

SUPREME COURT OF NEW MEXICO

State ex rel. King v. Raphaelson

2015-NMSC-028 (N.M. 2015) · No. 34,985 · Decided August 20, 2015

SUMMARY

The New Mexico Supreme Court held that a district judge elected to succeed a predecessor serves the remainder of the predecessor's original six-year term rather than beginning a new six-year term. Applying this interpretation, the Court concluded that Judge Sheri Raphaelson was properly subject to retention election in 2014 and that her failure to receive the required 57 percent approval resulted in the vacancy of her office effective January 1, 2015. The Court upheld its writ of quo warranto removing her from office.

CASE DETAILS

COURT	Supreme Court of New Mexico
WRITING FOR THE COURT	Richard C. Bosson; Barbara J. Vigil, Chief Justice; Petra Jimenez Maes, Justice; Edward L. Chávez, Justice; Charles W. Daniels, Justice
JURISDICTION	New Mexico
DECIDED	August 20, 2015
DOCKET	34,985
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original proceeding in the Supreme Court of New Mexico on the State's petition for a writ of quo warranto seeking removal of a district judge after she failed to obtain the required percentage of votes in a retention election.
STANDARD OF REVIEW	Constitutional interpretation, including construction of related constitutional provisions as a harmonious whole in light of their text, purpose, history, and established practice.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of New Mexico.
PARTIES	State of New Mexico, ex rel. Gary K. King, New Mexico Attorney General v. Hon. Sheri Raphaelson, First Judicial District Court Judge

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QUESTIONS PRESENTED

1. Whether a district judge appointed to fill a vacancy and subsequently elected in a partisan election begins a new six-year term upon that election or serves only the remainder of the predecessor's original term.
2. Whether Raphaelson was properly subject to a retention election in 2014 and, after failing to obtain 57 percent approval, was required to leave office on January 1, 2015.

HOLDINGS

1. Under Article VI, Sections 33, 35, and 36 of the New Mexico Constitution, a judge elected in a partisan election after an interim appointment succeeds the predecessor and holds office only until expiration of the predecessor's original term; the election does not begin a new six-year term.
2. Raphaelson was properly subject to retention in the 2014 general election, and her failure to receive 57 percent of the votes in favor of retention caused her office to become vacant on January 1, 2015.

KEY QUOTATIONS

“For the reasons that follow, we hold that under the New Mexico Constitution a judge elected in a partisan election is subject to retention in the sixth year of the predecessor judge’s term.” (§ 1)

“The successor judge—whether appointed or elected—holds the office for the remainder of the “original term.”” (§ 14)

“Judge Raphaelson was properly up for retention in the 2014 general election pursuant to Article VI, Sections 33, 35, and 36 of the New Mexico Constitution.” (§ 31)

FACTUAL BACKGROUND

Governor Bill Richardson appointed Sheri Raphaelson in 2009 to fill the unexpired First Judicial District Court term of Timothy L. Garcia, who had been appointed to the New Mexico Court of Appeals. Raphaelson won the required partisan election in 2010 to remain in office as Garcia's successor. She ran for retention in 2014, received 55.87 percent of the vote, and therefore failed to reach the 57 percent constitutional retention threshold. Raphaelson nevertheless asserted that she could remain on the bench until January 1, 2017.

PROCEDURAL HISTORY

Judge Sheri Raphaelson was appointed in 2009 to fill the vacancy created when Judge Timothy L. Garcia left the First Judicial District Court. She won a partisan election in 2010 to complete Garcia's unexpired term. Raphaelson then ran unsuccessfully for retention in the 2014 general election but asserted that her six-year term did not expire until December 31, 2016. The State filed a quo warranto petition on November 21, 2014, and the Supreme Court granted the writ, removing Raphaelson effective January 1, 2015; this opinion explained that decision.

DISPOSITION

writ_granted

CASES CITED

- State ex rel. Richardson v. Fifth Judicial Dist. Nominating Comm’n, 2007-NMSC-023, ¶ 16, 141 N.M. 657, 160 P.3d 566
- In re Generic Investigation into Cable Television Servs., 1985-NMSC-087, ¶¶ 10, 13, 103 N.M. 345, 707 P.2d 1155
- Block v. Vigil-Giron, 2004-NMSC-003, ¶ 9, 135 N.M. 24, 84 P.3d 72
- State v. Boyse, 2013-NMSC-024, ¶ 16, 303 P.3d 830
- N.L.R.B. v. Noel Canning, 134 S. Ct. 2550, 2559 (2014)
- The Pocket Veto Case, 279 U.S. 655, 689 (1929)
- Jones v. Murdoch, 2009-NMSC-002, ¶ 28, 145 N.M. 473, 200 P.3d 523
- State ex rel. Taylor v. Johnson, 1998-NMSC-015, ¶ 32, 125 N.M. 343, 961 P.2d 768
- State ex rel. Swope v. Mechem, 1954-NMSC-011, ¶¶ 20-22, 58 N.M. 1, 265 P.2d 336