

Bond Case Briefs

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INITIATIVE / REFERENDUM - KANSAS

State ex rel. Schmidt v. City of Wichita

Supreme Court of Kansas - January 22, 2016 - P.3d - 2016 WL 275298

State brought action in quo warranto, seeking writ declaring null and void a city ordinance that reduced severity level of first-offense convictions for possession of 32 grams or less of marijuana and/or related drug paraphernalia from misdemeanor to “infraction” when offender was 21 years of age or older.

The Supreme Court of Kansas held that:

- The Court would maintain jurisdiction;
- Court would decline to determine whether ordinance was unconstitutional under Home Rule Amendment; and
- Proponents of ordinance failed to comply, absolutely or substantially, with requirement that proposed ordinance be filed with city clerk.

Supreme Court would maintain jurisdiction in quo warranto action, in which the State challenged city ordinance that reduced severity level of first-offense convictions for possession of 32 grams or less of marijuana and/or related drug paraphernalia from misdemeanor to “infraction” when offender was 21 years of age or older. Possible conflict between criminal statutes of the state and ordinance and possible significance of failure to comply with language of statute authorizing people to submit proposed law directly to city’s governing body were questions of sufficient public concern to warrant potential relief in quo warranto.

Supreme Court would decline to determine whether city ordinance was unconstitutional under Home Rule Amendment, where procedural issue as to proper filing of the ordinance prior to its enactment was determinative of the case, so that any consideration of substantive constitutional issue could have resulted in mere advisory opinion on constitutionality.

Proponents of proposed ordinance regarding punishment for first-offense convictions related to marijuana, by filing petition with city clerk, but only posting ordinance on its website and averring merely that ordinance was widely publicized in the media and that at least two members of city council had copies of the ordinance, failed to comply, absolutely or substantially, with requirement that ordinance and petition be filed together with city clerk. Submission of the petition alone left doubt as to validity of proponent’s support, and failure to file ordinance impaired city council’s ability to become fully aware of what could have become unalterable law and deprived electorate of opportunity for full awareness before voting.