

SUPREME COURT OF ARKANSAS

McDaniel v. Spencer

2015 Ark. 94 (2015) · No. CV-14-599 · Decided March 5, 2015

SUMMARY

The Supreme Court of Arkansas reviewed constitutional challenges to sections of Act 1413 of 2013, which amended Arkansas laws governing initiative and referendum petitions. The court upheld sections 3, 11, 15, and 21, including requirements concerning paid canvassers, petition information, and canvasser verification. It held section 13 unconstitutional because prohibiting the collection of additional signatures after filing imposed an unwarranted restriction on the constitutional right to circulate petitions.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Robin F. Wynne; Jim Hannah; Rhonda K. Wood; Donald L. Corbin; Karen R. Baker; Courtney Hudson Goodson; Josephine Linker Hart
JURISDICTION	Arkansas
DECIDED	March 5, 2015
DOCKET	CV-14-599
DISPOSITION	other
PROCEDURAL POSTURE	State officials appealed from Pulaski County Circuit Court orders declaring portions of Act 1413 of 2013 unconstitutional and permanently enjoining their enforcement.
STANDARD OF REVIEW	Constitutional interpretation is reviewed de novo. Legislative acts are presumed constitutional, and the challenger bears the burden of showing a clear incompatibility between the act and the constitution.
PRECEDENTIAL VALUE	published Arkansas Supreme Court opinion
PARTIES	Dustin McDaniel, in his official capacity as Attorney General, Mark Martin, in his official capacity as Secretary of State v. Paul Spencer, Neil Sealy

TOPICS

- election law
- constitutional law
- appellate jurisdiction
- statutory interpretation
- due process

PRACTICE AREAS

constitutional law

election law

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether section 21 of Act 1413, imposing identification, disclosure, training, criminal-history, and photograph requirements on paid canvassers, was an unwarranted restriction on the initiative and referendum rights protected by article 5, section 1 of the Arkansas Constitution.
2. Whether the terms "anything of value" and "current residence address" in section 21 were unconstitutionally vague.
3. Whether section 21 violated Arkansas constitutional rights to free speech, petition, or equal protection by treating paid canvassers differently from volunteer canvassers.
4. Whether section 3's requirements concerning petitioner information, disability assistance, canvasser eligibility, and fraud prevention violated article 5, section 1 or due process.
5. Whether section 11's requirement that canvassers provide a current residence address violated due process or equal protection.
6. Whether section 13's prohibition on collecting additional signatures after filing a petition and before the Secretary of State determined sufficiency was an unconstitutional restriction.
7. Whether section 15's requirements for identifying paid canvassers and certifying their training violated equal protection.
8. Whether section 18's signature-counting rules, including invalidation of petition parts containing signatures from more than one county, violated article 5, section 1 or due process.
9. Whether section 18(d)'s refusal to accept additional signatures to cure an initially insufficient petition was constitutional.

HOLDINGS

1. Section 21 of Act 1413 does not impose an unwarranted restriction on the initiative and referendum rights protected by article 5, section 1 of the Arkansas Constitution.
2. The terms "anything of value" and "current residence address" in section 21 are not unconstitutionally vague.
3. Section 21 does not violate appellees' rights to free speech or petition under the Arkansas Constitution.
4. The different treatment of paid and volunteer canvassers under section 21 is rationally related to a legitimate governmental purpose and does not violate equal protection.
5. Section 3 of Act 1413 is constitutional, including its requirements that petitioners provide printed identifying information, that disability assistance be documented, and that canvassers comply with specified eligibility and anti-fraud requirements.
6. Section 11's requirement that paid canvassers provide a current residence address does not violate due process or equal protection.

7. Section 13 of Act 1413 is unconstitutional because prohibiting further circulation and collection of signatures after filing and before the Secretary of State determines sufficiency is an unwarranted restriction on the right to circulate petitions.
8. Section 15 is constitutional and does not violate equal protection.
9. Most of section 18 is constitutional, but Arkansas Code Annotated section 7-9-126(b)(7), which invalidates an entire petition part containing signatures from more than one county unless out-of-county signatures are stricken before filing, is unconstitutional.
10. Section 18(d), which requires rejection of an initially insufficient petition and bars acceptance of additional signatures to cure the insufficiency, is constitutional.

