

SUPREME COURT OF OHIO

State ex rel. DeMora v. LaRose

State ex rel. DeMora v. LaRose, 2022 Ohio 2173 (Ohio 2022) · No. No. 2022-0661 · Decided June 24, 2022

SUMMARY

****Key Legal Topics:**** Mandamus; Election law; Candidate filing deadlines; Statutory interpretation of R.C. 3513.05 and 3513.041; Secretary of state's duties; Effect of federal court order changing primary date; Redistricting. ****Holdings:**** The Ohio Supreme Court granted a writ of mandamus holding that prospective candidates who filed declarations of candidacy 90 days before the August 2, 2022 primary (May 4) and write-in candidates who filed 72 days before (May 22/23) met the statutory deadlines by operation of law when the primary date was moved, and ordered their certification to the ballot. The court denied the writ for other candidates seeking a new filing deadline or postponement, finding no clear legal duty for the secretary of state to create new deadlines. ****Key Concepts:**** Statutory filing deadlines are tied to the actual primary election date and automatically adjust when the date changes; plain language of R.C. 3513.05 and 3513.041 controls; H.B. 93's restrictions on adjusting deadlines applied only to the May 3 primary, not the August 2 primary; the secretary of state's directive rejecting late filings was in clear disregard of law; the **Purcell** principle does not bar mandamus to enforce statutory deadlines.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; O'Connor; Donnelly; Stewart; Brunner
JURISDICTION	Ohio
DECIDED	June 24, 2022
DOCKET	No. 2022-0661
DISPOSITION	other
PROCEDURAL POSTURE	Original action in mandamus
STANDARD OF REVIEW	Clear and convincing evidence of clear legal right, clear legal duty, and no adequate remedy.
PRECEDENTIAL VALUE	Published

TOPICS

statutory interpretation

plain meaning rule

voting rights

remedies

constitutional law

PRACTICE AREAS

Election Law

Mandamus

Statutory Interpretation

QUESTIONS PRESENTED

1. Whether the filing deadlines for declarations of candidacy under R.C. 3513.05 and 3513.041 moved by operation of law when the primary election date was changed from May 3 to August 2, 2022, such that the original relators' filings were timely.
2. Whether the Secretary of State had a clear legal duty to create a new filing period for candidates who missed the original deadlines or to postpone the August 2 primary.

HOLDINGS

1. The plain language of R.C. 3513.05 and 3513.041 ties the filing deadline to the actual day of the primary election. Therefore, when the primary was moved to August 2, the deadlines moved accordingly. The original relators' filings were timely.
2. The Secretary had no clear legal duty to create a new filing period or postpone the primary. The intervenors cannot satisfy the mandamus standard because they have not shown a clear legal duty.

KEY QUOTATIONS

“R.C. 3513.05 provides that candidates for partisan nomination in a primary election must file their declaration of candidacy and petition ‘no[] later than four p.m. [on] the ninetieth day before the day of the primary election.’” (¶ 31)

“By its plain language, the statute says that the filing deadline for partisan-primary candidates is 90 days before the primary. To read the statute to say that that deadline applies only to certain primaries, depending on when they are formally scheduled, we would have to add words to the statute.” (¶ 35)

“We therefore hold that their declarations and petitions were timely filed.” (¶ 47)

FACTUAL BACKGROUND

Due to protracted redistricting litigation, the Ohio primary election for state legislative offices was moved from May 3 to August 2, 2022 by a federal court order. Secretary of State Frank LaRose issued Directive 2022-34 instructing county boards of elections to reject any candidate declarations filed after the original February deadlines. Six original relators filed declarations of candidacy on May 4 (90 days before August 2) or write-in declarations on May 16 and May 23 (within 72 days). Two intervening relators filed in June. The boards rejected all filings as untimely per the directive. The relators sought a writ of mandamus to compel acceptance.

PROCEDURAL HISTORY

Relators filed an original action in mandamus in the Supreme Court of Ohio seeking to compel the Secretary of State and county boards of elections to accept their declarations of candidacy for the August 2, 2022 primary election. The court granted expedited briefing and allowed intervention.

