

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

ALAN PARMELEE,

No. 25880-7-III

Appellant,

Division Three

M. Abbott, C. Abet, C. Abernathy, A.
Adams, L. Adams, T. Adams, T. Ahlers,
M. Aichele, J. Aiyeku, G. Akins, C.
Alaniz, R. Alaniz, G. Alden, J.
Alejandre, D. Alexander, C. Allen, B.
Allessio, R. Alexander, T. Allington, A.
Alvarado-Jackson, C. Anderson, K.
Anderson-Bennett, M. Andring, A.
Angotti, J. Anthony, M. Arbuckle, A.
Arieta, J. Armes, E. Armes, M. Arroyo,
R. Armstrong, J. Atteberry, J. Atwood,
J. Avery, D. Avila, A. Ayala, D. Aycock,
A. Bailey, J. Bailey, R. Baker, S.
Barker, D. R. Base Sr., D.R. Base II, J.
Base, M. Bates, E. Baumann, C.
Baustian, D. Bayer, R. Beal, S. Beck, K.
Belanger, L. Belanger, R. Belknap, G.
Benavides, D. Bendixsen, D. Benfield,
A. Bennett, J. Bennett, T. Bennett, G.
Benson, J. Bickford, W. Biddiscombe,
L. Biegler, G. Birdwell, K. Birdwell, B.
Bisconer, K. Blevins, K. Blodgett, C.
Bly, D. Bly, T. Bohanan, G. Booth, R.
Bowe, C. Bowman, M. Bradley,

UNPUBLISHED OPINION

R. Branscum, D. Brashear, G.
Brashear, D. Breland, K. Brodhead, G.)
Brooks, A. Brown, F. Brown, G. Brown,)
J. Brown, K. Brown, T. Brown, W.)
Brown, C. Bruce, C. Bull, K. Burns, J.)
Burres, E. Burt, J. Burt, K. Burt, M.)
Butler, S. Calkins, H. Callahan, C.)
Campo, J. Campos, T. Card, F.)
Carranza, S. Carrol, A. Casey, C.)
Carson, J. Casbeer, R. Case, E.)
Castillo, C. Caughron, J. Cavaness, J.)
Cerna, M. Chaffey, R. Chaney, T.)
Chaney, J. Chappell, D. Chlipala, D.)
Christensen, J. Christy, C. Clark, G.)
Clark, L. Clark, M. Clark, B. Clarke, B.)
Clifton, K. Clough, D. Coble, J. Coers,)
J. Coleman, L. Coleman, I. Colin, J.)
Coll, R. Collins, W. Cooke, D. Cooke,)
C. Cooper, J. Coon, K. Corn, R.)
Cornell, D. Cotton, H. Coty, J.)
Courtney, C. Covarrubias, C. Cowden,)
J. Craig, M. Craig, T. Cramer, E.)
Crewse, S. Crider, L. Cross, R. Cross,)
M. Crouser, C. Crow, A. Cruz, W.)
Cytanovich, J. Daggett, E. Dahlin, D.)
Danly, D. Daudt, K. L. Davenport, K. D.)
Davenport, H. Davin, H. Davis, K.)
Davis, E. Day, S. De Leon, H. Delgado,)
D. Delp, J. Demory, D. Desmond, R.)
Desmond, D. Destito, J. Devereaux, J.)
Devoir, J. Dill, R. Dilla, R. Dixon, R.)
Dodd, T. Dodds, D. Doll, B. Done, E.)
Downs, B. Draskovic, D. Dugger, A.)
Dunleavy, J. Dunleavy, G. Eaton, F.)
Edinger, A. Egan-Fields, S. Elliott, D.)
Ellison, C. Emerick,)

