FILED
SUPREME COURT
STATE OF WASHINGTON
10/8/2020
BY SUSAN L. CARLSON
CLERK

THE SUPREME COURT OF WASHINGTON

In Re the Matter of the Recall Charges Against City of Seattle Mayor, JENNY DURKAN, Appellant/Cross-Respondent.	))))))))	No. 98897-8 **O R D E R** King County No. 20-2-10455-8 SEA

On August 12, 2020, a Notice of Appeal was filed in this matter by Appellant Jenny Durkan seeking Supreme Court review of the trial court's decision on this recall case. On August 13, 2020, a Notice of Cross-Appeal was filed by the recall petitioners. On August 17, 2020, the recall petitioners' motion to accelerate review was granted in part and a briefing schedule was established. On August 31, 2020, the appellant/cross-respondent filed her opening brief. On September 14, 2020, the respondents/cross-appellants filed their opening and response brief. On September 17, 2020, the appellant/cross-appellant filed her response and reply brief. On September 22, 2020, the respondents/cross-appellants filed their reply brief.

The Court, at the October 8, 2020 En Banc Conference, considered the issues presented and now enters the following order.

The court's review of a recall petition is reviewed *de novo* for factual and legal sufficiency in accordance with the governing statutory provisions and our prior cases interpreting such statutes. A charge is factually sufficient where the alleged facts, taken as a whole, "'identify to the electors and to the official being recalled acts or failure to act which without justification would constitute a prima facie showing of misfeasance, malfeasance, or a violation of the oath of office.'" *In re Recall*

of Boldt, 187 Wn.2d 542, 549, 386 P.3d 1104 (2017) (quoting *Chandler v. Otto*, 103 Wn.2d 268, 274, 693 P.2d 71 (1984)). A charge "is legally sufficient if it 'state[s] with specificity substantial conduct clearly amounting to misfeasance, malfeasance or violation of the oath of office.'" *Id.* (quoting *Chandler*, 103 Wn.2d at 274). The allegations in this case are deeply troubling and our review requires that we treat the factual allegations as true. Nevertheless, after carefully considering the issues presented, the court concludes that the recall charges presented in this case are factually and legally insufficient. Now, therefore, it is hereby

ORDERED:

That the Court unanimously reverses the trial court's order allowing Charge B against Jenny Durkan, Mayor of Seattle, to proceed.

That the Court unanimously affirms the trial court's order dismissing Charges C and E against Jenny Durkan, Mayor of Seattle.

An opinion by the Court will be filed in due course.

DATED at Olympia, Washington this 8th day of October, 2020.

For the Court

CHIEF JUSTICE