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Citizens in Charge, Inc. v. Husted

United States Court of Appeals, Sixth Circuit - January 19, 2016 - F.3d - 2016 WL 210313

Three non-profit organizations brought action against Ohio Secretary of State, seeking declaration that Ohio's statutory petition-circulator residency requirement violated the First and Fourteenth Amendments, an injunction prohibiting its enforcement, and damages against the Secretary.

The United States District Court declared the statute unconstitutional, enjoined enforcement of it, and denied Secretary's qualified immunity defense. Secretary appealed the qualified immunity ruling.

The Court of Appeals held that Secretary did not violate clearly established law or otherwise act unreasonably by enforcing statute requiring circulators of initiative-petitions to be Ohio residents, and thus Secretary was entitled to qualified immunity from money-damages liability in action challenging the residency requirement on First Amendment grounds.

Other circuits issued conflicting decisions on constitutionality of residency requirements for circulators, when Secretary enforced statute no court had held it to be unconstitutional, and although prior version of statute was held unconstitutional, the new statute was more narrowly tailored and differed from the prior statute in several ways.