DISPOSITION

other

REMAND INSTRUCTIONS

The Secretary of State shall instruct the Franklin, Montgomery, and Licking County Boards of Elections to accept the original relators' declarations of candidacy and petitions as timely and to certify them to the August 2 primary ballot if they otherwise qualify.

CASES CITED

- State ex rel. Linnabary v. Husted, 138 Ohio St.3d 535, 2014-Ohio-1417, 8 N.E.3d 940
- State ex rel. West v. LaRose, 161 Ohio St.3d 192, 2020-Ohio-4380, 161 N.E.3d 631
- State ex rel. Lucas Cty. Republican Party Executive Commt. v. Brunner, 125 Ohio St.3d 427, 2010-Ohio-1873, 928 N.E.2d 1072
- State ex rel. Grady v. State Emp. Relations Bd., 78 Ohio St.3d 181, 677 N.E.2d 343 (1997)
- In re Application Seeking Approval of Ohio Power Co., 155 Ohio St.3d 326, 2018-Ohio-4698, 121 N.E.3d 320
- In re N.M.P., 160 Ohio St.3d 472, 2020-Ohio-1458, 159 N.E.3d 241
- State ex rel. Herman v. Klopfleisch, 72 Ohio St.3d 581, 651 N.E.2d 995 (1995)
- State ex rel. Ferrara v. Trumbull Cty. Bd. of Elections, 166 Ohio St.3d 64, 2021-Ohio-3156, 182 N.E.3d 1142
- Wayt v. DHSC, L.L.C., 155 Ohio St.3d 401, 2018-Ohio-4822, 122 N.E.3d 92
- Purcell v. Gonzalez, 549 U.S. 1, 127 S.Ct. 5, 166 L.Ed.2d 1 (2006)
- Ohio Democratic Party v. LaRose, 2020-Ohio-4664, 159 N.E.3d 852 (10th Dist.)
- Bryan v. Fawkes, 61 V.I. 416 (2014)
- State ex rel. Owens v. Brunner, 125 Ohio St.3d 130, 2010-Ohio-1374, 926 N.E.2d 617
- Democratic Natl. Commt. v. Wisconsin State Legislature, ___ U.S. ___, 141 S.Ct. 28, 208 L.Ed.2d 247 (2020)
- Carson v. Simon, 978 F.3d 1051 (8th Cir. 2020)
- State ex rel. Stevens v. Fairfield Cty. Bd. of Elections, 152 Ohio St.3d 584, 2018-Ohio-1151, 99 N.E.3d 376
- State ex rel. Save Your Courthouse Comm. v. Medina, 157 Ohio St.3d 423, 2019-Ohio-3737, 137 N.E.3d 1118
- State ex rel. Schwaben v. School Emps. Retirement Sys., 76 Ohio St.3d 280, 667 N.E.2d 398 (1996)
- League of Women Voters of Ohio v. Ohio Redistricting Comm., ___ Ohio St.3d ___, 2022-Ohio-65, ___ N.E.3d ___ (League I)
- League of Women Voters of Ohio v. Ohio Redistricting Comm., ___ Ohio St.3d ___, 2022-Ohio-342, ___ N.E.3d ___ (League II)
- League of Women Voters of Ohio v. Ohio Redistricting Comm., ___ Ohio St.3d ___, 2022-Ohio-789, ___ N.E.3d ___ (League III)

- League of Women Voters of Ohio v. Ohio Redistricting Comm., ___ Ohio St.3d ___, 2022-Ohio-1235, ___ N.E.3d ___ (League IV)
- League of Women Voters of Ohio v. Ohio Redistricting Comm., ___ Ohio St.3d ___, 2022-Ohio-1727, ___ N.E.3d ___ (League V)
- Gonidakis v. LaRose, ___ F.Supp. ___, 2022 U.S. Dist. LEXIS 72172 (S.D.Ohio 2022)
- Gonidakis v. LaRose, S.D.Ohio No. 2:22-cv-0773, 2022 U.S. Dist. LEXIS 95341 (May 27, 2022)

CITED IN

- State ex rel. DeMora v. LaRose, State ex rel. DeMora v. LaRose, 2022-Ohio-2173

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