

State Supreme Court rejects petition to recall Thurston County Sheriff Snaza

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There are various courts within Washington State's court system. From the state Supreme Court to the district courts, this is what you should know. By Warren Sterling

In a unanimous ruling issued Thursday, the Washington state Supreme Court has rejected an effort to recall Thurston County Sheriff John Snaza for refusing to enforce the state's mask mandate. The court deemed the charge against him legally and factually insufficient.

The high court's ruling reversed a [July decision out of Thurston County Superior Court](#), where visiting Kitsap County Superior Court Judge Jeanette Dalton ruled the charge met the legal standard for recall.

The Supreme Court instead concluded Snaza had discretion in how to enforce the mandate and his exercise of that discretion was "not manifestly unreasonable."

The decision means the effort to recall the sheriff has effectively ground to a permanent halt, petitioner Arthur West ceded Thursday.

"The fat lady is singing," West, an Olympia resident and frequent litigant, said in a phone call.

West's charge stemmed from a statement the Thurston County Sheriff's Office released the same day the state Secretary of Health issued a mandate for all residents to wear face coverings in most public spaces. The order was issued as part of the state's ongoing efforts to curb the spread of COVID-19.

Under the order, violators could face a fine of up to \$100 or spend up to 90 days in jail. However, Gov. Jay Inslee said he anticipated broad compliance.

"We don't want to have enforcement of this," Inslee said at a press conference. "Ideally there won't be any criminal or civil sanctions for individuals."

Snaza in the news release recommended everyone exercise "safe and precautionary measures," including "wearing masks around those in high-risk groups," but said deputies [wouldn't criminally enforce](#) the order.

They would instead engage with people “when appropriate” and educate them.

“Due to the minor nature of this offense, and the possibility for a negative outcome during an enforcement encounter and various ways in which the order may be violated, it would be inappropriate for deputies to criminally enforce this mandate,” his statement read.

[The statement](#) also included that deputies would not be required to wear face coverings, and the decision whether or not to wear them would be left up to individual deputies depending on their situation.

In his charge filed with the Thurston County Auditor July 2, West alleged that Snaza’s “refusal to perform the duties of his office” impeded officials’ efforts to protect the public.

Snaza’s oath of office requires adherence to the law, West wrote, but he instead “in effect exercised improper veto power over the enforcement provision of a State Order in a manner that has and will encourage citizens to disregard it.”

The county’s senior deputy prosecuting attorney representing Snaza at the Superior Court hearing said the word “may” in the order gave the sheriff discretion, and the way the sheriff exercised that discretion wasn’t “manifestly unreasonable” because he intended to educate, The Olympian previously reported.

Judge Dalton found West’s charge factually and legally sufficient.

“An absolute, unilateral refusal to honor the legislators and the secretary of the Department of Health is a classic violation of the oath to follow the law,” Dalton said while issuing the ruling. “So, for that reason, I am granting the petition.”

An approved ballot synopsis included allegations that Snaza was interfering with the state order by refusing to enforce it, “impeding and undermining the public’s trust” in authorities trying to protect the public during the pandemic, committed “an unlawful act” by violating the governor’s orders that reference and enforce the masking order, and is “intentionally or unintentionally” not performing a duty of his office.

Snaza [appealed the Superior Court’s decision to the Supreme Court](#), which found that, while Snaza had a duty to enforce the order, he’s not required to criminally enforce it.

“The plain language of the Order gives law enforcement officers discretion — it states that violators *may* be subject to criminal penalties,” the 13-page opinion penned by Raquel Montoya-Lewis reads.

Snaza had discretion, the court concluded, and “such discretion is fundamental to his office.”

If a recall charge is based on a discretionary act, according to the opinion, it's legally sufficient if the official exercised their discretion in a "manifestly unreasonable manner."

Snaza didn't actually announce a "blanket refusal" as West characterized, the Supreme Court found. He declined to criminally enforce the order, but didn't denounce it or encourage people to violate it.

That contrasts this case with the petition to recall Snohomish County Sheriff Adam Fortney for publicly refusing to enforce the governor's stay-home order, the court noted in a footnote. The Supreme Court [has decided three charges can proceed](#) in that recall effort.

Fortney announced that he didn't intend to carry out enforcement of the order, the footnote reads, claimed the order was unconstitutional, and encouraged businesses to remain open.

The opinion points to parts of Snaza's news release, including that he explained how his decision to not criminally enforce the mandate upholds public safety, and that he agreed wearing a mask is intended to protect public health and safety.

"COVID-19 is transmitted through respiratory droplets when people are in close proximity, so Snaza's refusal to criminally enforce the Order is not manifestly unreasonable because an interaction between police and an unmasked person for the purposes of issuing a citation or arrest increases the risk of transmission," it reads. "Therefore, Snaza's exercise of discretion was not manifestly unreasonable, and the charge is legally insufficient."

The court reversed the Superior Court's ruling and sent it back to the court with instructions to dismiss the petition.

West said Thursday that he is disappointed in the ruling, and pointed to outbreaks of COVID-19 at the Thurston County jail and Snaza's own contraction of the coronavirus as "real world consequences" for not taking the mask mandate seriously.

"I understand their legal basis for it, but I think this sets a very bad precedent for the state in that there's a lot of sheriffs who ... refuse to enforce this in any way, and I think this will just encourage them to not enforce this," he said.

Reached by phone Thursday, Snaza said he was "appreciative that the courts took the time to look at it" and didn't "pigeonhole" him. In hindsight, he said, he thinks he should've said the office would "exercise its discretion."

"I was glad to see that Supreme Court didn't take it as literal" as the Superior Court judge, he said.

Snaza has served in his position since 2010 and was most recently [re-elected in 2018](#), after running uncontested. His current term expires in 2022.



Thurston County Sheriff John Snaza was vacationing in Montana in August 2016 when he was involved in a near-fatal motorcycle crash. Snaza was not wearing a helmet since it is not mandatory for adult riders in that state. Steve Bloom The Olympian

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