court deems just and proper.

**Dated:** this \_\_\_\_\_ day of August, 2021.

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Sheriff and Commissioners

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Sheriff and Commissioners

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Grant County Prosecuting Attorney


Spokane County Prosecuting Attorney

*Approved via telephone 8/25/21 See attached*

GARTH DANO, WSBA No. 11226  
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Sheriff and Commissioners  
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ADAM N. KICK, WSBA No. 27525  
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Sheriff and

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Mark McClain for


LARRY HASKELL, WSBA No. 27826  
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Sheriff and Commissioners

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Grant County Prosecuting Attorney

Spokane County Prosecuting Attorney

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Sheriff and Commissioners

  
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Sheriff and Commissioners

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**THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR LEWIS COUNTY**

ROBERT SNAZA, et al.,

Plaintiffs,

v.

STATE OF WASHINGTON,

Defendant.

NO. 21-2-00374-21

NOTICE OF APPEAL  
TO THE WASHINGTON  
SUPREME COURT

FILING FEE EXEMPT PER  
RCW 29A.56.140

Pursuant to RAP 4.2(b), Defendant State of Washington seeks direct review by the Washington Supreme Court of the Order Granting Plaintiffs' Motion for Summary Judgment entered by the Lewis County Superior Court on September 16, 2022 granting summary judgment in part in favor of Plaintiffs and denying the State's motion for summary judgment, also in part, along with the Court's oral ruling. A copy of the order (Attachment A) and a transcript of the oral ruling (Attachment B) are attached. The State does not appeal to the extent that the Lewis County Superior Court ruled in favor of the State.

The attorneys in this matter are as follows:

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*Attorneys for Grant County Plaintiffs*

18 DATED this 7th day of October, 2022.

18 ROBERT W. FERGUSON  
19 *Attorney General*

20   
21 JEFFREY T. EVEN, WSBA 20367  
22 *Deputy Solicitor General*  
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CERTIFICATE OF SERVICE

I further certify, under penalty of perjury under the laws of the state of Washington, that on this date I served a true and correct copy of the foregoing document via electronic mail per the Electronic Service Agreement between the parties.

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DATED this 7th day of October, 2022 at Olympia, Washington.

Stephanie N. Lindey  
*Legal Secretary*



FILED  
Lewis County Superior Court  
Clerk's Office  
SEP 16 2022  
Scott Tinney, Clerk  
By \_\_\_\_\_, Deputy

THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR LEWIS COUNTY

ROBERT SNAZA, et al.,  
  
Plaintiffs,  
  
v.  
  
STATE OF WASHINGTON,  
  
Defendant.

NO. 21-2-00374-21

ORDER GRANTING PLAINTIFFS'  
MOTION FOR SUMMARY  
JUDGMENT

THIS MATTER came before this Court on Plaintiffs' Motion for Summary Judgment. The Court heard oral argument of counsel and considered the following pleadings and materials filed in the matter.

1. Plaintiffs' Motion for Summary Judgment;
2. Defendant's Response and Cross Motion for Summary Judgment;
3. Plaintiff's Reply to Response to Defendant's Response to Motion for Summary Judgment and Defendant's Cross Motion for Summary Judgment;
4. Defendant's Reply to Response to Plaintiff's Motion for Summary Judgment and Defendant's Cross Motion for Summary Judgment;

Being otherwise fully informed the Court reasons as follows.

1 IT IS HEREBY ORDERED that:

- 2 1. Plaintiffs' Motion for Summary Judgment is GRANTED with respect to RCW  
3 10.116.030 with regard to the powers of the office of the Sheriff; and  
4 2. Plaintiffs' Motion for Summary Judgment is DENIED with respect to RCW  
5 10.116.030 with regard to the powers of the office of the Chair of the Board of  
6 County Commissioners.  
7 3. The Court's oral ruling is incorporated into this order.


