

United States Court of Appeals
for the Ninth Circuit

Brian P. Carr
Plaintiff-Appellant

versus

Sam Reed et al
Defendants-Appellees

Case No. 07-35962
D.C. No. CV-07-05260-RJB

Motion for Panel Rehearing

Plaintiff, Brian P. Carr, pro se, in compliance with [FRAP 40](#), respectfully requests that the panel rehear this matter. In accordance with Ninth Circuit Rule 27-1 (5), Mr. Carr conferred with opposing counsel and determined that the counsel for all Appellees intend to oppose this motion.

The [Memorandum](#) filed by the panel in this matter on March 3, 2009 does not appear to address plaintiff's points [9](#), [10](#), and [12](#) in his [brief](#) of December 31, 2007.

In particular, the panel states '*Moreover, Carr's claims lack merit because these eligibility laws are constitutional. See O'Connor v. Nevada, 27 F.3d 357, 362 (9th Cir. 1994); Andress v. Reed, 880 F.2d 239, 242 (9th Cir. 1989)*', but neither of the cases cited specifically addresses Washington state requirements nor do they address the ability of an elected official to set the required qualifications for their opponents ([point 9](#)) or for the restriction to petition access based solely on the economic status of the filer ([point 10](#)). Neither of these points have been addressed previously and it appears inappropriate to simply declare them valid without any discussion.

The panel went on to say '*The district court properly determined that Carr lacked*

CERTIFICATION

I, Brian P. Carr, am the plaintiff-appellant in this matter, have knowledge of the facts of this matter, and make the following statements under oath and penalty of perjury in support of my Motion for Panel Rehearing:

1. All participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.
2. On March 12, 2009, I contacted John Nicholson, the attorney of record for the state appellees, and Bernard Veljacic, the attorney of record for the county appellees, by telephone and they each informed me that they intend to oppose this motion.
3. A copy of the panel's [Memorandum](#) of March 3, 2009 will be submitted along with this motion in compliance with Ninth Circuit Rule 40-1 (c)

I certify under penalty of perjury under the laws of the state of Washington and the United States that the foregoing is true and correct.

 /s/ Brian P. Carr
Signature of Plaintiff-Appellant
Brian Carr
11301 NE 7th St., Apt J5
Vancouver, WA 98684
503-545-8357