

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Tillis v. Wright, 217 W. Va. 722

619 S.E.2d 235 (2005) · No. No. 32044 · Decided July 7, 2005

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the circuit court's determination that the refusal to certify a Republican candidate because of improper party affiliation constituted a disqualification under W. Va. Code § 3-5-19(a)(4). The court held that this disqualification created a vacancy in nomination that permitted the Republican executive committee to appoint Raymond Joseph Haynes as the replacement nominee.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Davis, Justice; Davis; McGraw
JURISDICTION	West Virginia
DECIDED	July 7, 2005
DOCKET	No. 32044
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Putnam County Circuit Court ruling determining that a vacancy in the Republican Party's nomination for Putnam County Commissioner had been created and that Raymond Joseph Haynes was properly appointed to fill it.
STANDARD OF REVIEW	In election cases, the appellate court may independently examine the record but generally will not disturb factual findings based on conflicting evidence unless they are manifestly wrong or against the weight of the evidence. The ultimate disposition is reviewed for abuse of discretion, underlying factual findings for clear error, and questions of law, including statutory interpretation, de novo.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Appeals of West Virginia
PARTIES	Gary Tillis, Chairman, Putnam County Democratic Executive Committee v. Donald Wright, Putnam County Circuit Clerk and Ex-Officio Chairman of the Board of Ballot Commissioners in and for

TOPICS

election law election administration statutory interpretation appellate procedure standard of review

PRACTICE AREAS

Election law Appellate procedure Statutory interpretation

QUESTIONS PRESENTED

1. Whether the Republican Executive Committee's appointment of Cathern Addington complied with the timing requirements of West Virginia Code § 3-5-19(a)(3).
2. Whether the Board of Ballot Commissioners' refusal to certify Addington because of improper party affiliation constituted a disqualification under West Virginia Code § 3-5-19(a)(4), thereby creating a vacancy in nomination.
3. Whether the Republican Executive Committee was authorized to appoint Haynes to fill the vacancy in nomination.

HOLDINGS

1. West Virginia Code § 3-5-19(a)(3) governs appointments to vacancies in nominations for the general election when no candidate filed for the office, and the Republican Committee's appointment of Addington by the Thursday preceding the primary election was timely.
2. A candidate is disqualified under West Virginia Code § 3-5-19(a)(4) when any factor renders the candidate ineligible, unfit, or unqualified for the office sought; the Board's refusal to certify Addington because of her improper party affiliation therefore constituted a disqualification.
3. Because Addington's disqualification created a vacancy in nomination, the Republican Executive Committee had authority under West Virginia Code § 3-5-19(a)(4) to appoint Haynes, and Haynes was properly nominated.

KEY QUOTATIONS

“Therefore, we hold that a candidate is disqualified pursuant to W. Va.Code § 3-5-19(a)(4) (2003) (Repl.Vol.2004) when any factor renders him/her ineligible, unfit, or unqualified for the office to which he/she seeks to be elected.” (217 W. Va. at 745)

“Accordingly, we affirm the circuit court's ruling.” (217 W. Va. at 746)

FACTUAL BACKGROUND

No Republican candidate filed for Putnam County Commissioner, so the Putnam County Republican Executive Committee appointed Cathern Addington as its nominee before the statutory deadline. Addington certified that she was a Republican, but voter-registration records showed that she remained registered as a Democrat during

the sixty days preceding her candidacy filing. The Board of Ballot Commissioners therefore refused to certify her candidacy. The Republican Committee appointed Raymond Joseph Haynes to replace Addington, and Gary Tillis challenged that appointment.

PROCEDURAL HISTORY

The Putnam County Republican Executive Committee initially appointed Cathern Addington after no Republican candidate filed for county commissioner. The Board of Ballot Commissioners refused to certify Addington because voter-registration records showed that she was affiliated with the Democratic Party during the statutory sixty-day period. The Republican Committee then appointed Raymond Joseph Haynes to fill the resulting vacancy. Gary Tillis sought a writ of mandamus in the Putnam County Circuit Court, which ruled for Haynes on October 1, 2004. The Supreme Court of Appeals granted expedited review and affirmed by order on October 26, 2004, later issuing this opinion.

DISPOSITION

affirmed

CASES CITED

- Brooks v. Crum, 158 W. Va. 882, 216 S.E.2d 220 (1975)
- Walker v. West Virginia Ethics Commission, 201 W. Va. 108, 492 S.E.2d 167 (1997)
- Appalachian Power Co. v. State Tax Department of West Virginia, 195 W. Va. 573, 466 S.E.2d 424 (1995)
- Chrystal R.M. v. Charlie A.L., 194 W. Va. 138, 459 S.E.2d 415 (1995)
- UMWA by Trumka v. Kingdon, 174 W. Va. 330, 325 S.E.2d 120 (1984)
- Bowers v. Wurzburg, 205 W. Va. 450, 519 S.E.2d 148 (1999)
- State ex rel. Cravotta v. Hechler, 187 W. Va. 790, 421 S.E.2d 698 (1992)
- State ex rel. Harden v. Hechler, 187 W. Va. 670, 421 S.E.2d 53 (1992)
- Smith v. State Workmen's Compensation Commissioner, 159 W. Va. 108, 219 S.E.2d 361 (1975)
- State ex rel. McGraw v. Combs Services, 206 W. Va. 512, 526 S.E.2d 34 (1999)
- Ohio County Commission v. Manchin, 171 W. Va. 552, 301 S.E.2d 183 (1983)
- State v. Epperly, 135 W. Va. 877, 65 S.E.2d 488 (1951)
- Crockett v. Andrews, 153 W. Va. 714, 172 S.E.2d 384 (1970)
- Farley v. Buckalew, 186 W. Va. 693, 414 S.E.2d 454 (1992)
- State ex rel. Holt v. Davis, 156 W. Va. 269, 197 S.E.2d 100 (1972)
- State ex rel. Brewer v. Wilson, 151 W. Va. 113, 150 S.E.2d 592 (1966)
- State v. Scott, 36 W. Va. 704, 15 S.E. 405 (1892)
- State ex rel. Summerfield v. Maxwell, 148 W. Va. 535, 135 S.E.2d 741 (1964)
- State ex rel. Zagula v. Grossi, 149 W. Va. 11, 138 S.E.2d 356 (1964)
- Marra v. Zink, 163 W. Va. 400, 256 S.E.2d 581 (1979)