W. End, T. Entrop, K. Erb, R. Erbenich,
B. Erickson, E. Erickson, Ed. Escapule,)
Er. Escapule, L. Estes, M. Estes, D.)
Evans, P. Fairley, R. Farrow, T. Fauver,)
D. Fedderson, C. Ferris, R. Fields, A.)
Figueroa, Jo. Fischer, Ju. Fischer, D.)
Fleenor, S. Fleenor, A. Flores, K.)
Forbes, K. Forss, R. Forss, M. Forster,)
B. Fraire, B. Franklin, H. Freer, C.)
French, M. French, S. Frerichs, N.)
Frost, J. Fry, T. Gabel, D. Gaines, R.)
Gaines, S. Gaines, V. Gaines, L.)
Gallagher, K. Galleher, F. Galloway, D.)
Gannaway, E. Garcia, T. Garcia, B.)
Garner, H. Garrison, M. Garza, V.)
Gasaway, J. Gascon, L. Gerber, R.)
Gibson, D. Gies, T. Gies, C. Gillespie,)
D. Gleason, P. Gleason, A. Gonzalez,)
M. Gonzalez, B. Goodwin, R. Goodwin,)
S. Goucher, D. Goude, F. Gould, O.)
Gould, T. Gould, B. Graham, C. Gray,)
C. Grimes, K. Grindrod, T. Grindstaff,)
M. Grogan, J. Guzman, M. Hager, S.)
Hahn, W. Hale, S. Haling, B. Hall, S.)
Hail, J. Hallsted, C. Hamada, J.)
Hamada, W. Hamby, B. Hamilton, C.)
Hamm, M. Hanan, J. Hanes, R. Hansen,)
B. Hanson, W. Hanson, T. Harmon, S.)
Harmon, S. Harris, J. Hartford, B.)
Hatley, C. Havens, T. Head, R.)
Heilbrun, W. Heimann, L. Heinkel, E.)
Heird, R. Henderson, B. Hendrix, B.)
Henry, L. Herbst, M. Hill, G. Hill, R.)
Hillis, M. Hinojosa, K. Hobbs, H.)
Hobson, C. Hoerner, G. Hoffman,)
)

D. Holbrook, D. Holevinski, T.
Hollingsworth, J. Hoppen, D. Hoppen,)
R. Hossack, M. House, C. Howard, L.)
Howerter, R. Howerton, S. Hubbs, A.)
Hubbard, R. Hubbard, R. Huett, D.)
Humphrys, J. Hurley, S. Hussey, D.)
Hutcherson, A. Hutchins, S. Hutchins,)
M. Huwe, F. Ivey, G. Isitt, S. Isitt, D.)
Jackson, K. Jackson, R. Jackson, S.)
Jacobson, R. Jacobson, J. James, M.)
James, G. Jamieson, L. Jantz, D.)
Jansen, R. Janzer, N. Jarvis, G.)
Jennings, C. Jensen, R. Jensen, C.)
Jernee, K. Jergensen, A. Jesberger, K.)
Jessee, F. Jimenez, C. Johnson, L.)
Johnson, M. Johnson, C. Jones, L.)
Jones, R. Jones, C. Jordan, E. Jordan,)
K. Jordan, S. Karlson, S. Kearsley, B.)
Kelly, S. Kelsey, K. Kiesz, D. Kimball,)
J. King, M. King, P. King, S. King, B.)
Kinman, M. Klundt, R. Knight, M.)
Knighton, C. Knoefler, K. Knowlton, L.)
Kohler, D. Kozachenko, R. Krause, M.)
Kucza, A. Kunz, K. Lackey, M. LaDuke,)
C. Lane, M. Lane, J. Lang, R.)
Lauterberg, B. Lechner, A. Lee, H. Lee,)
A. Lenz, J. Leonard, F. Leonetti, D.)
Lepiane, K. Leroue, S. Lesieur, L.)
Lewis, D. Lien, R. Lindsay, L. Lindsey,)
J. Linsey, L. Literal, M. Litchfield, R.)
Locati, W. E. Loevenstein II, G. Logan,)
W. Logan, C. Logsdon, C. Loiacono-)
Brownell, M. Loiacono, A. Lomeli, L.)
Loper, S. Lowder, K. Loyd, G. Lugo, T.)
Lugo, D. Lundgren, L. Lundgren,)
)

S. Lyons, B. Maguire, L. Maguire, E.
Mantel, W. Marcum, M. Marion, S.)
Martin, J. Mason, P. Mathison, E.)
McAlvey, D. McCaw, J. McDonald, P.)
McKeown, D. McKinney, C.)
McLaughlin, J. McMann, B. McNeil, E.)
Medutis, M. Mele, M. Melton, T. Melton,)
R. Mendiola, E. Mendoza Jr., L. Merrill,)
K. Mesplie, C. Meyer, J. Meyer Jr., Mi.)
Meyer, G. Meza Jr., R. Michael, J.)
Miles, A. Miller, C. Miller, J. Miller, K.)
Miller, S. Miller, C. Mills, S. Mings, T.)
Mink, K. Mitchell, M. Mitchell, B. Moller,)
A. Monroe, A. Montoya, R. Moon, B.)
Moore, P. Moore, R. J. Morgan, D.)
Morris, D. Morrisette, F. Morrisette, T.)
Morrison, R. Moss, M. Moss, J.)
Moulton, C. Munden, J. Munden, J.)
Munger, S. Murphy, D. Murray, L. Neill,)
Da. Neissl, De. Neissl, E. Neissl, H.)
Neissl, J. Neissl, M. Neissl, P.)
Neiswonger, J. Nelson, J. Nettles, S.)
Nettles, J. Neuschwander, B. Newell,)
E. Newton, R. Newton, K. Nichols, S.)
Neisner, Car. Noal, Cat. Noal, S. Noirot,)
J. Nored, D. O'Brien, D. Ocanaz, L.)
Ocanaz, P. O'Connor, C. Odell, C.)
Olivares-Garcia, E. Oliver, S. Oliver, R.)
Ornelas, D. Overturf, M. Owens, P.)
Owens, M. Palmer, J. Palomo, J.)
Partlow, R. Parr, R. Partridge, B.)
Patzkowski, T. Paolino, G. Parent, L.)
Paul, T. Paul, Ch. Pease, C. Pease, M.)
Peck, D. Peddicord, J. Peddicord, G.)
Penrose, H. Penrose, R. E. Percifield,)
P. Perrin, J. Phillips, G. Pierce,)
)