8 DONE IN OPEN COURT this 16th day of September, 2022.  
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11

12   
13 HONORABLE J. ANDREW TOYNBEE  
LEWIS COUNTY SUPERIOR COURT JUDGE

14 PRESENTED BY:

15 ROBERT W. FERGUSON  
16 *Attorney General*

JONATHAN L. MEYER  
*Lewis County Prosecuting Attorney*

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Counsel for Lewis County

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

ROBERT SNAZA, ) Lewis County  
) No. 21-2-00374-21  
Plaintiff, )  
)  
v. )  
)  
STATE OF WASHINGTON, )  
)  
Defendant. )

**VERBATIM TRANSCRIPT OF PROCEEDINGS**  
**SEPTEMBER 16, 2022**

Before the  
Hon. J. Andrew Toynbee

**APPEARANCES**

For the plaintiff: Amber Smith  
Deputy Lewis County Prosecutor  
Chehalis, WA

For the defendant: Jeffrey Todd Even  
Assistant Attorney General  
Olympia, WA

Jessica L. Turner, CCR No. 3187  
Freelance Court Reporter  
Chehalis, Washington 98532

1 (The following took place on September 16, 2022:)

2 THE COURT: All right. Are the parties ready  
3 on Robert Snaza and others v. State of Washington?

4 MS. SMITH: Plaintiffs are ready, your Honor.

5 MR. EVEN: The state is ready, your Honor.

6 THE COURT: All right. Come on forward.

7 All right. This is Cause No. 21-2-374-21,  
8 Robert Snaza and many others v. the State of  
9 Washington. Ms. Amber Smith is here representing the  
10 plaintiffs and you are Mr. Even?

11 MR. EVEN: I am, your Honor.

12 THE COURT: All right. Good morning, Mr. Even.  
13 Nice to see you again.

14 MR. EVEN: Thank you.

15 THE COURT: And this matter comes on on both  
16 party's motions for summary judgment. I have  
17 reviewed all the documents and I'm ready to hear  
18 argument.

19 So go ahead, Ms. Smith.

20 MS. SMITH: Thank you. Good morning, your  
21 Honor. I'll keep this as brief as possible. This  
22 boils down to essentially whether or not the  
23 legislature exceeded its plenary authority by  
24 interfering with the core functions of the office of  
25 the sheriff, and also the Board of County

1 Commissioners via the chair of the Board of County  
2 Commissioners in the enactment of RCW 10.116.030,  
3 which I'll refer to just generally as the tear gas  
4 law to make it easier for all of us.

5 Our position is that the legislature through  
6 the enactment of that bill did. And it did interfere  
7 because essentially what the tear gas bill is  
8 requesting or requiring of the sheriff's office, who  
9 does have a core function and duty of defending  
10 against and disbursing riots, to get the  
11 discretionary authority to use a tactical  
12 implementation, which is tear gas. But nevertheless,  
13 a discretionary use on how to go about defending or  
14 disbursing a riot from the chair of the Board of  
15 County Commissioners, and that that in and of itself  
16 is an interference based on Rice and Melton in  
17 decisions, and that the plenary authority of the  
18 legislature is to draft or create job duties and  
19 descriptions for elected offices in the counties and  
20 the sheriff. They can do so, so long as it doesn't  
21 interfere with those core functions.

22 To go definitionally on what an interference  
23 is, when looking at Black's legal dictionary, an  
24 interference is the act or process of obstructing  
25 normal operations or intervening and meddling in the

1       affairs of others. And that's under Black's legal  
2       dictionary, 11th edition. That is precisely what  
3       this law does. It requires that in the course of a  
4       riot, outside of a jail setting, that the sheriff has  
5       to stop, ask the chair of the board of the county  
6       commissioners whether or not tear gas is appropriate  
7       in the middle of that. And then that chair has to  
8       make a fact-based, substantive determination as to  
9       whether or not tear gas is appropriate.

10               That stop, that check that the state would say  
11       is a mere check and is needed for public policy and  
12       public interest is, nevertheless, a stopping of that  
13       core function and duty of defending and suppressing  
14       riots and requiring another independent elected  
15       office to give that elected officer that authority.  
16       That is an interference. It does obstruct and it  
17       does meddle in that core function. And that is a  
18       core function that has existed in the office of the  
19       sheriff since territorial times and has been enacted  
20       as part of their core duties or part of their  
21       duties -- pardon me, statutorily.

22               Further, the core function of the Board of  
23       County Commissioners to act as a collected body when  
24       making substantive decisions is also interfered upon  
25       by placing such a substantive authorization or power

1 within the chair of the Board of County  
2 Commissioners. Since territorial times and through  
3 today in the enactment of statutes, the Board of  
4 County Commissioners is a collective body. They make  
5 substantive fact-based decisions as a body, as a  
6 whole. And it is the majority that makes those  
7 decisions.

