

SUPREME COURT OF OKLAHOMA

In re: State Question No. 805, Initiative Petition No. 421

2020 OK 45 · No. 118774 · Decided May 26, 2020

SUMMARY

The Oklahoma Supreme Court assumed original jurisdiction and granted extraordinary relief to the proponents of Initiative Petition 421, State Question 805. The Court issued a writ of mandamus directing the Oklahoma Secretary of State to accept the signed petitions for filing and promptly begin and complete the signature-counting process despite the COVID-19 emergency.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Chief Justice Gurich; Vice Chief Justice Darby; Justice Kauger; Justice Edmondson; Justice Combs; Justice Kane; Justice Rowe
JURISDICTION	Oklahoma
DECIDED	May 26, 2020
DOCKET	118774
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Proponents of Initiative Petition 421 sought extraordinary relief in the Oklahoma Supreme Court's original jurisdiction, requesting a writ of mandamus directing the Secretary of State to accept the signed petitions for filing and begin the signature-counting process.
STANDARD OF REVIEW	The Court exercised original jurisdiction and determined whether the Secretary of State had a clear, ministerial, and mandatory duty under the Oklahoma Constitution and 34 O.S. Supp. 2015, § 8(G).
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion
PARTIES	Theodis Manning, Gene Rainbolt v. Michael Rogers, Oklahoma Secretary of State, in his official capacity

TOPICS

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PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Oklahoma Supreme Court should assume original jurisdiction over the proponents' publici juris request for extraordinary relief.
2. Whether the Secretary of State had a mandatory statutory duty to accept the signed petitions for filing and begin the signature-counting process under 34 O.S. Supp. 2015, § 8(G).
3. Whether the Secretary's tolling of the signature-gathering deadline during the COVID-19 emergency altered the proponents' statutory rights under § 8(G).
4. Whether practical and safety concerns related to the COVID-19 pandemic justified refusing or delaying performance of the Secretary's ministerial duties.

HOLDINGS

1. The Oklahoma Supreme Court may assume original jurisdiction over a publici juris controversy when urgency and the need for a judicial determination are present.
2. The Secretary of State has a clear, ministerial, and mandatory duty to accept for filing initiative petitions tendered in compliance with the statute and to begin the signature-counting process.
3. The Secretary of State's temporary tolling of the signature-gathering deadline did not alter the proponents' statutory rights under 34 O.S. Supp. 2015, § 8(G).
4. The Secretary of State's asserted practical and safety concerns did not establish that the signature-counting process could not be performed efficiently with necessary safety precautions and did not justify withholding performance of the mandatory duties.

KEY QUOTATIONS

“When initiative petitions submitting a proposed measure to the people for their ratification or rejection are offered to the Secretary of State for filing, “it is his duty to file same.” (¶ 2)

“The duties imposed upon the Secretary of State regarding the initiative and referendum is ministerial, and is mandatory.” (¶ 6)

FACTUAL BACKGROUND

The proponents of Initiative Petition 421 tendered signed petitions to the Oklahoma Secretary of State and certified the statutory conditions for terminating the circulation period. The Secretary had temporarily tolled the signature-gathering deadline on March 18, 2020, with the Governor's approval during the statewide COVID-19 emergency. The Secretary raised concerns that beginning the signature-counting process during the pandemic would create practical and safety difficulties, while the proponents offered to secure a suitable facility at their own expense.

PROCEDURAL HISTORY

The proponents tendered signed petitions for filing after the Secretary of State had tolled the signature-gathering deadline during the COVID-19 emergency. The Secretary expressed concern that counting signatures during the emergency would create practical and safety difficulties. The Supreme Court assumed original jurisdiction and granted mandamus relief.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The Secretary of State was directed to accept for filing the signed petitions for Initiative Petition 421, State Question 805, within ten calendar days of the order and thereafter begin and complete the signature-counting process expeditiously.

CASES CITED

- Fent v. Contingency Review Board, 2007 OK 27, ¶ 11, 163 P.3d 512
- Threadgill v. Cross, 1910 OK 165, ¶ 5, 109 P. 558
- In re Initiative Petition No. 349, State Question No. 642, 1992 OK 122, 838 P.2d 1
- In re Initiative Petition No. 397, State Question No. 767, 2014 OK 23, ¶ 9, 326 P.3d 496
- Norris v. Cross, 1909 OK 316, 105 P. 1000