

SUPREME COURT OF IDAHO

Gibbons v. Cenarrusa, 140 Idaho 316

92 P.3d 1063 (2002) · No. No. 28408 · Decided May 3, 2002

SUMMARY

The Idaho Supreme Court considered a petition for writs of mandamus and prohibition challenging the legislature's repeal of an initiative-based term-limits law. The court held that the dispute was ripe, Ronda Gibbons had standing, and the Secretary of State was a proper respondent. It further held that the Idaho Legislature could repeal the initiative and declare an emergency making the repeal immediately effective, denied the requested writs, dismissed the petition, and awarded costs but no attorney fees.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Schroeder, Justice; Schroeder; Kidwell; Schilling; Walters; Weston
JURISDICTION	Idaho
DECIDED	May 3, 2002
DOCKET	No. 28408
DISPOSITION	dismissed
PROCEDURAL POSTURE	Original-jurisdiction petition for writ of mandamus and/or writ of prohibition seeking a declaration that H.B. 425 was unconstitutional or not effective until after the primary election, and seeking directions to the Secretary of State concerning enforcement of the Term Limits Act.
STANDARD OF REVIEW	Original-jurisdiction review of a petition for extraordinary writ; constitutional and statutory interpretation reviewed as questions of law. Writs of prohibition and mandamus are extraordinary remedies issued with caution.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion; precedential.
PARTIES	Ronda Gibbons, Roland Almgren v. Pete Cenarrusa, Secretary of State, State of Idaho

TOPICS

[election law](#)[election administration](#)[ballot access](#)[statutory interpretation](#)[constitutional law](#)

PRACTICE AREAS

election law

constitutional law

remedies

statutory interpretation

QUESTIONS PRESENTED

1. Whether the dispute over the effective date and constitutionality of H.B. 425 was ripe for judicial review before the primary election.
2. Whether Gibbons or Almgren had standing to challenge the repeal of the Term Limits Act.
3. Whether the Secretary of State was a proper respondent and had authority to issue directives and instructions to county clerks concerning election-law compliance.
4. Whether the Idaho Supreme Court should exercise original jurisdiction and issue a writ of mandamus or prohibition despite the availability of potential county-level proceedings and the timing of the petition.
5. Whether the Idaho Legislature may repeal a law enacted by initiative and make that repeal immediately effective by declaring an emergency under Article III, section 22 of the Idaho Constitution.
6. Whether Article III, section 22 requires the Legislature to define the emergency in the body or preamble of the law rather than merely declare that an emergency exists.
7. Whether the Secretary of State was entitled to attorney fees.

HOLDINGS

1. The dispute was ripe because the repeal directly affected the impending primary election and election officials, candidates, and the public needed a prompt determination of the governing law.
2. Gibbons had standing because the repeal affected her campaign by allowing an opponent to run who would otherwise be ineligible under the Term Limits Act; the Court did not need to resolve Almgren's standing.
3. The Secretary of State was a proper respondent because Idaho law designates that office as the state's chief election officer and authorizes it to issue directives and assist county clerks in applying election laws.
4. Consideration of the petition was appropriate notwithstanding potential proceedings in district court, because prompt statewide resolution was necessary to permit an orderly primary election and avoid inconsistent results.
5. Once an initiative has been enacted as law, the Legislature may amend or repeal it because an initiative law and a legislative enactment are on equal footing.
6. The Legislature may make its repeal of an initiative immediately effective by declaring an emergency; the repeal was not limited to the ordinary effective-date schedule.
7. Article III, section 22 requires that an emergency be declared in the preamble or body of the law, but does not require the Legislature to define or explain the emergency.
8. The Secretary of State was not entitled to attorney fees.

KEY QUOTATIONS

“The legislature may change the effective date of any law it passes. This legislative right includes repeal of an initiative, which once enacted, is treated as “other ordinary legislative measures.”” (140 Idaho 320; 92 P.3d 1067)

“we hold that the legislature’s determination of an emergency in an act is a policy decision exclusively within the ambit of legislative authority and the judiciary cannot second-guess that decision.” (140 Idaho 320; 92 P.3d 1067)

“This language does not require definition of the emergency. It simply requires that the statement of an emergency be set forth either in the preamble or the body of the law.” (140 Idaho 321; 92 P.3d 1068)

FACTUAL BACKGROUND

The Idaho Term Limits Act was enacted by citizen initiative in 1994, and the Idaho Supreme Court had previously held it constitutional. The Legislature later enacted H.B. 425 repealing the Act and declared an emergency making the repeal effective February 1, 2002, rather than July 1, 2002; the Governor’s veto was overridden. Gibbons was running for an Ada County Commission seat against an incumbent who would have been ineligible under the Term Limits Act, while Almgren was a voter who had supported the initiative. The impending May 28 primary created a need for certainty about which candidates could appear on the ballot.

PROCEDURAL HISTORY

The Idaho Legislature enacted H.B. 425 repealing the Term Limits Act, declared an emergency, overrode the Governor’s veto, and made the repeal effective February 1, 2002. Petitioners sought extraordinary writs directly in the Idaho Supreme Court before the May 28, 2002 primary election. The Supreme Court held the dispute ripe, concluded that Gibbons had standing and that the Secretary of State was a proper respondent, reached the merits, denied the requested writs, dismissed the petition, awarded costs, and denied attorney fees.

DISPOSITION

dismissed

CASES CITED

- Miles v. Idaho Power Co., 116 Idaho 635, 778 P.2d 757 (1989)
- Van Valkenburgh v. Citizens for Term Limits, 135 Idaho 121, 15 P.3d 1129 (2000)
- Selkirk-Priest Basin Ass’n v. State, 128 Idaho 831, 919 P.2d 1032 (1996)
- Crane Creek Country Club v. City of Boise, 121 Idaho 485, 826 P.2d 446 (1990)
- Fishman v. Schaffer, 429 U.S. 1325, 97 S. Ct. 14, 50 L. Ed. 2d 56 (1976)
- Luker v. Curtis, 64 Idaho 703, 136 P.2d 978 (1943)
- Johnson v. Diefendorf, 56 Idaho 620, 57 P.2d 1068 (1936)
- Idaho State AFL-CIO v. Leroy, 110 Idaho 691, 718 P.2d 1129 (1986)
- Diefendorf v. Gallet, 51 Idaho 619, 10 P.2d 307 (1932)
- Assoc. Taxpayers of Idaho, Inc. v. Cenarrusa, 111 Idaho 502, 725 P.2d 526 (1986)