8 The only discretionary authority that's been  
9 given to the chair of the Board of County  
10 Commissioners is a nominal discretionary authority.  
11 It's in marshalling meetings. They are the chair of  
12 the board. They determine the schedule and they  
13 marshal those meetings. They also are a signatory  
14 only after the entirety of the board makes a decision  
15 to agree or disagree in signing on any contracts.  
16 There is no real power authority that exists in that  
17 chair other than an administrative type position that  
18 exists.

19 By placing such a high discretionary  
20 decision-making authority in the chair, it does  
21 interfere with the intent and the core function of  
22 the Board of County Commissioners. It's a  
23 legislative body.

24 We would ask this court to grant our motion for  
25 summary judgment and determine that this statute,

1 10.116.030, did exceed the legislature's plenary  
2 authority and their ability to establish duties on  
3 these elected offices, because this is an unintended  
4 result in particular with noncharter counties. It  
5 would be no different than asking the court to have  
6 permission from the assessor to do an exceptional --  
7 an exceptional sentence upward in a juvenile case  
8 because there may be public policy in the future.  
9 That's the unintended result if the court were to  
10 establish this today or grant this today.

11 THE COURT: Melton seems like the -- sort of  
12 the seminal case that everybody comes back to. And  
13 Melton seemed to be focused on the danger of having  
14 another elected attorney -- elected office be able to  
15 appoint -- the word "appointment" and "appoint" is  
16 throughout the Melton case. At what point did the  
17 court's interpretation of Article 11, Section 5 shift  
18 from appointment being the danger to the interference  
19 with duties? Any -- I mean, I'm not sure the -- I'm  
20 not sure the "when" is -- I mean, really pinning down  
21 the when is important, but it seems like there was  
22 a -- that was what Melton was all about, was the  
23 prosecutor's would be able to appoint rather than  
24 elect. And Article 11 -- Article 11, Section 5 seems  
25 to protect the right of the citizenry to elect people



1           doing these local functions. Any insight as to when  
2           that shift occurred or why that shift would occur?

3           MS. SMITH: I can't say with any particularity  
4           when or why the shift would occur. Our position is,  
5           is that based on the reading of Melton and the idea  
6           that the citizenry have the authority to choose who  
7           their elected officials are and that those core  
8           duties and functions that are prescribed to those  
9           elected officials are the ones that those folks are  
10          making the determination for. Our position is that  
11          based on Melton, the idea that -- in that  
12          circumstance, is that the ability for the prosecutor  
13          to exercise their core functions and duties was what  
14          was being infringed upon or was being taken away  
15          from. And that by not -- or by taking away those  
16          core functions and duties and prescribing them to  
17          another that was outside of that elected official,  
18          whether or not it -- pardon me here -- that that was  
19          the issue at hand in Melton. And that the citizens  
20          have a right to know those elected officials. And in  
21          this circumstance, the citizens have a right to know  
22          that in the core functions and powers of the sheriff  
23          that that is where the defense and disbursal of  
24          rights comes from, not from the chair of the Board of  
25          County Commissioners.

## Appendix B

## Attachment B

1 THE COURT: All right. Thank you.

2 Mr. Even.

3 MR. EVEN: Thank you, your Honor. For the  
4 record, Jeffrey Even, deputy solicitor general here  
5 on behalf of the state. I will begin, if I may, with  
6 the question that the court just posed. And my  
7 answer would be that there has not been a shift from  
8 that. And in fact, for that I would point the court  
9 in particular to State ex rel. Banks v. Drummond in  
10 addition to the two cases the counsel already  
11 mentioned.

12 I think Banks rounds out the trifecta of the  
13 important Washington cases here. That case had to do  
14 with an attorney who was engaged by the county  
15 commissioners to do work that otherwise the county  
16 prosecutor would do. And the county prosecutor did  
17 not consent to that appointment, as would have been  
18 his prerogative to do.

19 So, again, there the issue was not simply that  
20 somebody other than the prosecutor was providing  
21 legal advice to the commissioners, although that is a  
22 problem in the case. The problem is it wasn't the  
23 person who had been elected to do that function. So  
24 it was that appointment power that I think is  
25 critical to this distinction. Because this, I think

1 helps us get a little bit of insight on what I think  
2 could at least at first blush be a bit of a conundrum  
3 here in the constitutional text and in other case  
4 law. We have a constitutional provision that simply  
5 lists out the county offices and says that they are  
6 to be elected and then says and the legislature can  
7 define their duties or shall define their duties.

