

SUPREME COURT OF TEXAS

In re Rebecca Ramirez Palomo

366 S.W.3d 193 (Tex. 2012) · No. No. 12-0208 · Decided April 27, 2012

SUMMARY

The Supreme Court of Texas considered whether public records conclusively established that Rebecca Ramirez Palomo had not been a practicing lawyer for the four years required to serve as a district judge. The court held that her claim of a State Bar MCLE non-practicing exemption did not conclusively establish her ineligibility and that the Webb County Democratic Party chair was not authorized to remove her from the primary ballot. The court granted mandamus relief and directed the court of appeals to vacate its order.

CASE DETAILS

COURT	Supreme Court of Texas
JURISDICTION	Texas
DECIDED	April 27, 2012
DOCKET	No. 12-0208
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original mandamus proceeding challenging a court of appeals' order directing the Webb County Democratic Party chair to remove Palomo's name from the primary-election ballot.
STANDARD OF REVIEW	In reviewing mandamus against a court of appeals, the Supreme Court independently determines whether the action at the point of origin was proper and whether the court of appeals clearly abused its discretion. A party officer may declare a candidate ineligible only when ineligibility is indicated on the application or conclusively established by another public record.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Texas; precedential.
PARTIES	Rebecca Ramirez Palomo v. Fernando Sanchez, Sergio Mora, Chairman of the Democratic Party-Webb County

TOPICS

- election law
- ballot access
- appellate procedure
- remedies
- statutory interpretation

PRACTICE AREAS

election law

constitutional law

appellate procedure

remedies

statutory interpretation

QUESTIONS PRESENTED

1. Whether public records conclusively established that Palomo had not been a practicing lawyer for the four years preceding the election, thereby authorizing or requiring the county party chair to declare her ineligible.
2. Whether Palomo's claim of the State Bar's non-practicing MCLE exemption automatically prohibited her from practicing law from the date of the claim until its withdrawal.
3. Whether the court of appeals clearly abused its discretion by ordering Palomo's removal from the ballot.

HOLDINGS

1. The public records did not conclusively establish that Palomo failed to satisfy the Texas Constitution's four-year practicing-law requirement for district judge candidates. The county chair therefore was not authorized or required to declare her ineligible.
2. A claim of the State Bar's non-practicing MCLE exemption does not, merely by being claimed, prohibit a lawyer from practicing law from the date of the claim until the date the exemption is withdrawn.
3. The court of appeals clearly abused its discretion by ordering Palomo's removal from the ballot because the county chair had no clearly established legal duty to declare her ineligible.

KEY QUOTATIONS

"All that matters is whether the lawyer is entitled to an exemption from MCLE requirements by the deadline for completion." (at 197)

"Public records certainly do not "conclusively establish[]" that she did not practice law during that period." (at 198)

"The county chair was therefore not authorized, let alone required, to declare Ramirez ineligible," (at 198)

FACTUAL BACKGROUND

Palomo had been licensed to practice law in Texas since 1999 and sought a place on the Democratic primary ballot for judge of the 341st Judicial District Court. State Bar records showed that she claimed a non-practicing MCLE exemption on November 21, 2008, and withdrew it in November 2009, while also showing that she completed her MCLE requirements for the relevant compliance year. The public records did not conclusively establish that she had failed to practice law continuously for the four years preceding the election or that she had been suspended from practice.

PROCEDURAL HISTORY

Rebecca Ramirez Palomo and Fernando Sanchez applied for placement on the general primary ballot for judge of the 341st Judicial District Court. Sanchez challenged Palomo's eligibility based on her claimed Texas State Bar non-practicing MCLE exemption. The court of appeals granted Sanchez mandamus relief and ordered

Palomo's name removed from the ballot. The Supreme Court of Texas granted Palomo's mandamus petition, ordered her name placed on the ballot, and then explained that the court of appeals had exceeded its writ power.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The court of appeals was directed to vacate its March 9, 2012 order. The county chair had already been ordered to take all actions necessary to place Palomo's name on the ballot and had complied. The writ would issue only if the court of appeals failed to comply promptly.

CASES CITED

- Strake v. Court of Appeals for First Supreme Judicial District of Texas, 704 S.W.2d 746, 747 (Tex. 1986)
- Johnson v. Fourth Court of Appeals, 700 S.W.2d 916 (Tex. 1985)
- Fitch v. Fourteenth Court of Appeals, 834 S.W.2d 335, 338 (Tex. 1992)
- Bird v. Rothstein, 930 S.W.2d 586, 587 (Tex. 1996)
- Davis v. Taylor, 930 S.W.2d 581, 584 (Tex. 1996)
- LaRouche v. Hannah, 822 S.W.2d 632, 634 (Tex. 1992)
- Painter v. Shaner, 667 S.W.2d 123, 124 (Tex. 1984)
- Sanchez v. Palomo, 366 S.W.3d 255, 257-58 (Tex. App.—San Antonio 2012, orig. proceeding)
- Perez v. Texas, No. 11-CV-360-OLG-JES-XR (W.D. Tex. Mar. 1, 2012 order and Mar. 19, 2012 amended election-schedule order)