

SUPREME COURT OF OHIO

State ex rel. Todd v. Felger

116 Ohio St. 3d 207 (Ohio 2007) · Decided November 20, 2007

SUMMARY

The Ohio Supreme Court held that a mandamus action seeking review of a petition and placement of a corporate-powers issue on a special-election ballot became moot when the requested election date passed before the case was resolved. The court reversed the court of appeals and denied the writ without reaching the remaining issues.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per curiam; Moyer, C.J.; Pfeifer, J.; O'Connor, J.; O'Donnell, J.; Lanzinger, J.; Cupp, J.; Lundberg Stratton, J.
JURISDICTION	Ohio
DECIDED	November 20, 2007
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal as of right from the Columbiana County Court of Appeals' judgment granting a writ of mandamus.
STANDARD OF REVIEW	The Supreme Court reviewed whether the mandamus action remained justiciable after the requested election date had passed; mootness is a legal issue resolved by the court.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Ohio.
PARTIES	Village of New Waterford, Fiscal officer/clerk of the Village of New Waterford, Mayor of the Village of New Waterford, Members of the New Waterford Village Council v. Kevin B. Todd

TOPICS

- election law
- mootness
- appellate procedure
- election administration
- municipal law

PRACTICE AREAS

- election law
- mandamus
- appellate procedure
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- municipal law

QUESTIONS PRESENTED

1. Whether Todd's mandamus claim became moot when the proposed November 7, 2006 election date passed before the court of appeals issued its judgment.
2. Whether the capable-of-repetition-yet-evading-review exception to mootness preserved the mandamus action.

HOLDINGS

1. A mandamus claim seeking placement of an issue on the ballot is moot when the election date requested for that issue has passed before the case is resolved.
2. The capable-of-repetition-yet-evading-review exception did not apply because election cases can generally be litigated before the election and Todd failed to exercise the required diligence.

KEY QUOTATIONS

“In general, “election cases are moot where the relief sought is to have a name or an issue placed on the ballot and the election was held before the case could be decided.”” (¶ 9)

“‘Relators in election cases must exercise the utmost diligence’” (¶ 12)

FACTUAL BACKGROUND

On May 31, 2006, Kevin B. Todd filed a petition containing 182 signatures and a proposed ordinance requesting a November 7, 2006 special election on surrendering New Waterford's corporate powers and joining Unity Township. Village officials rejected the petition after concluding that a certified copy of the proposed ordinance had not been filed before circulation. Todd filed a mandamus action in June 2006, but the court of appeals did not grant relief until April 2007, after the requested election date had passed.

PROCEDURAL HISTORY

Todd sought mandamus to compel New Waterford officials to canvass a petition seeking a special election on surrendering the village's corporate powers and, if the signatures were sufficient, to set an election date. The court of appeals denied the parties' initial summary-judgment motions and later granted the writ, ordering the mayor and village council to canvass the petition and set an election if appropriate. The village officials appealed to the Supreme Court of Ohio, arguing that the claim was moot because the requested November 7, 2006 election date had passed.

DISPOSITION

reversed

CASES CITED

- In re Protest Filed by Citizens for the Merit Selection of Judges, Inc., 49 Ohio St. 3d 102, 551 N.E.2d 150 (1990)
- State ex rel. Bona v. Orange, 85 Ohio St. 3d 18, 706 N.E.2d 771 (1999)

- State ex rel. Webb v. Bliss, 99 Ohio St. 3d 166, 2003-Ohio-3049, 789 N.E.2d 1102, ¶ 22
- State ex rel. Hills Communities, Inc. v. Clermont Cty. Bd. of Elections, 91 Ohio St. 3d 465, 746 N.E.2d 1115 (2001)
- State ex rel. White v. Kilbane Koch, 96 Ohio St. 3d 395, 2002-Ohio-4848, 775 N.E.2d 508, ¶ 13
- State ex rel. Dispatch Printing Co. v. Loudon, 91 Ohio St. 3d 61, 741 N.E.2d 517 (2001)
- Rust v. Lucas Cty. Bd. of Elections, 108 Ohio St. 3d 139, 2005-Ohio-5795, 841 N.E.2d 766, ¶ 15
- State ex rel. Fuller v. Medina Cty. Bd. of Elections, 97 Ohio St. 3d 221, 2002-Ohio-5922, 778 N.E.2d 37, ¶ 7
- State ex rel. Becker v. Eastlake, 93 Ohio St. 3d 502, 756 N.E.2d 1228 (2001)
- State ex rel. Essig v. Blackwell, 103 Ohio St. 3d 481, 2004-Ohio-5586, 817 N.E.2d 5, ¶ 34