KEY QUOTATIONS

“We hold that section 13 of the Act violates article 5, § 1 because it acts as an unwarranted restriction on the right to circulate a petition.” (at 15)

“Section 7-9-126(b)(7), in invalidating an entire petition part for issues with individual signatures, goes beyond the power granted to the General Assembly in article 5, § 1.” (at 18)

FACTUAL BACKGROUND

Act 1413 of 2013 amended Arkansas laws governing initiative and referendum petitions, including requirements for paid canvassers, petition verification, signature information, and signature counting. The General Assembly enacted the provisions in response to concerns about forged or invalid signatures and the incentives of paid canvassers to submit defective signatures. Petition sponsors and canvassers challenged several provisions as violating Arkansas constitutional rights to petition, free speech, due process, and equal protection.

PROCEDURAL HISTORY

Paul Spencer and Neil Sealy challenged provisions of Act 1413 of 2013 governing Arkansas initiative and referendum petitions. The circuit court granted a temporary injunction, declared sections 3, 11, 13, 15, 18, and 21 unconstitutional, and later entered a permanent injunction. The Attorney General intervened, and the state officials appealed to the Arkansas Supreme Court.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand instructions stated. The circuit court's judgment was affirmed as to section 13 and section 18(b)(7), and reversed as to sections 3, 11, 15, 21, and the remainder of section 18.

CASES CITED

- Martin v. Kohls, 2014 Ark. 427, 444 S.W.3d 844 (2014)

- Archer v. Sigma Tau Gamma Alpha Epsilon, Inc., 2010 Ark. 8, 362 S.W.3d 303 (2010)
- Tsann Kuen Enters. Co. v. Campbell, 355 Ark. 110, 129 S.W.3d 822 (2003)
- Washburn v. Hall, 225 Ark. 868, 286 S.W.2d 494 (1956)
- Reinert v. State, 348 Ark. 1, 71 S.W.3d 52 (2002)
- Booker v. State, 335 Ark. 316, 984 S.W.2d 16 (1998)
- Craft v. City of Ft. Smith, 335 Ark. 417, 984 S.W.2d 22 (1998)
- Michigan v. Long, 463 U.S. 1032 (1983)
- Meyer v. Grant, 486 U.S. 414 (1988)
- Buckley v. American Constitutional Law Foundation, Inc., 525 U.S. 182 (1999)
- Bakalekos v. Furlow, 2011 Ark. 505, 410 S.W.3d 564 (2011)
- Sturdy v. Hall, 204 Ark. 785, 164 S.W.2d 884 (1942)
- Dixon v. Hall, 210 Ark. 891, 198 S.W.2d 1002 (1946)
- Reeves v. Smith, 190 Ark. 213, 78 S.W.2d 72 (1935)
- Jegley v. Picado, 349 Ark. 600, 80 S.W.3d 332 (2002)
- Martin v. Kohls, 2014 Ark. 427, 444 S.W.3d 844 (2014)
- Paschal v. State, 2012 Ark. 127, 388 S.W.3d 429 (2012)
- Linder v. Linder, 348 Ark. 322, 72 S.W.3d 841 (2002)
- Griffen v. Ark. Judicial Discipline & Disability Comm'n, 355 Ark. 38, 130 S.W.3d 524 (2003)
- Lake View Sch. Dist. No. 25 of Phillips Cnty. v. Huckabee, 351 Ark. 31, 91 S.W.3d 472 (2002)
- Bennett v. Nat'l Ass'n for Advancement of Colored People, 236 Ark. 750, 370 S.W.2d 79 (1963)
- Ports Petroleum Inc. of Ohio v. Tucker, 323 Ark. 680, 916 S.W.2d 749 (1996)
- Neal v. Still, 248 Ark. 1132, 455 S.W.2d 921 (1970)