

IN THE SUPREME COURT OF THE STATE OF OREGON

West Linn-Wilsonville School District 3JT, a political subdivision of the State of Oregon,  
Plaintiff-Adverse Party,

v.

City of West Linn, Oregon, a municipal entity,  
Defendant-Relator.

Clackamas County Circuit Court  
22CV06982

S071304

**ORDER ALLOWING PETITION FOR PEREMPTORY WRIT OF MANDAMUS**

Upon consideration by the court.

Relator City of West Linn has sought a petition for writ of mandamus challenging the trial court's ruling that granted adverse party's first motion *in limine* and excluded all residents of the City of West Linn from the jury venire.

Under ORCP 57 D(1)(g), jurors may be excused for actual bias only when the court is "satisfied, from all of the circumstances, that the juror cannot \* \* \* try the issue impartially." That standard cannot be satisfied by the court's categorical assumption that all residents of the City of West Linn lack the ability to try the issue impartially and without prejudice. *See also State v. Lotches*, 331 Or 455, 474, 17 P3d 1045 (2000), *cert den*, 534 US 833 (2001) (stating that the trial court determines excusal for actual bias "by looking at the totality of the potential juror's voir dire testimony to discern whether it suggests the probability of bias" (internal quotation marks omitted)).

The petition for writ of mandamus is allowed. The court directs the State Court Administrator to issue a peremptory writ directing the trial court to vacate the ruling granting the first motion *in limine* and to enter an order denying the motion.

Relator's emergency motion for stay is dismissed as moot.



Meagan A. Flynn  
Chief Justice, Supreme Court  
August 9, 2024

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Garrett, J., dissenting.

Duncan, J., not participating.

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**DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS**

Prevailing party: Relator.

No costs allowed.

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c: David Bowser  
Erica A Clausen  
Bruce L Campbell  
Jacob A Zahniser  
Ian M Christy  
Sophia Christine von Bergen  
Chris Dolan  
Hon. Susie L. Norby

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