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REFERENDA - MISSOURI

American Civil Liberties Union of Missouri v. Ashcroft

Missouri Court of Appeals, Western District - July 8, 2019 - S.W.3d - 2019 WL 2911365

Non-profit civil liberties organization that sought referendum vote on legislation related to regulation of abortions filed petition against state officials requesting temporary restraining order and injunctive and declaratory relief from rejection of referendum petition sample sheet.

The Circuit Court dismissed the petition with prejudice. Organization appealed.

The Court of Appeals held that:

- As a matter of first impression, Secretary of State's authority to review sample sheet is limited to determining whether the sample sheet is substantially in the form required by statute;
- Secretary had no authority to reject sample sheet on constitutional grounds;
- Organization could seek to compel Secretary to approve sample sheet; and
- Secretary could be compelled by injunctive relief to approve sample sheet.

The Secretary of State's authority to review a referendum petition sample sheet for sufficiency as to form prior to collection of signatures is limited to determining whether the sample sheet is substantially in the form required by statute, and does not extend to substantive or constitutional matters; if the sample sheet substantially complies, the Secretary of State shall deem the sample sheet sufficient.

Secretary of State, in conducting pre-signature review of referendum petition sample sheet submitted by non-profit civil liberties organization seeking referendum vote on legislation related to regulation of abortions, had no authority to reject sample sheet on constitutional grounds; Secretary's pre-signature review authority was limited to determining whether sample sheet was sufficient as to form.

Non-profit civil liberties organization could seek to compel Secretary of State to approve referendum petition sample sheet, although statute setting forth obligations of Secretary to review sample sheet did not impose sanction for noncompliance; whether Secretary's obligation was directory or mandatory was irrelevant since organization was seeking to compel compliance with statute and was not seeking sanctions.

Secretary of State could be compelled by injunctive relief to approve referendum petition sample sheet submitted by non-profit civil liberties organization, regardless of whether writ of mandamus would have been available remedy to organization; organization sought declaration of extent of Secretary's authority to review a sample sheet for sufficiency as to form, an issue that had to be decided before any remedy could be imposed.