



Thursday, September 9, 2021 *A.D.*

Sheriff Chuck Atkins  
Clark County Sheriff's Office  
*Via Email and Fax*

Chief James McElvain  
Vancouver Police Department  
*Via Email and Fax*

RE: THE RIGHT TO PROTEST PUBLIC SCHOOL OFFICIALS  
Van. Pub. Sch. Dist. No. 37 v. Megan Gabriel and ALL JOHN DOE INDIVIDUALS  
Clark County Superior Court No. 21-2-01687-06

Sheriff Atkins and Chief McElvain:

As you know, citizens of this great nation enjoy the natural right to protest against governmental misconduct. That right is codified in the constitutions of Washington and the United States.

Do not be fooled into making an invalid arrest based upon the recent inaccurate headline in The Columbian: "Judge bans protests within mile of Vancouver Public Schools sites."<sup>1</sup> This headline is fake news.

The judge's order does no such thing. It does not impose a general ban on protests; it applies only to men (not women); and is legally invalid on its face for its failure to require Vancouver Public Schools to post a bond.

First, the judge's order, by its own terms, attempts to ban only those protest that "disrupt educational services." The order does not bar anyone from protesting peaceably across the street on a public sidewalk, so long as such protest does not "disrupt educational services." As students attend class *inside* the school building any peaceable protests *outside* on the sidewalk are clearly not in violation of the order as written.

Second, the order places no restrictions on women protesters at all. Rather, the order applies only to a single woman, and to "John Does" (AKA, unknown men). An order that bars men from protesting, but not women, is clearly unconstitutional.

Moreover, given contemporary culture's current stance regarding gender identity, it would be unwise for you or your officers to assume a protester is a man ("John Doe") when they could actually be a Jane Doe (and therefore not subject to the order). As you know, gender identity is very tricky and looks can be deceiving.

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<sup>1</sup> <https://www.columbian.com/news/2021/sep/08/judge-bans-protests-within-mile-of-vancouver-public-schools-sites/> (last viewed on September 8, 2021).

Third, the injunction order does not appear to have required the school district to post a bond as is required by law for an injunction order to be valid. See RCW 7.40.080, which states “No injunction or restraining order shall be granted until the party asking it shall enter into a bond, in such a sum as **shall be** fixed by the court.” (emphasis added).

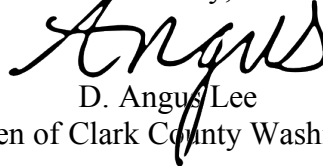
As the Washington State Supreme Court made clear in *State v. Goins*, “[f]undamental to statutory construction is the doctrine that “shall” is construed as mandatory language...” 151 Wash. 2d 728, 749, 92 P.3d 181, 191 (2004) (emphasis added). In *Irwin v. Estes*, 77 Wn.2d 285 (1969), the Washington State Supreme Court held that posting a bond is **mandatory**. A year later, the supreme Court again ruled that where the trial court did not fix a bond amount the injunction was “**invalid**.” *Evar, Inc. v. Kurbitz*, 77 Wash. 2d 948, 951 (1970).

While RCW 7.40.080 does allow a court to waive the bond requirement in “situations in which a person's health or life would be jeopardized,” the order here does not reflect that any such waiver was made. Rather, the bond requirement was simply forgotten by the lawyer for the school district that drafted the order. Further, the school district’s petition for the injunction did not include any allegation related to “health or life.” The petition focused only on an alleged disruption of educational activities. As such, there is no legal basis for a waiver of the bond requirement in this matter, and the court order does not include any finding that would support waiver of the bond requirement.

Fourth, before you take action, please consider your past inaction when BLM protesters violated Washington state law by blocking traffic on I-5, and later blocking traffic on Highway 99. In those instances, neither the Sheriff’s Office, nor the Vancouver Police Department took action.<sup>2</sup>

The order in question is of limited application, clearly unconstitutional, and apparently invalid for lack of a bond. You would be wise to consider your oaths to defend the Constitution, and consult with the Clark County Prosecuting Attorney’s Office or the Vancouver City Attorney before taking enforcement action on any perceived violations of such a questionable order.

Sincerely,



D. Angus Lee

Citizen of Clark County Washington

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<sup>2</sup> <https://www.columbian.com/news/2020/oct/31/downtown-vancouver-protests-result-in-minor-damage/> (last viewed on 10/31/2020).

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SEP 07 2021

IN THE SUPERIOR COURT  
CLARK COUNTY WASHINGTON

Scott G. Weber, Clerk, Clark Co.

VANCOUVER SCHOOL DISTRICT NO 37, a  
municipal corporation,

Petitioner,

vs.

MEGAN GABRIEL, an individual; ALL JOHN  
DOE INDIVIDUALS,

Respondent.

Case No.: 21 2 01687 06

**ORDER ON PETITIONER'S REQUEST FOR  
INJUNCTIVE RELIEF**

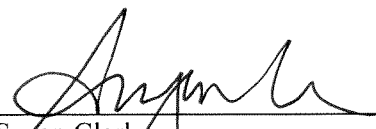
**EX PARTE**

This matter having come before the Court on Petitioner's Ex Parte Petition for Injunctive Relief, the Court having considered the Petition and supporting Declaration, and the Court being otherwise duly apprised of the facts and applicable Washington State laws and court rules, it is **HEREBY ORDERED**

**THAT:**

1. Rallies, protests or gatherings, on or near school premises, that disrupt educational services, cease and desist within a one-mile radius of all Vancouver School District properties;
2. Law enforcement be given authority to enforce this Order should any individual or group of individuals fail to comply; and
3. This order to remain in full force and effect as long as Governor Inslee's and the Washington State Health Department's mandatory orders for masks on school premises remains in effect.

Dated this 7<sup>th</sup> day of September, 2021

  
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Hon. Suzan Clark  
Clark County Superior Court

Respectfully Submitted by:  
Vancouver School District No. 37

  
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Marilee Scarbrough, Esq. WSBA No. 20813  
Of Attorneys for Petitioner, Vancouver School District No. 37

ORDER ON PETITIONER'S REQUEST FOR INJUNCTIVE RELIEF - 1

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