

SUPREME COURT OF OHIO

State ex rel. Lange v. King, Clerk

144 Ohio St. 3d 349, 2015-Ohio-3440 (2015) · No. 2015-1281 · Decided August 25, 2015

SUMMARY

The Supreme Court of Ohio granted a writ of mandamus compelling the clerk of Newton Falls to transmit a proposed initiative and supporting petitions to the Trumbull County Board of Elections. The court held that the petition was properly filed with the village clerk, that the single-proposal requirement for statewide initiatives did not apply, and that the clerk improperly considered the proposed initiative's alleged fiscal impact.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, Chief Justice; William M. O'Neill, Justice; Paul E. Pfeifer, Justice; Terrence O'Donnell, Justice; Evelyn Lundberg Stratton, Justice; Sharon L. Kennedy, Justice; Judith L. French, Justice
JURISDICTION	Ohio
DECIDED	August 25, 2015
DOCKET	2015-1281
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original expedited mandamus action seeking to compel the village clerk to transmit a certified copy of a proposed initiative and supporting petitions to the county board of elections.
STANDARD OF REVIEW	Mandamus review of the village clerk's exercise of limited discretionary authority; refusal to certify is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Werner Lange v. Kathleen King, Clerk of the Village of Newton Falls

TOPICS

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PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Lange filed the proposed initiative with the proper municipal official under R.C. 731.28.
2. Whether R.C. 3519.01(A)'s single-proposal requirement applied to the municipal initiative.
3. Whether the village clerk could refuse to certify the initiative based on an asserted unconstitutional impairment of the municipality's contractual obligations and the measure's alleged fiscal impact.
4. Whether the Supreme Court of Ohio should issue a writ of mandamus compelling the clerk to transmit the initiative materials to the board of elections.

HOLDINGS

1. Because Newton Falls is a village, Lange complied with R.C. 731.28 by filing the initiative petition with the village clerk rather than a municipal auditor.
2. The single-proposal requirement in R.C. 3519.01(A) applies only to statewide initiative and referendum petitions, not to the municipal initiative at issue.
3. A village clerk abuses her limited discretion by refusing to certify a municipal initiative based on substantive or fiscal-impact concerns that are not evident on the face of the petition.
4. Lange was entitled to a writ of mandamus compelling the clerk to transmit the petitions and certified initiative text to the Trumbull County Board of Elections.

KEY QUOTATIONS

“The fiscal impact of the measure is a question that falls outside the four corners of the document.” (§ 11)

“We therefore hold that it was an abuse of discretion for the clerk to refuse to certify this petition on that basis.” (§ 11)

FACTUAL BACKGROUND

Newton Falls Ordinance 2014-11 repealed a municipal income-tax credit for taxes paid to another municipality. Werner Lange circulated petitions seeking to restore the credit and require that any future repeal occur only by popular vote. The Trumbull County Board of Elections certified 220 valid signatures, exceeding the 114 signatures required, but village clerk Kathleen King did not transmit the certified initiative text and petitions to the board of elections.

PROCEDURAL HISTORY

After the Trumbull County Board of Elections certified 220 valid signatures, Werner Lange sought to place a municipal initiative on the ballot. Village Clerk Kathleen King declined to transmit the certified initiative materials. Lange filed an expedited mandamus action in the Supreme Court of Ohio, which granted the writ.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The clerk of Newton Falls was ordered to transmit the petitions and certified text of the proposed initiative to the Trumbull County Board of Elections.

CASES CITED

- State ex rel. N. Main St. Coalition v. Webb, 106 Ohio St. 3d 437, 2005-Ohio-5009, 835 N.E.2d 1222
- State ex rel. Ditmars v. McSweeney, 94 Ohio St. 3d 472, 477, 764 N.E.2d 971 (2002)
- State ex rel. Columbus Coalition for Responsive Govt. v. Blevins, 140 Ohio St. 3d 294, 2014-Ohio-3745, 17 N.E.3d 578
- State ex rel. Bogart v. Cuyahoga Cty. Bd. of Elections, 67 Ohio St. 3d 554, 621 N.E.2d 389 (1993)
- State ex rel. Sinay v. Sodders, 80 Ohio St. 3d 224, 228, 685 N.E.2d 754 (1997)