R. Pierce, J. Pies, R. Piver, A. Ponti, K.
Ponti, M. Ponti, S. Ponti, W. Ponti, K.)
Potter, C. Potts, K. Powers, R. Poynter,)
L. Price, E. Pryor, L. Pryor, N. Puckett,)
R. Queen, J. Quintal, K. Quintal, A.)
Ralls, E. Ralls, M. Ramirez, G.)
Randolph, S. Randolph, T. Redden, C.)
Reddish, M. Reddish, B. Renwick, C.)
Reiswig, T. Reiswig, M. Reyes, M.)
Reynolds, B. Rhodes, G. Richardson,)
J. Richmond, K. Riggin, P. Rima, A.)
Rippy, A. Roberson, D. Roberts, L.)
Roberts, D. Robertson, G. Robinson,)
K. Robinson, J. Robles, J. Rock, C.)
Rockwell, K. Rodgers, T. Roe, R.)
Roeder, R. Rogers, V. Rogers, F.)
Romine, J. Roop, J. Rorden, L. Rose,)
R. Rosendahl, Re. Royse, Ro. Royse,)
Jor. Ruiz, Jos. Ruiz, M. Salter, S.)
Samitore, R. Sampson, G. Sams, J.)
Sams, R. Sanchez, B. Sandau, L.)
Scamahorn, C. Schmidt, F. Schmits, J.)
Schuetze, T. Scott, H. Scudder III, S.)
Segraves, A. Serven, R. Serven, B.)
Shaffer, C. Shampine, T. Shannon, R.)
Shannon, J. Shelton, R. Shumate, S.)
Sinclair, A. Siller, S. Siller, D. Skidgell,)
R. Slack, A. Slusser, P. Small, A. Smith,)
C. Smith, D. Smith, G. Smith, J. Smith,)
K. Smith, M. Smith, T. Smith, W. Smith,)
D. Snell, H. Snively, Da. Snyder, J.)
Snyder, M. Southern, R. Spence, S.)
Spencer, R. Spurgeon, K. Steinback, L.)
Steinback, J. Steinloski, C. Sterlin, S.)
Stodola, L. Stokes, S. Stokes, G.)
Stuart, R. Stone, J. Strang, M. Strang,)
)

K. Suckow, S. Suckow, S. Sullivan, J.
Sumerlin, C. Sumpter, S. Sundberg, D.)
Surry, R. Swanson, D. Swensen, V.)
Sword, S. Taylor, P. Teske, B.)
Thompson, D. A. Thompson, D. G.)
Thompson, D. S. Thompson, C.)
Thorpe, E. Tillotson, G. Timms, J.)
Torrescano, B. Treadway, D.)
Treadwell, C. Trembley, M. Turley, B.)
Turner, M. Unck, C. Ungerecht, J.)
Uttecht, E. Viliaro, D. Wagner, M.)
Wagner, N. Waldo, D. Walker, J.)
Walker, K. Walker, V. Walker, M. Wall,)
C. Wallingford, P. Wallingford, D.)
Waltman, B. Ward, R. Ward, R.)
Wardlaw, F. Warneka, S. Warren, T.)
Warren, D. Watko, F. Watko, L.)
Watson, W. Watson, J. Watts, L. Watts,)
C. Weaver, D. Weaver, L. Weaver, R.)
Weaver, S. Weaver, T. Weaver, L.)
Weber, S. Weber, M Weispfenning, D.)
Wells, D. West, A. Westerbur, M.)
Whalen, A. Wheeler, B. Wheeler, W.)
Whipple, B. White, M. White, C.)
Whitmore, K. Wickham, E. Wilbur, R.)
Wilcox, J. Williams, M. Williams, R.)
Williams, W. Williams, A. Wilson, C.)
Wilson, K. Wilson, T. Wilson, K.)
Winger, P. Winters, W. Wood, D.)
Wooton, S. Worden, L. Yobbagy-Finn,)
L. Young, M. Zaragoza, R. Zaragoza, D.)
Zarndt, K. Zehner, W. Zier,)
)

