

SUPREME COURT OF ARIZONA

Bohart v. Hanna, 213 Ariz. 480

143 P.3d 1021 (2006) · No. CV-06-0225-AP-EL · Decided July 26, 2006

SUMMARY

The Arizona Supreme Court held that the five-day period for appealing a superior court decision in a candidate-nomination challenge under A.R.S. § 16-351(A) means five calendar days, including weekends and holidays. Because Robert Bohart filed his notice of appeal six days after the superior court's decision, the court granted the motion to dismiss the appeal as untimely.

CASE DETAILS

COURT	Supreme Court of Arizona
WRITING FOR THE COURT	Berch, Vice Chief Justice; Ruth V. McGregor, Chief Justice; Andrew D. Hurwitz, Justice; W. Scott Bales, Justice
JURISDICTION	Arizona
DECIDED	July 26, 2006
DOCKET	CV-06-0225-AP-EL
DISPOSITION	dismissed
PROCEDURAL POSTURE	Bohart appealed a superior court ruling in a nomination-petition challenge. Goulet moved to dismiss the appeal as untimely.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo; the timeliness of the appeal was determined by applying the statutory filing deadline.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Arizona
PARTIES	Robert J. Bohart v. Pamela Hanna, in her official capacity as Clerk of the City of Glendale, Arizona, Elaine Scruggs, Thomas Eggleston, Steve Frate, Manny Martinez, David Goulet, Joyce Clark, Phil Lieberman, David M. Goulet, Real Party in Interest

TOPICS

- election contests
- appellate procedure
- statutory interpretation
- legislative intent

PRACTICE AREAS

- election law
- appellate procedure
- statutory interpretation

QUESTIONS PRESENTED

1. Whether the five-day period for appealing a superior court decision in a nomination-petition challenge excludes Saturdays, Sundays, and legal holidays.
2. Whether Bohart's notice of appeal, filed six days after the superior court decision, was timely.

HOLDINGS

1. The statutory five-day period for appealing a superior court decision in a nomination-petition challenge includes Saturdays, Sundays, and legal holidays; it is measured as five calendar days.
2. Bohart's notice of appeal was untimely because it was filed on the sixth calendar day after the superior court's decision.

KEY QUOTATIONS

"We hold that the five days allowed to appeal a decision in a challenge to the nomination of a candidate includes weekends and holidays." (143 P.3d at 1023)

FACTUAL BACKGROUND

Robert Bohart challenged the nomination petitions of David Goulet, a candidate for Glendale City Council. The superior court determined that the petitions substantially complied with A.R.S. section 16-314 and allowed Goulet to remain on the primary ballot. The superior court entered its decision on June 30, 2006, and Bohart filed his notice of appeal on July 6, one day after the five-day statutory period measured as calendar days.

PROCEDURAL HISTORY

The superior court ruled that Goulet's nomination petitions substantially complied with A.R.S. section 16-314 and that Goulet should remain on the primary ballot. The court issued its decision on June 30, 2006. Bohart filed his notice of appeal on July 6, 2006, and the Supreme Court of Arizona dismissed the appeal as untimely because the statutory five-day appeal period had expired.

DISPOSITION

dismissed

CASES CITED

- Bedard v. Gonzales, 120 Ariz. 19, 583 P.2d 906 (1978)
- Scheehle v. Justices of the Supreme Court, 211 Ariz. 282, 120 P.3d 1092 (2005)