

Bond Case Briefs

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REFERENDA - OHIO

State ex rel. McCann v. Delaware County Board of Elections

Supreme Court of Ohio - August 21, 2018 - N.E.3d - 2018 WL 4026314 - 2018 -Ohio- 3342

Protestors filed petition for writ of prohibition, seeking to prevent county board of elections from placing a township zoning referendum on the general election ballot.

The Supreme Court of Ohio held that:

- County board of elections exercised quasi-judicial power, as would support petition for writ of prohibition;
- Protesters lacked adequate remedy at law, as would support petition for writ of prohibition; and
- Part-petition failed to comply with statute governing signing of referendum petitions, and thus signatures were invalid.

County board of elections exercised quasi-judicial power, as required for protesters to obtain writ of prohibition preventing board from placing township zoning referendum on general election ballot, when board denied protest to referendum petition after a hearing that included sworn testimony.

Protesters lacked adequate remedy at law, as required for them to obtain writ of prohibition preventing county board of elections from placing township zoning referendum on general election ballot, due to proximity of election, which was less than four months from filing of prohibition action.

Part-petition for placement of township zoning referendum on general election ballot, on which fellow circulator, not actual circulator, wrote number of witnessed signatures, failed to comply with statute requiring that "the circulator shall indicate the number of signatures contained on" each petition paper, and thus signatures were invalid, though fellow circulator wrote number of signatures in actual circulator's presence, with his knowledge, in response to his request for assistance, and before part-petition left his possession; part-petition did not strictly comply with statute, and even if statute could be liberally construed, part-petition form issued by Secretary of State, which was entitled to deference, stated that it "[m]ust be completed and signed by the circulator."