D. Zipf, T. Zohner, M. Zuercher, W. Zuecher, R. Zuver,	)
	)
Respondents,	)
v.	)
	)
WASHINGTON STATE DEPARTMENT OF CORRECTIONS,	)
	)
Respondent.	)
	)

Brown, J. — Allan Parmelee, a Washington State Penitentiary (WSP) inmate, appeals the trial court’s ruling, denying his intervention in a Public Records Act (PRA), chapter 42.56 RCW, suit to enjoin release of personal information of certain Department of Corrections (DOC) employees that Mr. Parmelee had earlier requested. The trial court enjoined the information release and denied Mr. Parmelee’s request to intervene. We stayed this case awaiting *Burt v. Department of Corrections*, 168 Wn.2d 828, 838, 231 P.3d 191 (2010) (*Burt II*), a strikingly similar case. Following *Burt*, we vacate the injunction because Mr. Parmelee was not joined as a necessary party.

FACTS

Unless otherwise indicated, the following facts derive from *Burt II*. In 2004, a jury found Mr. Parmelee guilty of two counts of first degree arson for the fire-bombing of two automobiles belonging to attorneys opposing him in two separate civil legal

actions. Before the first attack, Mr. Parmelee posted the attorneys' home addresses on a website he created to complain about court rulings in his custody and dissolution dispute with his former wife. On that website, Mr. Parmelee invited other disgruntled fathers to "pay [the attorneys] a visit." *DeLong v. Parmelee*, 157 Wn. App. 119, 132, 236 P.3d 936 (2010) (concerning documents requested by Mr. Parmelee while incarcerated at Clallam Bay Correctional Center).

In October 2004, Mr. Parmelee, now an inmate at WSP, requested the disclosure of documents containing information for several DOC employees at WSP. Mr. Parmelee sent his request to Ms. Megan Murray, DOC's public disclosure coordinator. On December 22, 2004, Ms. Murray informed Mr. Parmelee that, because the affected employees planned to seek injunctive relief, the DOC would not release the documents Mr. Parmelee requested until a hearing date was scheduled and a decision was made by the Walla Walla Superior Court.

In January 2005, 11 DOC employees sued DOC, seeking a protective order on privacy grounds. Although the employees signed the complaint, they gave no addresses. Four additional plaintiffs were added by amended complaint without their addresses. The employees did not name Mr. Parmelee as a party to the lawsuit. In a February 1, 2005 letter, Ms. Murray informed Mr. Parmelee the hearing for the lawsuit was set for February 22, 2005. In the letter, Ms. Murray stated she would notify Mr.

Parmelee of the hearing outcome.

In March 2005, DOC moved for an order granting the protective order requested by its employees. At the hearing, the trial court permanently enjoined the release of the requested records: Mr. Parmelee, the requester, was never joined in the lawsuit.

Two weeks later, Mr. Parmelee received a copy of the trial court's order and notice that the trial court denied his PRA request. Following this notice, Mr. Parmelee filed a limited notice of appearance seeking to intervene and requested that the trial court reconsider. He also argued the plaintiffs' addresses were erroneously absent from the pleadings. The trial court denied his motion. Mr. Parmelee appealed, arguing, among other things, his joinder in the action was mandatory under CR 19. *Burt v. Dep't of Corr.*, 141 Wn. App. 573, 170 P.3d 608 (2007) (*Burt I*).

While the *Burt I* appeal was pending, numerous other employees petitioned to enjoin DOC from releasing their personal information to Mr. Parmelee, including M. Abbott. An amended petition was later filed with the signatures of the petitioners. The court granted the employees' request, enjoining DOC from releasing any of the petitioners' personal or personnel information. Mr. Parmelee separately appealed.

This court affirmed the trial court, concluding "Mr. Parmelee was not needed for a just adjudication, nor was he needed in equity and good conscience to proceed." *Burt I*, 141 Wn. App. at 580. Our Supreme Court granted Mr. Parmelee's request for review and this court stayed this case because of issue similarity. The Supreme Court

reversed, holding “the trial court (pursuant to CR 19(a)) should have joined Mr. Parmelee because he was a necessary party whose joinder was feasible.” *Burt II*, 168 Wn.2d at 836. The Court noted, “Since we hold that, under CR 19, the requester is an indispensable party (i.e., one whose joinder is mandatory), we need not address the other issues argued by the parties.” *Id.* at 837 n.6. This court then lifted the stay of this appeal.

