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McCarville v. City of Colorado Springs

Colorado Court of Appeals, Div. V. - December 5, 2013 - P.3d - 2013 COA 169

This case presented the question of whether the City of Colorado Springs may enforce its ordinances regulating the process for amending its home rule charter even though the State has also enacted a statute regulating this matter.

McCarville filed with the City clerk a letter demanding to petition the City's electors to amend its charter. He attached a draft of his charter amendment, which addressed several municipal issues, including: (1) the salaries and terms of office of City officials; (2) future election dates as to various City offices; and (3) the salary, qualifications, and number of municipal court judges.

McCarville also announced his refusal to participate in the procedures applicable to citizen initiatives outlined by the City's ordinances (e.g., attend a public meeting). He asserted, among other things, that the City's procedures apply only to initiatives to enact ordinances and not those to amend the charter. McCarville demanded that he be allowed to immediately begin collecting the signatures necessary to place his charter amendment on the ballot. Notwithstanding his demand, the clerk followed the City ordinance and scheduled his draft initiative for a public meeting with the City's Initiative Review Committee.

Rather than participate in the City's process, McCarville filed an action in the district court. He asked the court to declare that the City's ordinances related to citizen-initiated charter amendments conflict with the Colorado Constitution and related statutes. He also requested injunctive relief. The City moved for summary judgment on the ground that its process for initiated charter amendments is consistent with the applicable constitutional and statutory provisions. The district court granted the City's motion, and McCarville appealed.

McCarville contended that the City's ordinances related to charter amendments violate the Colorado Constitution because the constitution permits only the General Assembly to legislate on this matter. He argued further that the ordinances conflict with the relevant statute, section 31-2-210, C.R.S.2013. In response, the City maintained that, as a home rule municipality, it may enact ordinances addressing the charter amendment process because: (1) this is a matter of local concern or (2) this is a matter of mixed state and local concern, and its ordinances do not conflict with the statute.

The court concluded that both the State and the City may legislate on the matter of amendments to a home rule charter so long as their legislation does not conflict.

In this case, the court held that the City's ordinances pertaining to a citizen-initiated charter amendment do not conflict with the state statutes because the process set forth by City ordinances precedes and complements the procedure outlined by statute.

