

THE SUPREME COURT OF WASHINGTON

In re the Matter of the Recall Charges Against)	No. 98968-1
Benton County Sheriff,)	
)	ORDER
GERALD D. HATCHER,)	
)	Benton County
Appellant.)	No. 20-2-00980-3
)	
)	

On August 31, 2020, a Notice of Appeal was filed in this matter by Gerald D. Hatcher seeking Supreme Court review of the trial court’s decision on this recall case. On September 10, 2020, the Respondent’s motion to accelerate review was granted in part and a briefing schedule was established. On September 21, 2020, the Appellant filed his opening brief. On October 2, 2020, the Respondent filed his opening brief. On October 9, 2020, the Appellant filed his reply brief. On October 13, 2020, the Court received the Respondent’s motion to strike portions of the Appellant’s reply brief and appendix. On October 13, 2020, the Court received the Appellant’s answer to the motion to strike. On October 15, 2020, the Court received the Respondent’s reply to the answer to the motion to strike.

The Court, at the November 5, 2020, En Banc Conference, considered the issues presented and now enters the following order.

The Court reviews a recall petition de novo to determine the factual and legal sufficiency of the alleged charges. *In re Recall of Wasson*, 149 Wn.2d 787, 791, 72 P.3d 170, 172 (2003). We read the recall petition broadly, as a whole, and in favor of the voter. *In re Recall of West*, 155 Wn.2d

659, 666, 121 P.3d 1190 (2005). In doing so, we assume the truth of the facts as the recall petitioner asserts them. *See In re Recall of Reed*, 156 Wn.2d 53, 57, 124 P.3d 279, 281 (2005). “Factually sufficient means the petitioner has alleged facts that establish a prima facie case of misfeasance, malfeasance, or violation of the oath of office.” *In re Recall of Ackerson*, 143 Wn.2d 366, 371, 20 P.3d 930, 933 (2001). “Legal sufficiency means the charge must define substantial conduct clearly amounting to misfeasance, malfeasance or a violation of the oath of office.” *Wasson*, 149 Wn.2d at 791.

Assuming, as we must, that the allegations are true, they identify recallable offenses.

Now, therefore, it is hereby

ORDERED:

The court unanimously affirms the superior court and finds all of the charges to be legally and factually sufficient. Accordingly, all eight charges contained in the ballot synopsis may proceed to the voters. The charges are as follows:

1. Illegally appropriated for his own use 14 cases of ammunition belonging to Benton County.
2. Illegally tampered with physical evidence by directing the distribution of ammunition that was potential evidence of his own alleged unlawful acts.
3. Interfered in an investigation into his conduct by acting to prevent witnesses from being interviewed.
4. Violated county anti-discrimination policy by hindering an investigation into his conduct and retaliating against the complainant and witnesses to the investigation.
5. Illegally intimidated public servants and witnesses in investigations into his conduct by raising false allegations of impropriety and threatening witnesses' jobs.
6. Illegally made false or misleading statements to law enforcement and the court regarding the number of firearms he needed to surrender pursuant to a court order.

7. Illegally made false or misleading statements to public servants claiming that he had initiated a criminal investigation into his own conduct when he had not.

8. Falsified a public record by placing a false date on an investigation request.

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

DATED at Olympia, Washington this 6th day of November, 2020.

For the Court


CHIEF JUSTICE