

SUPREME COURT OF MINNESOTA

Clark v. Pawlenty

755 N.W.2d 293 (Minn. 2008) · No. A08-1385 · Decided September 5, 2008

SUMMARY

The Minnesota Supreme Court considered a ballot challenge seeking to remove Justice Lorie Skjerven Gildea's name or incumbent designation from the 2008 election ballot. The court dismissed Governor Tim Pawlenty as an improper party, denied relief concerning the primary ballot on grounds of laches, and addressed the merits of the constitutional challenge concerning judicial appointments and elections for the general election ballot. The opinion interprets Article VI, section 8, of the Minnesota Constitution and related election statutes.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	Per Curiam; James H. Gilbert, Acting Chief Justice; Lawrence R. Yetka; Bruce D. Willis; Gordon W. Shumaker; Marilyn B. Rosenbaum, Acting Associate Justice
JURISDICTION	Minnesota
DECIDED	September 5, 2008
DOCKET	A08-1385
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original ballot-challenge proceeding under Minn. Stat. § 204B.44 seeking removal of an appointed Minnesota Supreme Court justice from the primary and general election ballots or, alternatively, removal of the incumbent designation. The Minnesota Supreme Court dismissed the Governor as an improper and unnecessary party, denied the petition as to the primary ballot on laches grounds, and reached the merits as to the general-election ballot.
STANDARD OF REVIEW	For the constitutional ballot challenge, the court applied the Anderson-Burdick balancing framework, examining the character and magnitude of the burden on First and Fourteenth Amendment rights and weighing that burden against the state's regulatory interests. The court also applied equitable laches principles to the timing of the ballot challenge and construed constitutional and statutory language according to

	ordinary meaning, constitutional purpose, history, and practical construction.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Minnesota
PARTIES	Jill Clark, Heather Robins v. Tim Pawlenty, Mark Ritchie, Fran Windschitl

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QUESTIONS PRESENTED

1. Whether Governor Pawlenty was a proper or necessary party to a ballot challenge seeking correction of election materials.
2. Whether the petitioners' challenge to the primary-election ballot was barred by laches.
3. Whether Article VI, § 8, of the Minnesota Constitution barred a judge appointed to fill a judicial vacancy from seeking election to the same judicial office at the next general election.
4. Whether Minn. Stat. § 204B.36, subd. 5, authorized the incumbent designation for a judge initially appointed to the office rather than previously elected to it.
5. Whether the incumbent designation violated Minn. Stat. § 204B.35, subd. 2.
6. Whether the incumbent designation violated the Minnesota Constitution.
7. Whether the incumbent designation, alone or combined with the gubernatorial appointment, violated the petitioners' First Amendment rights.

HOLDINGS

1. Governor Pawlenty was neither a proper nor necessary party because he had no responsibility for preparing the challenged ballot and could not implement the requested relief; the Secretary of State was a proper party because of his statewide election-administration responsibilities.
2. The petitioners' challenge to the primary-election ballot was barred by laches because they unreasonably delayed asserting claims they could have brought earlier, and granting relief would have substantially prejudiced election officials, candidates, and voters.
3. Article VI, § 8, of the Minnesota Constitution does not bar a judge appointed to fill a judicial vacancy from seeking election to the same office at the next general election occurring more than one year after the appointment.
4. A judge initially appointed to fill a judicial vacancy qualifies as an incumbent and must receive the incumbent designation when seeking election to that judicial office under Minn. Stat. § 204B.36, subd.

5.

5. The incumbent designation required by Minn. Stat. § 204B.36, subd. 5, does not violate the Minnesota Constitution.
6. The incumbent designation, alone or in combination with the gubernatorial appointment, imposed at most a de minimis burden on candidates' and voters' First Amendment rights and therefore did not violate the First Amendment.

KEY QUOTATIONS

“We will not read into the Minnesota Constitution the limitation that petitioners urge.” (at 307)

“This arrangement acts as a check on the gubernatorial appointment process by keeping the ultimate choice with the voters while, at the same time, recognizing the unique independent nature of the judicial function.” (at 311)

“We conclude that petitioners have not established any violation of their First Amendment rights.” (at 314)

FACTUAL BACKGROUND

Lorie Skjerven Gildea was appointed in 2006 to replace Justice Russell A. Anderson after Anderson became chief justice. Gildea filed for election in 2008 to the same associate-justice seat and was designated as the incumbent on the ballot; Jill Clark filed as an opposing candidate, and Heather Robins was a registered voter. By the time the petition was filed, primary ballots had been printed, absentee ballots distributed, and voting machines programmed, tested, and certified.

PROCEDURAL HISTORY

Clark and Robins filed a ballot-challenge petition on August 14, 2008, later amending it on August 18, challenging Justice Lorie Skjerven Gildea's eligibility to run for the seat to which she had been appointed and the statutory incumbent designation. After expedited briefing and argument on August 26, the court dismissed Governor Pawlenty and denied the petition by order, issuing this opinion afterward. The court denied primary-ballot relief based on laches and rejected the constitutional and statutory challenges to the general-election ballot on the merits.

DISPOSITION

writ_denied

CASES CITED

- Winters v. Kiffmeyer, 650 N.W.2d 167 (Minn. 2002)
- Fetsch v. Holm, 236 Minn. 158, 52 N.W.2d 113 (1952)
- Marsh v. Holm, 238 Minn. 25, 55 N.W.2d 302 (1952)
- Peterson v. Stafford, 490 N.W.2d 418 (Minn. 1992), cert. denied, 507 U.S. 1033 (1993)
- Mattson v. McKenna, 301 Minn. 103, 222 N.W.2d 273 (1974)

- Winters v. Kiffmeyer, 650 N.W.2d 167 (Minn. 2002)
- Rice v. Connolly, 488 N.W.2d 241 (Minn. 1992)
- State ex rel. Putnam v. Holm, 172 Minn. 162, 215 N.W. 200 (1927)
- Kahn v. Griffin, 701 N.W.2d 815 (Minn. 2005)
- State ex rel. Mathews v. Houndersheldt, 151 Minn. 167, 186 N.W. 234 (1922)
- Baker v. Ploetz, 616 N.W.2d 263 (Minn. 2000)
- State ex rel. Hennepin County Bar Association v. Amdahl, 264 Minn. 350, 119 N.W.2d 169 (1962)
- Am. Family Ins. Group v. Schroedl, 616 N.W.2d 273 (Minn. 2000)
- State ex rel. Babcock v. Black, 22 Minn. 336 (1875)
- Enger v. Holm, 213 Minn. 154, 6 N.W.2d 101 (1942)
- City of Faribault v. Misener, 20 Minn. 396 (1874)
- Kelley v. Riley, 417 Mich. 119, 332 N.W.2d 353 (1983)
- Schwartz v. Secretary of State, 393 Mich. 42, 222 N.W.2d 517 (1974)
- Gustafson v. Holm, 232 Minn. 118, 44 N.W.2d 443 (1950)
- Republican Party of Minnesota v. White, 536 U.S. 765 (2002)
- Anderson v. Celebrezze, 460 U.S. 780 (1983)
- Burdick v. Takushi, 504 U.S. 428 (1992)
- Clough v. Guzzi, 416 F. Supp. 1057 (D. Mass. 1976)
- Bullock v. Carter, 405 U.S. 134 (1972)
- Clements v. Fashing, 457 U.S. 957 (1982)