

SUPREME COURT OF NEVADA

Stavros Anthony v. Ross Miller and Clark County Board of Commissioners

2021 NV 25 · No. No. 82269 · Decided June 10, 2021

SUMMARY

The Nevada Supreme Court affirmed dismissal of Stavros Anthony’s challenge to the 2020 Clark County Commission District C election, which Ross Miller won by 15 votes. The court held that NRS 293.465 applies when an event prevents voters from casting ballots, not when alleged errors or discrepancies occur during an election that otherwise took place. Challenges based on errors in counting or conducting an election must instead proceed through the statutory election-contest process under NRS 293.407-.435.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Hardesty, C.J.; Parraguirre, J.; Stiglich, J.; Cadish, J.; Herndon, J.
JURISDICTION	Nevada
DECIDED	June 10, 2021
DOCKET	No. 82269
DISPOSITION	affirmed
PROCEDURAL POSTURE	Anthony appealed from a final judgment dismissing his complaint, as well as the denial of preliminary injunctive relief and a writ of mandamus, in an election matter. He sought a new election under NRS 293.465 based on discrepancies between voter sign-ins and counted votes.
STANDARD OF REVIEW	De novo review applied to the statutory-interpretation issue.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Nevada, decided en banc.
PARTIES	Stavros Anthony v. Ross Miller, Clark County Board of Commissioners

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether unexplained discrepancies in the conduct of an election, exceeding the margin of victory, constitute an election being "prevented" under NRS 293.465.
2. Whether an election contest under NRS 293.407-.435 is the exclusive mechanism for challenging errors in the conduct of an election after voters had the opportunity to cast their ballots.
3. Whether Anthony's appeal from the denial of injunctive relief was moot after the election results had been certified.

HOLDINGS

1. NRS 293.465 applies when an event, such as the loss or destruction of ballots, prevents eligible voters from casting their votes; it does not apply merely because discrepancies or errors may have affected the accuracy of the election results when the election occurred and voters had the opportunity to vote.
2. Once an election takes place and voters have the opportunity to vote, a candidate's challenge based on vote-counting discrepancies or errors in conducting or canvassing the election must proceed through an election contest under NRS 293.407-.435, rather than through a request to the Board for a new election under NRS 293.465.
3. The appeal from denial of injunctive relief was moot because the requested injunction preventing certification of the election could no longer provide effective relief after certification.

KEY QUOTATIONS

"Accordingly, when voters have the opportunity to participate in an election and are not prevented from voting, then NRS 293.465 is not implicated." (at 8)

"Once an election takes place and the voters have had the opportunity to vote, any challenge to the conduct of the election must proceed by way of an election contest brought pursuant to NRS 293.407-.435." (at 8)

FACTUAL BACKGROUND

Stavros Anthony lost the November 3, 2020, general election for Clark County Commission District C to Ross Miller by 15 votes out of 153,169 votes. During canvassing, the Clark County Registrar of Voters reported 139 unexplained discrepancies between voter sign-ins and counted votes across the district's 218 precincts. Although the Board initially declined to certify the results and voted to hold a special election, it later certified the returns. Anthony sought a new election under NRS 293.465, arguing that the discrepancies exceeded the margin of victory and prevented determination of the voters' will.

PROCEDURAL HISTORY

After Ross Miller prevailed over Anthony by 15 votes in the November 3, 2020, election for Clark County Commission District C, the Clark County Board initially declined to certify the results because of 139

unexplained discrepancies, but later certified them. Anthony sought a new election from the Board and then declaratory, injunctive, and mandamus relief in the Eighth Judicial District Court. The district court denied relief and dismissed the complaint, concluding that the election had not been prevented within the meaning of NRS 293.465. The Nevada Supreme Court affirmed and held that Anthony's appeal from denial of injunctive relief was moot.

DISPOSITION

affirmed

CASES CITED

- Reno Newspapers, Inc. v. Haley, 126 Nev. 211, 234 P.3d 922 (2010)
- Cromer v. Wilson, 126 Nev. 106, 225 P.3d 788 (2010)
- Allianz Ins. Co. v. Gagnon, 109 Nev. 990, 860 P.2d 720 (1993)
- Szydel v. Markman, 121 Nev. 453, 117 P.3d 200 (2005)
- Personhood Nev. v. Bristol, 126 Nev. 599, 245 P.3d 572 (2010)
- LaPorta v. Broadbent, 91 Nev. 27, 530 P.2d 1404 (1975)
- State ex rel. McMillan v. Sadler, 25 Nev. 131, 58 P. 284 (1899)