

SUPREME COURT OF NEVADA

Chattah v. Cegavske

Chattah · No. 85302 · Decided September 29, 2022

SUMMARY

The Supreme Court of Nevada affirmed the denial of a preliminary injunction seeking to remove a Libertarian candidate for Attorney General from the general-election ballot. The court held that the challenge was untimely under Nevada election statutes, limiting the available remedy to polling-place signage, and concluded that the district court did not abuse its discretion in finding insufficient likelihood of success, irreparable harm, or supporting hardship and public-interest factors.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Aguirre; Hardesty; Stiglich; Cadish; Pickering; Herndon
JURISDICTION	Nevada
DECIDED	September 29, 2022
DOCKET	85302
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a district court order denying a motion for a preliminary injunction and an application for a temporary restraining order in a preelection challenge to a candidate's qualifications.
STANDARD OF REVIEW	A district court's denial of preliminary injunctive relief is reviewed for abuse of discretion; reversal is warranted if the court abused its discretion, applied an erroneous legal standard, or relied on clearly erroneous factual findings.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion
PARTIES	Sigal Chattah v. Barbara K. Cegavske, in her official capacity as Nevada Secretary of State, John T. Kennedy

TOPICS

- election contests
- ballot access
- equitable relief
- appellate procedure
- statutory interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by denying preliminary injunctive relief seeking removal of Kennedy's name from the general-election ballot or an insert in mail ballots.
2. Whether Nevada's election statutes permitted the requested remedies after the statutory deadline for finalizing the general-election ballot had passed.
3. Whether the Secretary of State had an independent duty to verify every candidate's qualifications before accepting a declaration of candidacy.
4. Whether the alleged harm, relative hardships, and public interest supported preliminary injunctive relief.

HOLDINGS

1. The district court acted within its discretion in denying Chattah's motion for a preliminary injunction and application for a temporary restraining order.
2. When an elector challenges a candidate's qualifications after the statutory deadline for changing the general-election ballot, the elector's remedy is limited to the statutory signage remedy; the court may not require removal of the candidate's name or an extra-statutory mail-ballot insert based on the circumstances presented.
3. The Secretary of State was not required to independently verify every candidate's qualifications before accepting a declaration of candidacy.

KEY QUOTATIONS

"To obtain a preliminary injunction, the movant must "demonstrate that [she] has a reasonable likelihood of success on the merits and that, absent a preliminary injunction, [she] will suffer irreparable harm for which compensatory damages would not suffice." (2)

"While the moving party need not establish certain victory on the merits, [she] must make a prima facie showing through substantial evidence that [she] is entitled to the preliminary relief requested." (2)

"NRS 293.2045(2) (providing that when a candidate's qualifications are challenged after "the statutory deadline for making changes to the ballot has passed," the appropriate remedy is to "post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of the office")" (3)

FACTUAL BACKGROUND

Chattah, a candidate for Nevada attorney general, challenged Kennedy's candidacy as the Libertarian Party's attorney general nominee, asserting that he was ineligible for the office. She filed the challenge 105 days after the statutory deadline for challenging candidacy and four days after the deadline for changing the general-election ballot. She sought removal of Kennedy's name from the ballot or an insert in mail ballots, rather than the signage remedy provided by statute after the ballot-change deadline. The district court denied preliminary relief without an evidentiary hearing.

PROCEDURAL HISTORY

Chattah, a candidate for Nevada attorney general, challenged John T. Kennedy's qualifications and sought to prevent his name from appearing on the general-election ballot or to require an insert concerning his alleged ineligibility in mail ballots. The First Judicial District Court denied the requested preliminary injunction and temporary restraining order after a non-evidentiary proceeding. The Nevada Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Excellence Community Management, LLC v. Gilmore, 131 Nev. 347, 350-51, 351 P.3d 720, 722 (2015)
- Shores v. Global Experience Specialists, Inc., 134 Nev. 503, 507, 422 P.3d 1238, 1242 (2018)
- Coronet Homes, Inc. v. Mylan, 84 Nev. 435, 437, 442 P.2d 901, 902 (1968)
- Oakland Tribune, Inc. v. Chronicle Publishing Co., 762 F.2d 1374, 1377 (9th Cir. 1985)
- University and Community College System of Nevada v. Nevadans for Sound Government, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004)