

IN THE SUPREME COURT FOR THE STATE OF OREGON

Donice Noelle Smith, in propria persona,

Petitioner,

v.

CHRISTINE KOTEK, in her official

capacity as Oregon Governor,

Respondent,

S 071902

**AMENDED AND CORRECTED
MOTION FOR RECONSIDERATION**

EMERGENCY MOTION ORAP 7.35

AMENDED AND CORRECTED MOTION FOR RECONSIDERATION

Donice Noelle Smith
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Petitioner

Christine Kotek, in her official capacity as
Oregon Governor
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Salem, OR 97301-4047
503-378-3111
Governor.Kotek@oregon.gov
Respondent

06/17/2025

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MOTION

A. Introduction

Denying the petition without reaching the merits is an abuse of this court's discretion, with intent to unjustly enrich Respondent over the burden of proof and disenfranchise Petitioner's State Constitutional guarantee of due process in this court's administration of justice, in violation of the 14th Amendment's due process requirements on state action.

B. Argument

It is long settled that judicial discretion afforded to Oregon courts is controlled by legal principles; see e.g., *State v. Rogers*, 330 Or. 282, 312, 4P. 3d 1261 (2000) ("Discretion, as this court has used that term, refers to the authority of a trial court to choose among several legally correct outcomes."). This court abuses its discretion if its decision is outside the range of legally permissible choices or exceeds the bounds of reason: see e.g., *State v. Garrison*, 266 Or. App. 749, 756, 340 P.3d 49 (2014) rev. den., 356 Or. 837, 346 P.3d 496 (2015); see also *Forsi v. Hildahl*, 194 Or. App. 648, 652, 96 P. 3d 852 (2004) ("the trial court abuses its discretion if it exercises that discretion in a manner that is unjustified by, clearly against, reason and evidence.").

Here, Petitioner properly alleged, with evidence, that responded unlawfully holds office pursuant to the violation and operation of Oregon Constitution Article II section 22.

Responded, having been properly served, did not contest the alleged violation nor the operation of the law.

This court refusing to comply with reason and evidence fails under the Oregon Constitution Article I section 10 which mandates “not only honest and complete and timely justice, but justice that can be seen to be so during and after the event.” State ex. rel. Oregonian Pub. Co. versus Deiz, 289 Or. 277, 286, 613 P.2d 23 (1980) (Linde, J., concurring). “It is one of those provisions of the constitution that prescribe how the function of government shall be conducted”; id at 228. Chief Justice Flynn’s use of her office to provide Respondent unjust enrichment to the detriment of Petition’s protected state-created benefit further violates the 14th Amendment due process requirement on state action; please see Koskela v, Willamette Industries, Inc., 31 Or. 362, 368-369, 15 P.3d 548 (2000) (case cited).

C. Conclusion

This court should reconsider exercising its original jurisdiction for the petition. Forcing petitioner to go beyond the court will only serve as a tying arrangement to secure the administration of justice.

Dated: June 17th, 2025,

/s/ donice noelle smith

Donice Noelle Smith

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Petitioner

CERTIFICATE OF SERVICE AND FILING

I hereby certify that I filed the foregoing AMENDED AND CORRECTED MOTION FOR RECONSIDERATION with the Appellate Court Administrator on June 17th, 2025, through the mail.

I further certify that on the same date, I served a copy of this AMENDED AND CORRECTED MOTION FOR RECONSIDERATION on the following persons identified below via email, office delivery, or certified mail.

Christine Kotek, in her official capacity as
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Dated: June 17th, 2025,

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**ORDER GRANTING FEE WAIVER AND DENYING
PETITION FOR WRIT OF QUO WARRANTO**

Upon consideration by the court.

The motion to waive fees is granted.

The petition for writ of quo warranto is denied.



Meagan A Flynn
Chief Justice
05/20/2025

c: Donice Noelle Smith
Benjamin Gutman

**ORDER GRANTING FEE WAIVER AND DENYING PETITION FOR WRIT OF QUO
WARRANTO**

Appellate Court Administrator, Appellate Court Records Section
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