

SUPREME COURT OF OHIO

State ex rel. Burroughs v. Summit County Board of Elections

2015-Ohio-4122 (Ohio 2015) · No. 2015-1570 · Decided October 2, 2015

SUMMARY

The Supreme Court of Ohio granted Richard A. Burroughs's petition for a writ of mandamus, ordering the Summit County Board of Elections to certify him as an independent candidate for Akron City Council Ward 8. The court held that the board abused its discretion by rejecting four petition signatures based on inconsistencies with voter-registration signatures, relying on *State ex rel. Crowl v. Delaware Cty. Bd. of Elections*. The opinion includes dissenting views that the board had not been presented with uncontroverted authenticity evidence when it rejected the signatures.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Pfeifer; Kennedy; French; O'Neill; O'Donnell; Lanzinger; O'Connor
JURISDICTION	Ohio
DECIDED	October 2, 2015
DOCKET	2015-1570
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original mandamus action seeking to compel the Summit County Board of Elections to certify Burroughs as an independent candidate and place his name on the ballot.
STANDARD OF REVIEW	Whether the board of elections abused its discretion in rejecting the petition signatures and denying ballot access.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion
PARTIES	Richard A. Burroughs v. Summit County Board of Elections

TOPICS

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QUESTIONS PRESENTED

1. Whether the Summit County Board of Elections abused its discretion by rejecting four nominating-petition signatures based on a mismatch with the electors' voter-registration signatures.
2. Whether Burroughs was entitled to a writ of mandamus compelling the board to certify him as an independent candidate and place his name on the ballot.

HOLDINGS

1. The board of elections abused its discretion in rejecting the four petition signatures and denying Burroughs a place on the ballot.
2. A writ of mandamus should issue ordering the board of elections to certify Burroughs as an independent candidate and place him on the ballot.

KEY QUOTATIONS

“we conclude that the board abused its discretion in rejecting the four petition signatures and in denying relator a place on the ballot. Accordingly, we grant the writ.” (¶ 3)

FACTUAL BACKGROUND

Richard A. Burroughs sought to run as an independent candidate for the Akron City Council ward 8 position in the November 3, 2015 election. His nominating petition contained 24 valid signatures, one short of the required number. The Summit County Board of Elections rejected four signatures because they did not match the signatures on the electors' voter-registration forms, thereby denying Burroughs a place on the ballot.

PROCEDURAL HISTORY

Burroughs submitted a nominating petition with 24 valid signatures, one fewer than required. The Summit County Board of Elections rejected four signatures because they did not match the signatures on the electors' voter-registration forms and denied him a place on the ballot. Burroughs sought a writ of mandamus in the Supreme Court of Ohio, which granted the writ.

DISPOSITION

writ_granted

CASES CITED

- State ex rel. Crowl v. Delaware Cty. Bd. of Elections, 2015-Ohio-4097

OPINION

The State Ex Rel. Burroughs v. Summit County Board of Elections
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PER CURIAM.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as State ex

rel. Burroughs v. Summit Cty. Bd. of Elections, Slip Opinion No. 2015-Ohio-4122.]

NOTICE

This slip opinion is subject to formal revision before it is published in an advance sheet of the Ohio Official Reports. Readers are requested to promptly notify the Reporter of Decisions, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215, of any typographical or other formal errors in the opinion, in order that corrections may be made before the opinion is published.

SLIP OPINION NO. 2015-OHIO-4122

THE STATE EX REL. BURROUGHS v. SUMMIT COUNT BOARD OF ELECTIONS. [Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as State ex rel. Burroughs v. Summit Cty. Bd. of Elections, Slip Opinion No. 2015-Ohio-4122.] Elections—Mandamus—Nominating petition—Action to compel board of elections to place relator’s name on the ballot—Writ granted on the authority of State ex rel. Crowl v. Delaware Cty. Bd. of Elections, __ Ohio St.3d __, 2015-Ohio-4097, __ N.E.3d __. (No. 2015-1570—Submitted October 2, 2015—Decided October 2, 2015.) IN MANDAMUS. _____ Per Curiam. {¶ 1} Relator, Richard A. Burroughs, seeks a writ of mandamus ordering respondent, the Summit County Board of Elections, to certify him as an independent candidate for the city of Akron ward 8 council position in the November 3, 2015 election.

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{¶ 2} Burroughs submitted a nominating petition containing 24 valid signatures, one shy of the number required to qualify for the ballot. The board of elections rejected four petition signatures because they did not match the signatures on the electors’ voter-registration forms. {¶ 3} On the authority of State ex rel. Crowl v. Delaware Cty. Bd. of Elections, __ Ohio St.3d __, 2015-Ohio-4097, __ N.E.3d __, we conclude that the board abused its discretion in rejecting the four petition signatures and in denying relator a place on the ballot. Accordingly, we grant the writ. Writ granted. PFEIFER, KENNEDY, FRENCH, and O’NEILL, JJ., concur. O’DONNELL, J., dissents. LANZINGER, J., dissents for the reasons set forth in her dissent to State ex rel. Crowl v. Delaware Cty. Bd. of Elections, __ Ohio St.3d __, 2015-Ohio-4097, __ N.E.3d __. O’CONNOR, C.J., not participating. _____ O’DONNELL, J., dissenting. {¶ 4} Respectfully, I dissent. {¶ 5} I would deny the writ of mandamus in this case, because in my view, State ex rel. Crowl v. Delaware Cty. Bd. of Elections, __ Ohio St.3d __, 2015- Ohio-4097, __ N.E.3d __, is not dispositive. This is not a case where the board of elections has disregarded uncontroverted evidence as to the authenticity of a signature on a petition. {¶ 6} Here, Burroughs did not present uncontroverted evidence of the authenticity of the four signatures on his petitions to the board at the time it rejected them, and he has never presented such evidence to it. Rather, for the first time in this court in this mandamus action he asserts such evidence. Therefore, 2 January Term, 2015 the board did not abuse its discretion by disregarding evidence of the authenticity of the electors’ signatures on the petitions. {¶ 7} Accordingly, I dissent. _____ Warner

Mendenhall, for relator. Sherri Bevan Walsh, Summit County Prosecuting Attorney, and John F. Galonski, Assistant Prosecuting Attorney, for respondent. _____ 3

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