

SUPREME COURT OF THE STATE OF NEW MEXICO

Crum v. Duran

2017 NMSC 13 (2017) · No. S-1-SC-36030 · Decided February 6, 2017

SUMMARY

The New Mexico Supreme Court held that the State's closed primary election system does not violate the New Mexico Constitution's Free and Open Clause or qualified-voter provisions. The Court concluded that requiring voters to affiliate with a major political party at least 28 days before a primary, and limiting voters to candidates of their registered party, imposes reasonably modest burdens that further election integrity and administrative interests. The Court affirmed dismissal of David Crum's complaint for failure to state a claim.

CASE DETAILS

COURT	Supreme Court of the State of New Mexico
WRITING FOR THE COURT	Edward L. Chávez, Justice; Charles W. Daniels, Chief Justice; Petra Jimenez Maes, Justice; Barbara J. Vigil, Justice
JURISDICTION	New Mexico
DECIDED	February 6, 2017
DOCKET	S-1-SC-36030
DISPOSITION	affirmed
PROCEDURAL POSTURE	Crum appealed the district court's dismissal of his constitutional challenge to New Mexico's closed primary system. The New Mexico Court of Appeals certified the case to the New Mexico Supreme Court.
STANDARD OF REVIEW	De novo review of statutory and constitutional interpretation and of dismissal under Rule 1-012(B)(6), accepting well-pleaded factual allegations as true and determining whether the plaintiff might prevail under any provable statement of facts.
PRECEDENTIAL VALUE	Published, precedential New Mexico Supreme Court opinion
PARTIES	David G. Crum v. Dianna J. Duran, New Mexico Secretary of State, Maggie Toulouse Oliver, Bernalillo County Clerk, Republican Party of New Mexico, Democratic Party of New Mexico, State of New Mexico, ex rel. Hector Balderas, Attorney General, Intervenor-Appellee

TOPICS

election law

ballot access

constitutional law

appellate procedure

statutory interpretation

PRACTICE AREAS

Election law

Constitutional law

Appellate procedure

Statutory interpretation

QUESTIONS PRESENTED

1. Whether New Mexico's closed-primary provisions, requiring affiliation with a major political party at least twenty-eight days before a primary and limiting voters to candidates of the party designated on their registration, violate the Free and Open Clause of Article II, Section 8 of the New Mexico Constitution.
2. Whether the challenged provisions violate Article VII, Section 1 of the New Mexico Constitution by restricting qualified voters' participation in primary elections.
3. Whether the district court properly dismissed the complaint under Rule 1-012(B)(6) NMRA.

HOLDINGS

1. New Mexico's requirements that a voter affiliate with a major political party at least twenty-eight days before a primary and vote only for candidates of the party designated on the voter's registration impose reasonably modest, nondiscriminatory burdens that further the State's interests in election purity and efficient administration and therefore do not violate the New Mexico Constitution.
2. The district court properly dismissed Crum's complaint for failure to state a claim because the challenged closed-primary provisions are constitutional.

KEY QUOTATIONS

"We therefore hold that requiring voters to designate their affiliation with a major political party at least twenty-eight days before the primary election, and only allowing voters to vote for candidates of a party which is designated on their voter registration, are reasonably modest burdens which further the State's interests in securing the purity of and efficiently administering primary elections." (§ 19)

FACTUAL BACKGROUND

David G. Crum was a qualified New Mexico voter registered as declining to state a political party affiliation. He sought to vote in the June 3, 2014 primary election by choosing either a Democratic or Republican ballot without changing his voter registration. New Mexico's closed-primary statutes required voters to affiliate with a major political party at least twenty-eight days before the election and permitted them to vote only for candidates of the party designated on their registration. Because Crum was not registered as a Democrat or Republican by the May 6 deadline, he was not permitted to vote in the primary.

PROCEDURAL HISTORY

Crum sued state and county election officials seeking to enjoin enforcement of New Mexico's closed-primary restrictions against voters registered as declining to state a party affiliation. The district court joined the major

political parties under Rule 1-019 NMRA, granted the Republican Party's Rule 1-012(B)(6) motion to dismiss, and concluded that the Legislature had constitutional authority to enact the challenged provisions and that party affiliation protected political parties' associational rights. Crum timely appealed, and the Court of Appeals certified the case to the Supreme Court.

DISPOSITION

affirmed

CASES CITED

- Tri-State Generation & Transmission Ass'n, Inc. v. D'Antonio, 2012-NMSC-039, ¶ 11, 289 P.3d 1232
- Sambrano v. Savage Arms, Inc., 2014-NMCA-113, ¶ 4, 338 P.3d 103
- State ex rel. Walker v. Bridges, 1921-NMSC-041, ¶¶ 8-11, 27 N.M. 169, 199 P. 370
- State ex rel. Palmer v. Miller, 1964-NMSC-072, ¶¶ 9-10, 74 N.M. 129, 391 P.2d 416
- Preisler v. Calcaterra, 243 S.W.2d 62, 64 (Mo. 1951) (en banc)
- State ex rel. Dunn v. Coburn, 168 S.W. 956, 958 (Mo. 1914) (en banc)
- Burdick v. Takushi, 504 U.S. 428, 433-34 (1992)
- Richardson v. State Board of Elections, 697 F. Supp. 295, 297 (W.D. Ky. 1988)
- Carrington v. Rash, 380 U.S. 89, 91 (1965)
- Washington State Grange v. Washington State Republican Party, 552 U.S. 442, 452 (2008)
- Crawford v. Marion County Election Board, 553 U.S. 181, 189-90 (2008)
- Anderson v. Celebrezze, 460 U.S. 780, 788 n.9 (1983)
- Ziskis v. Symington, 47 F.3d 1004, 1006 (9th Cir. 1995)
- Rosario v. Rockefeller, 410 U.S. 752, 757-62 (1973)
- Miller v. Cunningham, 512 F.3d 98, 106-12 (4th Cir. 2007)
- Kusper v. Pontikes, 414 U.S. 51, 52-53, 58, 60-61 (1973)
- Nader v. Schaffer, 417 F. Supp. 837, 844-47 (D. Conn. 1976), aff'd, 429 U.S. 989 (1976)

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