8 So how do we square the fact we do have a  
9 number of cases, as counsel points out, that say,  
10 well, you can't take away the core function of one of  
11 those constitutionally created offices, but we have  
12 language in the constitution that says the  
13 legislature can define their duties.

14 I think the answer to that stems from a couple  
15 points. One is the concern that somebody other than  
16 the elected official is going to appoint. In Melton,  
17 the issue was that the legislature had passed a  
18 statute that created district attorney investigators  
19 and allowed them to do everything the deputy sheriff  
20 could do. That was -- that was, I think, an issue of  
21 who is going to appoint those people. They weren't  
22 performing a function that you would normally think  
23 as being core to the prosecutor's office.

24 And what does it mean to say that we have a  
25 core function at issue? A core function is something

1 that's really inherent, you know, in the nature of  
2 the office. Why do we have a county prosecutor in  
3 Melton? Well, it's to prosecute criminal cases and  
4 to provide civil representation to the county.

5 Why do we have a sheriff? Well, to keep the  
6 peace, to suppress riots, but that doesn't  
7 necessarily mean that the legislature is powerless to  
8 provide checks on what we might think of more as a  
9 tactic involved in performing a function of the  
10 office. So the tear gas statute does not deprive the  
11 sheriff of any core function of office. He remains  
12 the chief law enforcement officer of the county. And  
13 he remains the one who would make the initial  
14 decision to deploy tear gas and to, in fact, deploy  
15 it when that comes to pass --

16 THE COURT: Well, what if the county -- what if  
17 the chair of the Board of the County Commissioners  
18 says, "no"?

19 MR. EVEN: I think, obviously, we have to  
20 entertain that possibility because if that wasn't at  
21 least a possibility, there would be no purpose in the  
22 statute. And the answer to that is that I think  
23 legislature is concerned that we are dealing with a  
24 tactic that has significant public health and safety  
25 risks. And so the legislature, rather, wants to

1 provide an additional check on the use of this  
2 particular tactic while still permitting it. Riot  
3 suppression is still one of the reasons why law  
4 enforcement can use tear gas. There are others in  
5 the statute, by the way, that are not subject to this  
6 additional check of getting approval from the chief  
7 elected -- highest elected official of the county.

8 And that would bring me to what I would suggest  
9 here is the easy part of this case. And that's the  
10 effect on the Board of County Commissioners. There  
11 is nothing in RCW 10.116.030 that takes away from or  
12 interferes with the functions of the county  
13 commissioners.

14 Now, what the plaintiffs have pointed out here  
15 is that assigning a role like this to the chair of  
16 the Board of Commissioners who is, for most purposes,  
17 one of a multimember body that acts collectively, not  
18 individually, added a new function for that person.  
19 But doing that in no way takes anything away from the  
20 authority and responsibilities of the other two  
21 commissioners with regard to the powers and duties  
22 that are assigned to the board as a body. So I think  
23 that's actually a fairly easy question, is that  
24 nothing in the constitution precludes giving an  
25 individual commissioner, one who has been selected by

1 the other two to be the chair, an additional function  
2 that does not take away from any other function. And  
3 to say that the legislature can't do that would do  
4 tremendous violence to the constitutional language  
5 that says the legislature can define the duties of  
6 county offices. So I think that part of the case is  
7 relatively straight forward.

8 And as to the sheriff, as I've indicated, I  
9 think the distinction here becomes, what's a core  
10 function? What's something that if you take this  
11 away, the office isn't really that office anymore?  
12 You know, that's guided, I think, by a concern that  
13 the constitution specifies, here's the county  
14 officers we're going to have in a general law county.  
15 And then wants to -- what the court has done I think  
16 in a case like Melton is say, well, we can infer from  
17 that that that's to be a meaningful position. It's  
18 to be the kind of thing that we would normally think  
19 of pre-statehood as a sheriff, a commissioner, a  
20 prosecutor, et cetera. And so by providing a limit  
21 on the use of a particular tactic, the legislature  
22 has not interfered with the core function. And for  
23 that reason, the court should grant summary judgment  
24 in favor of the State.

