

Bond Case Briefs

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BALLOT INITIATIVES - OHIO

State ex rel. Walker v. Husted

Supreme Court of Ohio - September 16, 2015 - N.E.3d - 2015 WL 5448584 - 2015 -Ohio-3749

Relators sought writ of mandamus to compel Secretary of State to reverse his decision sustaining protests against counties' petitions to adopt charters and compel placement of charter measures on ballots.

The Supreme Court of Ohio held that:

- Secretary lacked authority to invalidate petitions based on his own determination that measures were unconstitutional, if enacted;
- Secretary acted within his discretion in determining that petitions were invalid on ground that they failed to set forth form of government; and
- Relators' affidavits failed to comply with requirement that they be made on personal knowledge.

Secretary of State lacked authority to invalidate proposed county charter petitions based on his own assessment that measures, if enacted, unconstitutionally interfered with State's exclusive authority to regulate oil and gas operations by effectively banning high-volume hydraulic fracking as method of oil and gas extraction, and in some cases prohibiting new gas or oil exploration or extraction.

Secretary of State acted within his discretion when he determined that proposed county charter petitions were invalid on ground that they did not set forth the form of government. Although purporting to maintain the status quo on matters of county offices, officers, and their duties, and manner of election, proposed charters did not provide the form of government of the county or determine which of its officers would be elected and the manner of their election, thus requiring reference to sources outside the proposed charters to determine the form of government they purported to establish.

Affidavits by relators that were all made "to the best of my knowledge, information, and belief" were insufficient to comply with requirement that affidavits in original actions must be made on personal knowledge, in mandamus action seeking to compel Secretary of State to reverse decision sustaining protests to proposed county charter petitions and compel placement of charter measures on ballots.