

Judge dismisses 39 counties from election lawsuit, but lets case go forward

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Judge John Bridges

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WENATCHEE, Wash. - A judge Friday denied Democrats' first two motions to dismiss the challenge to Gov. Christine Gregoire's election.

A short time later, Chelan County Superior Court John E. Bridges also ruled that all 39 counties and their auditors would be dismissed from the case.

That simplifies the case from 81 parties to four. The remaining parties are the Republicans suing the secretary of state and the Democrat and Libertarian parties who intervened.

Bridges said discovery -- the fact finding effort in the case, much of which has focused on the counties -- could go forward.

The counties, several of which have vehemently argued before the judge that there is no reason to include them, were relieved to be cut loose.

"I don't think I've ever been so happy to hear that my comments were not needed or necessarily helpful," Asotin County Prosecutor Ben Nichols said by phone.

On the motion to dismiss, Bridges made his ruling after Democrats argued that any contest to the excruciatingly close election belonged in the Legislature.

Republican attorney Robert Maguire countered that the state's constitution and state law say the courts - not partisan lawmakers - should hear the case.

"The state of Washington needs an open, transparent, public display of what happened in this election," Maguire said. "Without it, many - and perhaps the majority - of Washington voters will not believe the person sitting in the governor's office truly won the election."

Bridges also rejected the Democrats' argument that the case should go straight to the state Supreme Court, rather than a lower court that can't set legal precedent.

The judge was expected to hear and rule on other motions to dismiss the case later in the day.

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Republican gubernatorial candidate Dino Rossi and the state GOP are challenging the election of Democratic Gov. Christine Gregoire, saying the results were tainted by so many errors and illegal votes that the courts should throw out the results and order a new election.

Democrats are defending the election results, saying Rossi doesn't have enough proof to nullify the election and that a revote would be unconstitutional.

Gregoire, who took office last month, won by a mere 129 votes after a hand recount of 2.9 million ballots. Rossi, a real estate agent and former state senator, had won the original count by 261 votes and won a machine recount by 42 votes. But to his dismay, the third and final count flipped the victory to Gregoire.

Since being sworn in early last month, Gregoire has been busy trying to solidify her hold on the governor's office. She's laid out her plans for health care, improving government efficiency and job growth, while working aggressively with the Legislature - and trying hard to ignore the legal challenge to her legitimacy.

Meanwhile, Rossi and his supporters have been steadily beating the drum for a revote. The state Republican Party alleges that hundreds of felons voted illegally.

Rossi sued the state and all 39 counties in his election challenge. The state Democratic Party intervened.

Democrats believe election contests have to go through the Legislature, not the courts. Republicans disagree, though they've filed an election challenge with the Legislature just to cover all the bases.

The state constitution says contested elections for governor "shall be decided by the Legislature in such a manner as shall be determined by law."

"Through this sentence, the constitution imposes a mandatory duty on only one branch of government - the Legislature," the Democrats' motion to dismiss said. "This is the only

plausible answer to the question of which body may decide an election contest for governor."

The Democrats' brief analyzed the sentence structure in further detail.

The Republicans' response argued just the opposite, saying the words "as shall be determined by law" clearly delegate the task of election challenges to the courts.

"This court should give the words of the constitution their plain meaning," the GOP brief said. Plus, the lawyers added, "It makes good sense to have election contests in the impartial and nonpartisan courts rather than in the Legislature."