ANALYSIS

The issue is whether Mr. Parmelee’s joinder is required under CR 19. Mr. Parmelee contends he should have been joined in the injunction proceeding because he was a necessary party whose joinder was feasible.

The interpretation of a court rule is a question of law reviewed de novo. *Nevers v. Fireside, Inc.*, 133 Wn.2d 804, 809, 947 P.2d 721 (1997). Additionally, an agency’s action under chapter 42.56 RCW is reviewed de novo. *Soter v. Cowles Publ’g Co.*, 162 Wn.2d 716, 731, 174 P.3d 60 (2007).

CR 19 concerns mandatory joinder. CR 19(a) provides in relevant part: “A person . . . shall be joined as a party in the action if . . . he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may . . . as a practical matter impair or impede his ability to protect that interest.” In deciding whether a person must be joined, we undertake a two-part analysis. “First, the court must determine whether a party is needed for just

adjudication.” *Gildon v. Simon Prop. Group, Inc.*, 158 Wn.2d 483, 494-95, 145 P.3d 1196 (2006) (quoting *Crosby v. City of Spokane*, 137 Wn.2d 296, 306, 971 P.2d 32 (1999)); CR 19(a). ““Second, if an absent party is needed but it is not possible to join the party, then the court must determine whether in “equity and good conscience” the action should proceed among the parties before it or should be dismissed, the absent party being thus regarded as indispensable.” *Id.* (quoting *Crosby*, 137 Wn.2d at 306-07); CR 19(b).

The *Burt II* Court recognized a requester in a PRA injunction has an interest in the subject of the action. 168 Wn.2d at 834-35. “The stated purpose of the PRA is to protect the public’s interest in being able to obtain public records. Without an advocate for the release of the requested records, this purpose can be frustrated.” *Id.* at 835. The Court went on to hold, “It was the right of Mr. Parmelee to request these records, and it was the right of Mr. Parmelee to seek to protect his interest and the public’s interest in seeking these records.” *Id.* The Court then held, “Mr. Parmelee was a necessary party whose joinder was mandatory under CR 19(a), and the failure to join requires that the judgment be vacated and the case remanded for proper joinder.” *Id.* at 836-37.

Our facts closely resemble the facts in *Burt II*. We, therefore, follow the Court’s holding in *Burt II*. Mr. Parmelee was a necessary party whose joinder was mandatory under CR 19(a). We vacate the injunction and remand to allow his joinder. Because

he should have been joined as an indispensable party, we, like the Supreme Court, do not reach his intervention challenge under CR 24. See *Burt II*, 168 Wn.2d at 837 n.8.

Mr. Parmelee argues DOC employees violated CR 11 for deficient pleadings and RCW 42.56.540 for lack of specificity. Mr. Parmelee, however, will have the opportunity to object to the pleadings below after being joined as a necessary party.

Mr. Parmelee requests dismissal of all DOC employees from this appeal for failure to respond. The penitentiary employees did not respond individually, but on March 4, 2008, counsel for the Washington State Penitentiary Employee Association filed a notice to join in DOC's brief on behalf of the employees. Nevertheless, since the injunction must be vacated in *Burt II*, this motion is now moot. See *Orwick v. City of Seattle*, 103 Wn.2d 249, 253, 692 P.2d 793 (1984) (an issue is moot if a court can no longer provide effective relief). Even assuming the employees were required to respond individually, we cannot provide relief since the matter is reversed.

ATTORNEY FEES

Mr. Parmelee requests attorney fees and costs under RCW 42.56.550(4) and in equity. Under RCW 42.56.550(4), "Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record . . . shall be awarded all costs, including reasonable attorney fees." Because it has not yet been determined if Mr. Parmelee will prevail on his PRA request, it would be premature to award fees. Washington courts have awarded fees for equitable reasons when a party

No. 25880-7-III
Abbott v. Dep't of Corr.

prevails in quashing a wrongful injunction. *Burt II*, 168 Wn.2d at 838 (citing *Cecil v. Dominy*, 69 Wn.2d 289, 418 P.2d 233 (1966)). But no wrongful determination has yet been made. Thus, an award of fees in equity is premature.

Injunction vacated; remanded for Mr. Parmelee's joinder as a necessary party.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Brown, J.

WE CONCUR:

Korsmo, A.C.J.

Sweeney, J.