

DEC 18 2018

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IN THE UTAH STATE SUPREME COURT

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GRANT v. GOV. HERBERT

:  
: MEMORANDUM (LETTER) IN  
: SUPPORT OF PETITION FOR  
: EXTRAORDINARY WRIT OF  
: RELIEF  
: REQUEST FOR ADDITIONAL  
: BRIEFING  
: REQUEST FOR HEARING AND  
: ORAL ARGUMENTS

Case: 20180997 SC

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[INSERT BODY OF YOUR TEXT HERE... DO NOT EXCEED 10 PAGES]

I am representing myself pro se.

I am exercising my First Amendment right guaranteed by the Utah and Federal constitutions to petition the government for a redress of grievances.

I request a hearing with the court.

On or about the summer of 1992, I began volunteering my time to gather signatures for an initiative petition with gubernatorial candidate, Merrill Cook.

The initiative petition was for term limits. To limit the number of terms a U.S. House of Representatives Congressman can serve to four terms or (8) years, and the number a U.S. Senator can serve to two (2) terms.

This was a very labor-intensive effort which involved me working with other volunteers standing in the hot sun (resulting in one horrific sunburn for which I still have scars) at various events such as rock concerts, Utah State Fair, or in store parking lots.

We would explain the initiative petition to citizens, and they were very eager to sign the petitions for term limits.

In 1992, the requirements for statewide initiative petitions were very difficult, but doable with a lot of hard work.

As reports filed in to the state that we were close to gathering the needed signatures, plus extra in case some of the signatures were ruled invalid, the Lt. Governor's office began accusing signature gatherers of forging signatures. As I recall, Merrill Cook spent his own money to fight this in court.

At that time, under the direction of I believe it was Governor Bangerter and the Utah Legislature, they began a campaign of discrediting the term limit petition and then making statements to the people of the State of Utah that they did not need to vote for the petition because they would pass their own term limits law. This was a very highly-publicized campaign.

The Term Limits Initiative Petition failed at the ballot box because I believe they believed the Utah Legislature would pass a better law.

The Utah Legislature passed a watered-down term limits law and ended up repealing the entire law soon after they passed it.

Soon after I worked on this petition, I worked with a group of people who wanted to make some restrictions against light rail. We filed a request for an initiative petition with the county. The county recorder declined to allow us to circulate those petitions.

Soon after this, I became interested in preserving some precious open space along the Jordan River in South Jordan, UT. We filed a referendum petition. We were denied a request to file a referendum petition. We filed for Petition of Extraordinary Writ. The Utah Supreme Court ultimately decided that because legislative research on the referendum law stated that the 35 days to complete the signature gathering process started the moment the ordinance enacted.

We then filed for an initiative petition to create an open space zone along the Jordan River. We were denied by the city recorder. We filed pro se for another Petition for Extraordinary Writ. We prevailed in that case in which the Utah Supreme Court ordered the city recorder to grant us permission to begin circulating petitions. This case set precedent in that the city recorders could not deny citizens the right to circulate petitions. I do believe that case was *Foutz v. the City of Jordan*.

We followed the proper procedures to conduct petition gathering through mailing out petition sheets to South Jordan residents. The response was overwhelming. Within a week, we had nearly collected enough signatures to put this question on the ballot. When we gathered all the signatures, our signatures were denied by the city recorder. This initiative petition never made it to the ballot box because it was denied.

We then filed a petition to have a city council of nine people represented by districts. We got the amount required. But the city went ahead and enacted a new ordinance requiring five city council members to represent specific districts.

Soon after, I joined with other groups for various causes and helped them to gather signatures on different issues such as school choice and asset forfeiture. Successful initiative petitions which were overturned by the Utah Legislature.

Each initiative petition that was filed, the Utah Legislature had passed more rules encumbering the process in amount of time to gather signatures and the areas in which were required to gather signatures. Also requiring the entire law we desired to repeal or to pass to be printed with each signature page. This becomes very expensive and wastes a lot of paper.

At around the years 2010-2011, I worked with former congressman Merrill Cook on an e-verify petition for Salt Lake County. In the short amount of time we had, we fell short a few thousand signatures. We had collected around 34,000 signatures and needed 36,000 signatures in that time frame (to the best of my recollection). We asked Salt Lake County Council to put the e-verify petition on the ballot because we had gathered the required amount to put this on the ballot. They declined. Said they would pass a strong e-verify bill. Which they did, but the bill is weak.

I have personally witnessed special interest groups that want to get an initiative petition on ballot simply go to a city council, county council, or Utah Legislative body and ask for their pet projects to be put on the ballot. Without even gathering a single signature, government bodies have approved special interests putting their interests on the ballot.

