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REFERENDA - OHIO

State ex rel. Hildreth v. LaRose

Supreme Court of Ohio - October 8, 2023 - N.E.3d - 2023 WL 6542737 - 2023-Ohio-3667

Relators sought writ of mandamus compelling Ohio Secretary of State and county board of elections to sustain a protest and remove an initiative from general-election ballot.

The Supreme Court held that:

- Relators lacked an adequate remedy in the ordinary course of the law;
- Petition did not violate election law providing that no alterations, corrections, or additions may be made to a petition after it is filed in a public office;
- Petition violated election law requiring that part-petitions that electors sign are the same ones that are later filed with city auditor; and
- Petition did not comply with election law requiring the title of a proposed ordinance to be included on each part-petition presented to electors.

Relators lacked an adequate remedy in the ordinary course of the law, as would support writ of mandamus to compel Ohio Secretary of State and county board of elections to sustain a protest and remove an initiative from general-election ballot, given proximity of election of approximately one month.

There was no evidence that anyone altered initiative petition after it was filed with city auditor, and thus petition did not violate election law providing that no alterations, corrections, or additions may be made to a petition after it is filed in a public office, such that relators were not entitled to writ of mandamus to compel Ohio Secretary of State and county board of elections to sustain protest and remove initiative from general-election ballot on basis of violation of such election law, even though petitioners had previously filed a certified copy of proposed ordinance with city auditor which differed from petition.

Initiative petition filed with city auditor violated election law prescribing a city auditor's duties after receiving a petition that has been signed by the required number of electors, and which inherently requires that part-petitions that electors sign are the same ones that are later filed with city auditor, by replacing the first page of part-petitions after obtaining signatures, as would support writ of mandamus to compel Ohio Secretary of State and county board of elections to sustain protest and remove initiative from general-election ballot; part-petitions as filed with city auditor were not signed by any electors.

Initiative petition filed with city auditor did not comply with election law requiring that each part-petition presented to electors contain a full and correct copy of the title and text of the proposed ordinance and requiring the title of a proposed ordinance to be included on each part-petition presented to electors, as would support writ of mandamus to compel Ohio Secretary of State and county board of elections to sustain protest and remove initiative from general-election ballot, since each filed part-petition included a title that was not presented to the electors who signed it, and new language conveyed material information about the nature of the proposed ordinance.

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