

SUPREME COURT OF ARIZONA

Raymond L. Malnar v. Elizabeth Joice

236 Ariz. 170 (2014) · No. CV-14-0240-AP/EL · Decided November 14, 2014

SUMMARY

The Arizona Supreme Court affirmed the removal of Elizabeth Joice’s name from the 2014 general-election ballot for an unexpired Peoria Unified School District Governing Board term. The court held that service of process through the statutory agent satisfied due process and that Joice’s nomination petitions did not substantially comply with the requirement to designate the term’s expiration date. The court also declined to treat her nomination as one for a full four-year term.

CASE DETAILS

COURT	Supreme Court of Arizona
WRITING FOR THE COURT	Justice Timmer; Vice Chief Justice Pelander; Justice Berch
JURISDICTION	Arizona
DECIDED	November 14, 2014
DOCKET	CV-14-0240-AP/EL
DISPOSITION	affirmed
PROCEDURAL POSTURE	Joice appealed under A.R.S. § 16-351(A) from the superior court's order upholding Malnar's challenge to her candidacy and excluding her name from the 2014 general-election ballot.
STANDARD OF REVIEW	The court reviewed de novo whether Joice's nomination documents substantially complied with statutory requirements.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Elizabeth (aka Beth) Joice v. Raymond L. Malnar

TOPICS

- election law
- ballot access
- due process
- appellate procedure
- standard of review

PRACTICE AREAS

- election law
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether service of process on the statutory agent appointed under A.R.S. § 16-351(D) satisfied due process and established personal jurisdiction over Joice.
2. Whether Joice's noncompliant nomination petitions substantially complied with statutory requirements so that her name could appear on the ballot for either the unexpired term or a full four-year term.

HOLDINGS

1. Service of process on the officer statutorily appointed as Joice's agent under A.R.S. § 16-351(D) was sufficient to satisfy due process and establish personal jurisdiction because the statute reasonably provided for actual notice, and the record supported a presumption that the statutory agent performed the required notification duties.
2. Joice was properly excluded from the ballot because her nomination petitions did not comply with A.R.S. § 16-314(D), and the court could not treat her nomination paper for an unexpired term as a nomination for a full four-year term.

KEY QUOTATIONS

“Service of process on an agent appointed by statute affords sufficient due process if “the statutory provisions in themselves indicate that there is reasonable probability that if the statutes are complied with, the defendant will receive actual notice.”” (¶ 7)

“Candidates will not be disqualified based on an error or omission in nomination documents that substantially comply with statutory requirements.” (¶ 9)

FACTUAL BACKGROUND

Three positions on the Peoria Unified School District Governing Board were subject to election in 2014: two full four-year terms and one unexpired two-year term. Joice filed a nomination paper declaring her intent to seek the unexpired term and filed nomination petitions that failed to designate the term's expiration date as required by A.R.S. § 16-314(D). After Malnar challenged her candidacy, process was served on the statutory agent, and the superior court removed Joice's name from the ballot.

PROCEDURAL HISTORY

Malnar filed a superior-court action challenging Joice's candidacy because her nomination petitions did not designate the expiration date of the unexpired term she sought. The superior court rejected Joice's service and jurisdictional objections, upheld the challenge, and ordered her name excluded from the ballot. The Arizona Supreme Court affirmed and issued an opinion explaining an earlier order affirming the superior court.

DISPOSITION

affirmed

CASES CITED

- *Wuchter v. Pizzutti*, 276 U.S. 13, 24 (1928)

- Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950)
- Verdugo v. Industrial Commission, 108 Ariz. 44, 48, 492 P.2d 705, 709 (1972)
- Industrial Commission v. J. & J. Construction Co., 72 Ariz. 139, 145, 231 P.2d 762, 765-66 (1951)
- Dedolph v. McDermott, 230 Ariz. 130, 131, 133-34, 281 P.3d 484, 485, 487-88 (2012)
- Bee v. Day, 218 Ariz. 505, 507, 189 P.3d 1078, 1080 (2008)
- Moreno v. Jones, 213 Ariz. 94, 101-02, 139 P.3d 612, 619-20 (2006)

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