Recent examples would include the zoo, arts, and parks tax. Tax requests by the UTA. Fluoridation in the water to name a few. At the same time the Salt Lake County denied an e-verify petition which only fell short by a few thousand votes they allowed a tax increase to be put to a public vote. It would appear that government bodies listen to special interests more than they listen to citizens.

Merrill Cook appealed this signature-gathering process to the Utah Supreme Court. One of the attorneys for the state, when asked by a USC justice how difficult he thought the

petition process should be, he said “almost possible.” Certainly, the Utah Legislature has made this process “almost impossible.”

In 2011, I joined with four other people to sponsor a referendum petition for HB 477, known as the “Repeal the GRAMA bill.” This referendum was a huge grass roots effort which involved spontaneous signature gatherings with people taking petitions on bikes, in parks, drive through signings with popular radio show hosts helping to publicize the signature-gathering attempt. The governor decided to call a special session to quickly repeal HB 477 as quickly as it had passed because of the amount of anger this had generated among the citizens.

I would like to note than in this referendum to repeal HB 477, the office workers delayed and make difficult the process to filing...thus taking away from the time to gather signatures. Just as had happened in every petition/referendum drive I’ve been involved with.

What are the options when the Utah Legislature continues to ignore the wishes of the people?

For example, in the early 1990s, the people voted against what we believed to be a vote against building light rail in Salt Lake County. The state and UTA pushed it through anyway. In 2000, UTA placed a vote on the ballot...without gathering even one signature...to increase sales tax for UTA. The rail companies and other powerful special interests funneled close to a half million dollars over the citizens’ few thousand dollars to oppose this tax increase. The tax increase won. Last year in 2017, the people voted in four counties against a tax increase by the UTA. The Utah Legislature passed a law allowing cities to bypass the will of the people and implement the tax increase.

The Utah Legislature passes hundreds of new bills every year...some of those bills hundreds of pages long. And they throw a fit when the citizens are desperate to get tax relief

or other issues that will help them by saying that the citizens don't know how to make law. I believe I speak for many others when I say that the legislature doesn't always make good laws.

The examples I have cited are just a few examples of government quashing the right of the citizens of the state of Utah to petition the government for a redress of grievances.

The people in Utah voted for Proposition 2. It is a blatant disregard for the thousands and thousands of volunteer hours and personal money from petition organizers or other small donators who worked hard to educate the people about Prop 2.

That Prop 2 was in effect for two weekend days before the Utah Legislature overturned it is unbelievably arrogant and flies in the face of "government by the people."

The people could say that referendums/initiative petitions are better-written and certainly better explained because of the almost impossible number of signatures that need to be gathered. So that's over a hundred thousand people who are educated about a new law to be passed before it even gets voted on.

The legislature passes hundreds of new laws every year and many of these laws are crammed through on the final hour of the session without even any debate.

I've never been paid for any signatures I've collected. I've collected thousands of signatures for causes that I believe in. These are good issues I've been involved with that protect citizens from excessive taxation, protect government transparency, and even protect open space. It's time that I speak out on this issue. That's why I have filed pro se in this lawsuit in joining with other citizens who just want a chance for our votes to really count.

X /S/ [Janalee Tobias]

DATE [December 18, 2018]

#### CERTIFICATE OF SERVICE

I hereby certify that on [December 18], 2018, a true and correct copy of the foregoing

MEMORANDUM (LETTER) IN SUPPORT OF PETITION FOR EXTRAORDINARY WRIT  
OF RELIEF  
REQUEST FOR ADDITIONAL BRIEFING,  
REQUEST FOR HEARING AND ORAL ARGUMENTS, was deposited in the United States  
mail or was sent by electronic mail to be delivered to:

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By /S/ [Janalee Tobias] \_\_\_\_\_ Case No. 20180997



Utah Supreme Court &lt;supremecourt@utcourts.gov&gt;

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**Important Correction, Page 5**

1 message

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**gunflowers@comcast.net** <gunflowers@comcast.net>

Tue, Dec 18, 2018 at 10:50 PM

To: supremecourt@utcourts.gov, suew@utcourts.gov, eweeks@le.utah.gov, tylergreen@agutah.gov, spurser@agutah.gov, me@stevemaxfield.com, bgrant17@gmail.com, daniel@helmsmansociety.com

Cc: gunflowers@comcast.net

Greetings,

In re-reading the Memorandum in Support of Petition, I caught a glaring error, page 5. Error highlighted in yellow.

Merrill Cook appealed this signature-gathering process to the Utah Supreme Court. One of the attorneys for the state, when asked by a USC justice how difficult he thought the petition process should be, he said "almost possible." Certainly, the Utah Legislature has made this process "almost impossible."

This should read: "almost impossible."

Thanks,

Janalee Tobias