25 THE COURT: All right. Thank you.

## Appendix B

## Attachment B

1 Ms. Smith, your response?

2 MS. SMITH: Yes.

3 THE COURT: And I guess I will ask the question  
4 right up front. Is there any -- what's your response  
5 to what Mr. Even has, I guess, termed "the easy  
6 part"? Is there anything in the case law or  
7 explicitly in the constitution that prohibits the  
8 legislature from allowing one commissioner to act in  
9 certain specific instances?

10 MS. SMITH: There is nothing explicit in the  
11 constitution and case law that states that other  
12 than, again, on the basic function on plenary  
13 authority in the prescribing of those duties that so  
14 long as it doesn't interfere with the core functions  
15 of those offices. And it is our position that by  
16 placing a substantive discretionary decision in the  
17 chair, that does interfere with the core function of  
18 who otherwise is a collective body. That the duties  
19 that have been prescribed previously to the chair of  
20 the board being administrative or nominal or as a  
21 signatory on behalf of the board after they make a  
22 collective decision, by putting such a concentration  
23 of power in a discretionary decision-making authority  
24 that that is the interference on the officers of the  
25 Board of County Commissioners. That the Board of

1 County Commissioners, since territorial times and  
2 through the enactment of our constitution, has been  
3 considered a collective body, a whole. It is a  
4 group. That there are members of that body that get  
5 separately elected, but that the Board of County  
6 Commissioners itself is a collective body.

7 Generally, a legislative-making, collective  
8 body that works. And by putting such concentration  
9 in a discretionary act in one particular member, it  
10 disrupts that otherwise equal discretionary authority  
11 that they have as the collective body where no  
12 commissioner, whether they are chair or they are a  
13 junior commissioner on the Board of County  
14 Commissioners, has no weighted difference in their  
15 discretionary decision-making. They are equals. And  
16 by putting this kind of substantive check on the  
17 sheriff, they are creating an interference on what  
18 would otherwise be equal standing amongst the  
19 collective body as a whole.

20 THE COURT: Well, what if the legislature  
21 decided that the open public meeting act was just  
22 really unwieldy and really unworkable and really  
23 didn't allow for the government to function well so  
24 that basically two commissioners can't have a  
25 conversation about anything without violating the

## Appendix B

## Attachment B



1 open public meetings act? What if the legislature  
2 just said, enough's enough. We're going to allow  
3 them to decide amongst themselves who can decide  
4 these decisions and one commissioner can be in charge  
5 of public health and the other commissioner can be in  
6 charge of these and they can make decisions. What if  
7 the legislature did that? Would that violate the  
8 constitution?

9 MS. SMITH: We would submit, yes, it does  
10 interfere with that core function. Or I should say,  
11 on caveat, if they were to repeal the open public  
12 meetings act, which is a legislatively enacted  
13 chapter in the RCWs or title in the RCWs, that they  
14 could do that. The concern comes with whether or not  
15 they have in their plenary authority the ability to  
16 go prescribing what would be discretionary authority  
17 in each of those individual collected bodies.

18 There is one way that they could do this, and I  
19 want to circle back on something that Mr. Even  
20 mentioned about the legislature being powerless to  
21 create checks. The legislature is not powerless to  
22 create checks. If it wanted to, in the interest of  
23 public policy, they have the opportunity to do so.  
24 But it's through a constitutional amendment. Our  
25 concern and our discussion today is about whether or

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1 not they exceeded the plenary authority and just  
2 common legislative lawmaking. And that is our  
3 concern is that they are enacting laws, not through a  
4 constitutional amendment, that interferes with the  
5 core functions of the duties of these offices. And  
6 that that is the problem. That is the concern and  
7 why we bring our case today, is because the  
8 legislature does have the power to create checks and  
9 balances. But not like this. There is a right way  
10 to do things and they did not choose the right path  
11 to enact this type of discretionary decision-making  
12 that interferes with the core function of the office  
13 of the sheriff and also the Board of County  
14 Commissioners.

15 THE COURT: All right. Well, I want to -- I'm  
16 grateful for the opportunity to have such a complex  
17 issue to delve into. This has been very educational  
18 for me. And very intellectually stimulating. To go  
19 deep into a state constitutional issue is not  
20 something that, as a superior court judge, I get an  
21 opportunity to do very often.

