

SUPREME COURT OF PENNSYLVANIA

League of Women Voters of Pa. v. Commonwealth

179 A.3d 1080 (Pa. 2018) · Decided February 5, 2018

SUMMARY

Justice Wecht explains his denial of Legislative Respondents' application seeking his recusal in Pennsylvania's congressional redistricting litigation. He concludes that the application was untimely because the campaign statements supporting it were publicly available and the challenge was filed only after an adverse order. He also addresses the context of his statements, Pennsylvania's judicial-conduct rules, and the First Amendment implications of judicial-candidate speech.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice David Wecht
JURISDICTION	Pennsylvania
DECIDED	February 5, 2018
DISPOSITION	other
PROCEDURAL POSTURE	Legislative Respondents and intervenor Republican voters filed an application seeking Justice Wecht's disqualification from the congressional-redistricting litigation based on statements he made during his 2015 judicial campaign. Justice Wecht decided the recusal application himself.
STANDARD OF REVIEW	A jurist must first conscientiously determine whether he or she can assess the case impartially and without personal bias or interest, then consider whether continued participation would undermine public confidence in the judiciary. A denial of recusal is reviewed with a presumption that judges are honorable, fair, and competent, and the decision is generally final.
PRECEDENTIAL VALUE	Published Pennsylvania Supreme Court opinion addressing the timeliness and merits of a judicial-disqualification application.

PARTIES

Legislative Respondents, Intervenor Republican voters v. League of Women Voters of Pennsylvania and other Petitioners, Governor Thomas W. Wolf, Acting Secretary of State Robert Torres, Elections Commissioner Jonathan Marks, Lieutenant Governor Michael J. Stack, III

TOPICS

appellate procedure election law redistricting first amendment due process

PRACTICE AREAS

judicial disqualification and recusal appellate procedure election law redistricting constitutional law

QUESTIONS PRESENTED

1. Whether the application to disqualify Justice Wecht was timely when filed after an adverse order despite the applicants' earlier actual or constructive knowledge of the public campaign statements.
2. Whether Justice Wecht's campaign statements criticizing partisan gerrymandering created a reasonable question about his impartiality or otherwise required recusal under Pennsylvania's Code of Judicial Conduct.
3. Whether due process required Justice Wecht's disqualification based on his views concerning partisan gerrymandering.

HOLDINGS

1. A party seeking recusal or disqualification must raise the objection at the earliest possible moment, when the party knows or should have known the facts forming the basis of the challenge; an application filed after an adverse ruling based on publicly available facts is untimely.
2. A judicial candidate's expression of views on legal issues does not, without a clear commitment to reach a particular result in a specific proceeding, require recusal when the statements are considered in context and the judge remains able to decide the case impartially.
3. Due process did not require Justice Wecht's recusal because his general views on partisan gerrymandering did not involve personal participation in the litigation, a pecuniary interest, or another constitutionally recognized basis for disqualification.

KEY QUOTATIONS

"Litigants cannot be permitted to hedge against the possibility of losing a case on the merits by delaying the production of arguable grounds for disqualification, or, worse, by digging up such grounds only after learning of an adverse order." (1086)

"Applicants may not rely upon disqualification to obtain a retroactive victory in this litigation." (1087)

"A gerrymandered map is a gerrymandered map." (1092)

FACTUAL BACKGROUND

Justice Wecht made strongly worded public comments during his 2015 campaign criticizing extreme partisan gerrymandering and discussing the principle of one person, one vote. The applicants relied on excerpts from those comments to argue that he had committed himself to a result in the pending congressional-redistricting case. The full context of the statements included qualifications that he did not know how he would rule on any particular map and would decide a future case on its facts and the law. The applicants did not begin investigating the statements until after oral argument and filed the recusal application after the court issued an adverse order.

PROCEDURAL HISTORY

The Pennsylvania Supreme Court had assumed extraordinary jurisdiction over a challenge to Pennsylvania's congressional districting plan, conducted expedited proceedings, and issued an adverse order against the applicants on January 22, 2018. The applicants filed their disqualification application on February 2, 2018, after investigating publicly available campaign statements and after receiving the adverse ruling. On February 5, 2018, Justice Wecht denied the application as untimely and independently concluded that the statements did not require recusal.

DISPOSITION

other

CASES CITED

- Commonwealth v. Travaglia, 541 Pa. 108, 661 A.2d 352, 370 (1995)
- Goodheart v. Casey, 523 Pa. 188, 565 A.2d 757, 763-764 (1989)
- Reilly by Reilly v. SEPTA, 507 Pa. 204, 489 A.2d 1291, 1300-1301 (1985)
- Reilly by Reilly v. SEPTA, 330 Pa. Super. 420, 479 A.2d 973, 988 (1984)
- Lomas v. Kravitz, 170 A.3d 380, 389-390 (Pa. 2017)
- Republican Party of Minnesota v. White, 536 U.S. 765, 122 S. Ct. 2528, 153 L. Ed. 2d 694 (2002)
- Duwe v. Alexander, 490 F. Supp. 2d 968, 977 (W.D. Wis. 2007)
- In re Stevenson, 615 Pa. 50, 40 A.3d 1212, 1221 (2012)
- Aetna Life Ins. Co. v. Lavoie, 475 U.S. 813, 828, 106 S. Ct. 1580, 89 L. Ed. 2d 823 (1986)
- Tumey v. Ohio, 273 U.S. 510, 523, 47 S. Ct. 437, 71 L. Ed. 749 (1927)
- Williams v. Pennsylvania, 579 U.S. 1, 136 S. Ct. 1899, 195 L. Ed. 2d 132 (2016)
- Commonwealth v. Tharp, 574 Pa. 202, 830 A.2d 519, 534 (2003)
- Commonwealth v. Abu-Jamal, 553 Pa. 485, 720 A.2d 79, 89 (1998)
- Vieth v. Jubelirer, 541 U.S. 267, 345, 355, 124 S. Ct. 1769, 158 L. Ed. 2d 546 (2004)
- Ex parte Ellis, 275 S.W.3d 109, 116 (Tex. App. 2008)

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