

Bond Case Briefs

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BROWN ACT - CALIFORNIA

Daly v. San Bernardino County Board of Supervisors

Supreme Court of California - August 9, 2021 - P.3d - 2021 WL 3482924 - 21 Cal. Daily Op. Serv. 8047

Disappointed applicant for seat on Board of Supervisors and civic organization filed petition for writ of mandate, naming county Board of Supervisors and members who had participated in appointment of Board member, with appointed member as real party in interest, seeking judicial determination that initial nomination process violated Brown Act.

The Superior Court granted mandate petition. Board and appointed member appealed. The Court of Appeal denied writ of supersedeas effectuating such automatic stay of enforcement pending Board and appointed member's appeal on the merits. Board and appointed member filed joint petition for review asking whether superior court's order should have been automatically stayed as mandatory injunction. Petition for review by Board and appointed member was granted, and judgment and further proceedings below were stayed pending further order.

The Supreme Court held that:

- Superior court order was subject to automatic stay of enforcement pending Board and appointee's appeal on merits, and Board and appointee were entitled to writ of supersedeas effectuating such stay, and
- Quo warranto was available remedy for appointed member of county Board of Supervisors to be immediately excluded from office on claim that nomination process violated Brown Act.

On petition for writ of mandate seeking judicial determination that initial process to nominate applicant for county Board of supervisors position violated Brown Act, superior court order requiring Board to rescind its appointment of applicant as supervisor and instead to seat appointee named by Governor was subject to automatic stay of enforcement pending Board and appointee's appeal on merits, and Board and appointee were entitled to writ of supersedeas effectuating such stay, since requirement to remove appointee from supervisor position and seat Governor's replacement plausibly could not be described as merely incidental to other aspects of order.

Quo warranto was available remedy for appointed member of county Board of Supervisors to be immediately excluded from office on claim that nomination process violated Brown Act