

Bond Case Briefs

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BALLOT INITIATIVE - TEXAS

Pool v. City of Houston

United States Court of Appeals, Fifth Circuit - October 23, 2020 - F.3d - 2020 WL 6253444

Professional petition circulators brought action challenging city charter provision, which permitted only registered voters who were city residents to circulate petitions for ballot initiatives and referenda.

The United States District Court for the Southern District of Texas sua sponte dismissed the action. Circulators appealed.

The Court of Appeals held that:

- Petition circulators alleged injury-in-fact sufficient to establish standing to challenge city charter provision, and
- Action was not rendered moot.

Professional petition circulators alleged injury-in-fact sufficient to support standing to bring action challenging city charter provision, which permitted only registered voters who were city residents to circulate petitions for ballot initiatives and referenda, as violative of their First Amendment free speech rights; circulators allegedly participated in circulation of numerous petitions in the past and intended to participate in such activity in the future, and there was reasonable threat of city's future enforcement of charter provision, in light of city's prior attempted enforcement and language on the city's petition forms.

Professional petition circulators' action challenging city charter provision, which permitted only registered voters who were city residents to circulate petitions for ballot initiatives and referenda, as violative of their First Amendment free speech rights was not rendered moot by city's placement of "editor's note" on its website indicating that city would accept petitions circulated by individuals who were not city residents and registered voters with a link to a revised petition form for nonresidents, where city council did not formally change the challenged provision or approve the nonresident petition form.