

# **Bond Case Briefs**

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## **REFERENDA - OHIO**

### **State ex rel. Nauth v. Dirham**

**Supreme Court of Ohio - August 26, 2020 - N.E.3d - 2020 WL 5036052 - 2020 -Ohio- 4208**

Citizens group sought a writ of mandamus directing members of the county board of elections to certify as valid 47 signatures the board had invalidated, thereby qualifying their referendum petition for the November general-election ballot.

The Supreme Court held that:

- Citizens group's mandamus action was not rendered moot;
- Citizens group was not barred from bringing mandamus action challenging the invalidation of signatures on referendum petition based on the doctrine of laches; and
- Citizens group was not entitled to writs of mandamus validating signatures and enabling referendum to be placed on general-election ballot.

Citizens group's mandamus action was not rendered moot, even though they had originally sought to have their referendum included in the November 2019 general-election and that election had passed; the fact that citizens group listed the November 2019 election as the election it sought to have its referendum on the ballot was of no legal significance as the appropriate election date for a valid referendum petition was not a matter of the proponents' choosing and was based on application of statute, and, pursuant to statute, the referendum petition could not appear on the ballot until November of 2020.

Citizens group was not barred from bringing mandamus action challenging the invalidation of signatures on referendum petition based on the doctrine of laches, even though the mandamus action was not filed until five months after county board of elections rejected the petition, as there was no indication the board was prejudiced by the delay because, even if citizens group had acted sooner, the November 2020 election was the earliest election in which the referendum could appear on the general-election ballot, pursuant to statute.

Citizens group failed to establish that county board of elections abused its discretion by not holding a hearing on their protest of the board's invalidation of signatures on their referendum petition; there was no statutory mechanism for a referendum proponent to protest a finding by a board of elections that a petition contained an insufficient number of signatures, and even if the right to have petition signatures properly validated was a protected liberty interest for due-process purposes, a mandamus action provided all the process that relators were due.

Citizens group failed to establish by clear and convincing evidence that any of the 47 signatures on referendum petition that they alleged county board of elections improperly invalidated were invalidated at all, much less that they were invalidated for not matching the alleged signers' voter-registration cards, and thus citizens group was not entitled to writs of mandamus validating the signatures and enabling referendum to be placed on general-election ballot; no evidence was submitted showing which signatures were invalidated by the board, or the reason why the signatures were invalidated.

Citizens group failed to establish by clear and convincing evidence that any of the 47 signatures on referendum petition that they alleged county board of elections improperly invalidated were invalidated at all, much less that they were invalidated for not matching the alleged signers' voter-registration cards, and thus citizens group was not entitled to writs of mandamus validating the signatures and enabling referendum to be placed on general-election ballot.