22 But I am granting summary judgment in favor of  
23 the plaintiffs. I do find beyond a reasonable doubt  
24 that the challenged portion of the statute,  
25 specifically, that requires the chair of the county

1 commissioners to approve the deployment of tear gas,  
2 violates the constitution, specifically Article 11,  
3 Section 5. I'm adopting the plaintiff's analysis as  
4 I really think that that hits the nail on the head,  
5 both in the identified legal problem and the legal  
6 analysis.

7 I will state that I do not find that the  
8 legislature's designating the ability for one  
9 commissioner to act alone violates the constitution.  
10 So I am denying on that issue. But I don't find that  
11 it interferes with the core function or a central  
12 function. It -- it may interfere with the method of  
13 doing business but it doesn't take away something  
14 that defines the county commissioners.

15 I'm -- even though the state constitution  
16 explicitly allows the legislature to specify the  
17 powers and duties of local officials, there have been  
18 limits on that through case law. And even though  
19 Melton focuses on the dangers of having another  
20 governmental elected office have the power to appoint  
21 somebody that may usurp or interfere with the elected  
22 official's core duties, the case law since then has  
23 evolved. And our State's Supreme Court's made it  
24 clear that the legislature may not transfer to other  
25 elected officers those powers and functions that have

1 belonged to another since before the ratification of  
2 the constitution. And I find that the suppression of  
3 riots is a core function of the sheriff.

4 Just to use Lewis County as an example, the  
5 problem here is that the people of Lewis County did  
6 not elect Commissioner Pollock to weigh in and  
7 determine what tactics or equipment should be  
8 deployed to suppress a riot. They elected Sheriff  
9 Rob Snaza to do this. The people have a right to  
10 determine through their elections -- and this is what  
11 the case law focuses on. The people have a right  
12 through Article 11, Section 5 to decide who makes  
13 those decisions. And so that's -- that's how this  
14 violates the rights of the citizens.

15 And this legislation is not merely a check on  
16 an important decision that affects people's safety.  
17 The danger is that if the legislature can strip from  
18 the elected sheriff an inherent function of that  
19 office, such as the right to determine whether tear  
20 gas may be deployed to suppress a riot, then they can  
21 strip all such functions. And the legislature -- and  
22 what the Banks v. Drummond case and the Rice case  
23 tell us is that the legislature can't take away those  
24 functions that make an elected office that elected  
25 office. So the sheriff's office has the right and

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1 the duty, traditionally, to suppress riots. And that  
2 cannot be taken away, even one small bite at a time.  
3 Riot suppression is a core function of the sheriff.  
4 It's not a core function of the county commissioner.

5 And as I mentioned, the citizens elected the  
6 sheriff to make such discussions regarding the  
7 tactics to deploy in suppressing riots. They did not  
8 elect the county commissioners to do so. So for  
9 those reasons, I'm granting the State's motion for  
10 summary judgment.

11 MR. EVEN: Rather the plaintiffs.

12 THE COURT: Yes. I'm sorry. I meant to say  
13 that right at the beginning.

14 MR. EVEN: I think you did.

15 THE COURT: I use -- when I see prosecutors, I  
16 think state. So I am granting the plaintiffs. I  
17 told myself before I started that I would make that  
18 distinction, but I fall into old habits. So I am  
19 granting the plaintiff's. I jump to calling the  
20 prosecutor's office the state just by default. So I  
21 apologize for that misstatement.

22 MS. SMITH: And for clarification, your Honor,  
23 would you like the parties to draft other orders?  
24 There were the proposed orders that were presented by  
25 the plaintiff. Would you like us to do that? And if

1           amenable to both parties, enter those ex parte?

2           THE COURT: Yes.

3           MS. SMITH: Thank you.

4           THE COURT: Yes. I think you could probably  
5 step back and just doctor those up, potentially. And  
6 if you can't, then they can be done ex parte.

7           MS. SMITH: Great. Thank you.

8           THE COURT: Again, I thank you for excellent  
9 briefing. This was a treat to be able to get a break  
10 from kind of my normal routine and delve into a --  
11 what I considered very interesting issue. Thank you.

12          MS. SMITH: Thank you.

13          MR. EVEN: Thank you, your Honor.

14          (Court was adjourned.)

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C E R T I F I C A T E

STATE OF WASHINGTON )  
  ) ss  
COUNTY OF LEWIS             )

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That I am not a relative or employee of counsel  
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Signed this 29th day of September, 2022.

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