

COURT OF APPEALS OF MARYLAND

Montgomery County Volunteer Fire-Rescue Association and Eric N. Bernard v. Montgomery County Board of Elections and Montgomery County, Maryland

Montgomery County Volunteer Fire-Rescue Ass'n v. Montgomery County Board of Elections, 418 Md. 463 (2011) · Decided March 22, 2011

SUMMARY

The Maryland Court of Appeals held that an otherwise statutorily sufficient referendum petition entry may be validated even when the signer's signature is illegible, provided the cumulative information on the petition identifies the signer and satisfies the applicable statutory requirements. The court reversed the Circuit Court for Montgomery County and directed that a referendum on Montgomery County Council Bill No. 13-10 be placed on the November 2, 2010 ballot.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Greene, J.; Adkins; Barbera; Battaglia; Bell; Greene; Harrell; Murphy
JURISDICTION	Maryland
DECIDED	March 22, 2011
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The appellants sought judicial review and declaratory relief after the Montgomery County Board of Elections refused to certify a referendum petition because it determined that the petition lacked enough valid signatures. The Circuit Court for Montgomery County granted summary judgment to the Board. The Court of Appeals of Maryland granted certiorari before consideration by the Court of Special Appeals.
STANDARD OF REVIEW	De novo review of the statutory-construction issue; the court treated the meaning of Md. Code, Election Law § 6-203(a)(1), as a question of law.
PRECEDENTIAL VALUE	Published precedential opinion of the Court of Appeals of Maryland
PARTIES	Montgomery County Volunteer Fire-Rescue Association, Eric N. Bernard v. Montgomery County Board of Elections, Montgomery

TOPICS

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QUESTIONS PRESENTED

1. Whether a referendum-petition signature is valid under Md. Code, Election Law § 6-203(a) when the signer provides the required printed information consistent with the statewide voter-registration list, executes the signer's ordinary signature, whether legible or illegible, and the circulator attests that the signer signed in the circulator's presence.
2. Whether an illegible signature, standing alone, requires an election authority to invalidate a referendum-petition entry when the other information on the entry cumulatively identifies the signer and satisfies § 6-203.

HOLDINGS

1. An illegible signature, standing alone, does not preclude validation of a referendum-petition entry. The election authority must consider the cumulative information on the petition, including the signature, printed or typed name, address, date, and other required information, to determine the identity of the signer and compliance with Md. Code, Election Law § 6-203.
2. The County Board's requirement that the signature and printed name match exactly imposed an additional legibility or penmanship requirement not contained in § 6-203 and was therefore legally erroneous.

KEY QUOTATIONS

“We hold that a signature on a petition for referendum is but one component of the voter’s identity that is to be considered in the validation process, and that if the signer’s entire entry is statutorily sufficient under § 6-203, an illegible signature, on its own, does not preclude validation.” (at 471)

“We now hold that § 6-203(b)(1) directs the election authority to validate a petition signer’s entry if there is sufficient cumulative information on the face of the petition, e.g., a signature, a printed name, address, date of signing, and other information required by regulation, evidencing compliance with § 6-203(a), to determine the identity of the signer.” (at 474)

“The signature provided under § 6-203(a)(1) is but one of many pieces of identifying information that the Board must assess to determine the validity of a petition entry.” (at 480)

FACTUAL BACKGROUND

Montgomery County enacted Council Bill No. 13-10, establishing an Emergency Medical Services Transport Fee. The Association sponsored a referendum petition and submitted signature pages, but the County Board rejected many entries, including signatures it deemed illegible or insufficiently matching the printed name. Because the accepted signatures did not meet the statutory and local-law threshold, the Board refused to certify the petition and declined to place the referendum on the ballot.

PROCEDURAL HISTORY

The Association submitted referendum petition signatures challenging Montgomery County Council Bill No. 13-10, but the County Board rejected enough signatures that the petition failed the applicable 50-percent filing threshold. The Circuit Court granted summary judgment for the Board, concluding that the Board had not acted arbitrarily or capriciously in rejecting illegible or partially legible signatures. After the Court of Appeals granted certiorari, it reversed and remanded with directions to enter judgment for the appellants and place the referendum on the ballot.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Circuit Court for Montgomery County was directed to enter judgment in favor of the appellants and an order placing a referendum on the validity of Montgomery County Council Bill No. 13-10 on the ballot at the November 2, 2010 General Election. Costs were assessed against the appellees.

CASES CITED

- Doe v. Board of Elections, 406 Md. 697, 962 A.2d 342 (2008)
- Opert v. Criminal Injuries, 403 Md. 587, 943 A.2d 1229 (2008)
- Malick v. Athenour, 37 Cal. App. 4th 1120, 44 Cal. Rptr. 2d 281 (1995)
- Fire Fighters v. Cumberland, 407 Md. 1, 962 A.2d 374 (2008)
- Aviation Administration v. Noland, 386 Md. 556, 873 A.2d 1145 (2005)
- Board of Physician v. Banks, 354 Md. 59, 729 A.2d 376 (1999)
- Barnes v. State ex rel. Pinkney, 236 Md. 564, 204 A.2d 787 (1964)
- Takoma Pk. v. Citizens for Decent Gov't, 301 Md. 439, 483 A.2d 348 (1984)
- Gittings v. Bd. of Sup. of Elections, 38 Md. App. 674, 382 A.2d 349 (1978)
- Tyler v. Secretary of State, 229 Md. 397, 184 A.2d 101 (1962)
- Dutton v. Tawes, 225 Md. 484, 171 A.2d 688 (1961)