

SUPREME COURT OF MINNESOTA

Zettler v. Ventura

649 N.W.2d 846 (Minn. 2002) · No. C8-02-1048 · Decided August 30, 2002

SUMMARY

The Minnesota Supreme Court considered an original action challenging the secretary of state's refusal to accept candidacy affidavits and place a First Judicial District judicial seat on the 2002 election ballot. The court held that, because the judge's retirement would occur at the end of his term and would leave no significant gap in judicial service, the election process was required under the Minnesota Constitution. The court granted the petition and directed the secretary of state to accept filings and place the seat on the ballot; two justices dissented.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	Blatz, Chief Justice; Anderson, Justice; Stringer, Justice
JURISDICTION	Minnesota
DECIDED	August 30, 2002
DOCKET	C8-02-1048
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original action under Minn. Stat. § 204B.44 seeking correction of an alleged wrongful act, omission, or error by the secretary of state in refusing to accept affidavits of candidacy and place a judicial seat on the ballot.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Minnesota; includes a dissent arguing that the majority effectively overruled Diemer v. Carlson.
PARTIES	Todd P. Zettler v. Jesse Ventura, Governor of the State of Minnesota, Mary Kiffmeyer, Minnesota Secretary of State

TOPICS

- election law
- election administration
- constitutional law
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the secretary of state's refusal to accept affidavits of candidacy for and place the First Judicial District judicial seat on the 2002 ballot constituted a wrongful act, omission, or error under Minn. Stat. § 204B.44(d).
2. Whether, under Minnesota Constitution article VI, sections 7 and 8, an election rather than gubernatorial appointment was required where the judge's retirement would leave no significant gap in judicial service and an election was feasible.

HOLDINGS

1. Where a judge's retirement would thwart an otherwise possible election but would leave no significant gap in judicial service, the election process under article VI, section 7 of the Minnesota Constitution is required rather than the appointment process under article VI, section 8.
2. The secretary of state's failure to accept affidavits of candidacy and place the seat on the ballot constituted a wrongful act, omission, or error concerning an election under Minn. Stat. § 204B.44(d).

KEY QUOTATIONS

"Accordingly, we conclude that where, as here, the effective date of the judge's retirement would thwart an otherwise possible election that would leave no significant gap in service, use of the election process in Article VI, Section 7 of the Minnesota Constitution is required." (at 851)

"Therefore, as previously ordered, the secretary of state was required to accept affidavits of candidacy for the seat and place the seat on the ballot to avoid a "wrongful act, omission, or error" in the duties concerning an election." (at 851)

FACTUAL BACKGROUND

Judge Eugene Atkins held a First Judicial District judicial seat scheduled for election in fall 2002, with his regular term ending January 6, 2003. Atkins notified the governor before the candidate-filing period that he intended to retire effective January 2, 2003, and the governor filed an order directing his retirement with the secretary of state on July 1, 2002. Because Atkins would serve essentially the entire regular term and no significant gap in judicial service would result from an election, Zettler sought an order requiring the secretary of state to accept candidate affidavits and place the seat on the ballot.

PROCEDURAL HISTORY

Zettler filed an expedited petition in the Supreme Court of Minnesota on June 27, 2002. The court issued an order on July 3, 2002 granting the petition, directing the secretary of state to accept affidavits of candidacy for the First Judicial District seat and place the seat on the 2002 ballot; this opinion followed. The petition was dismissed as to Governor Ventura because the petition did not allege that he was charged with a duty concerning an election under Minn. Stat. § 204B.44(d).

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The secretary of state was directed to accept affidavits of candidacy for the First Judicial District seat and place the seat on the 2002 ballot. The order granting the petition had already issued on July 3, 2002.

CASES CITED

- Diemer v. Carlson, 550 N.W.2d 875 (Minn. 1996)
- Nelson v. Quie, 299 N.W.2d 119 (Minn. 1980)
- State ex rel. Hennepin County Bar Ass'n v. Amdahl, 264 Minn. 350, 119 N.W.2d 169 (1962)
- Page v. Carlson, 488 N.W.2d 274 (Minn. 1992)
- Oanes v. Allstate Ins. Co., 617 N.W.2d 401 (Minn. 2000)
- State ex rel. Foster v. Naftalin, 246 Minn. 181, 74 N.W.2d 249 (1956)