

APPELLATE COURT OF ILLINOIS, FOURTH DISTRICT

Bettis v. Marsaglia

2013 IL App (4th) 130145 · No. 4-13-0145 · Decided January 30, 2014

SUMMARY

The Illinois Appellate Court, Fourth District, affirmed dismissal of Carolyn Bettis’s petition for judicial review of an electoral board decision concerning a proposed school-district working cash bond proposition. Although the appeal was moot because the specified election had occurred, the court reached the issue under the public-interest exception. It held that section 10-10.1(a) of the Illinois Election Code requires service of the review petition on the electoral board as a separate legal entity, and that failure to do so deprived the circuit court of subject-matter jurisdiction.

CASE DETAILS

COURT	Appellate Court of Illinois, Fourth District
WRITING FOR THE COURT	Justice Harris; Justice Appleton; Justice Pope
JURISDICTION	Illinois
DECIDED	January 30, 2014
DOCKET	4-13-0145
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the circuit court's section 2-619 dismissal of a petition for judicial review of an electoral board decision under section 10-10.1(a) of the Illinois Election Code.
STANDARD OF REVIEW	De novo review of whether the circuit court had subject-matter jurisdiction based on compliance with the Election Code; dismissal under section 2-619 was affirmed on that jurisdictional ground.
PRECEDENTIAL VALUE	published precedential opinion of the Appellate Court of Illinois, Fourth District
PARTIES	Carolyn Bettis v. Charles M. Marsaglia, Melissa O’Neal, Stephen Furman, Robyn Hays, Farley Cole

TOPICS

- election law
- mootness
- subject matter jurisdiction
- appellate procedure
- statutory interpretation

PRACTICE AREAS

election law

appellate procedure

administrative law

civil procedure

QUESTIONS PRESENTED

1. Whether the appeal was moot after the election specified in Bettis's petition had occurred and, if so, whether the public-interest exception applied.
2. Whether section 10-10.1(a) of the Illinois Election Code requires service of a petition for judicial review on the electoral board as a separate legal entity.
3. Whether failure to serve the electoral board as a separate legal entity deprived the circuit court of subject-matter jurisdiction.

HOLDINGS

1. The appeal was moot because the April 9, 2013, election had occurred, but the court reached the merits under the public-interest exception because the issue was of public concern, authoritative resolution was desirable to guide public officers, and the issue was likely to recur.
2. Section 10-10.1(a) requires a petitioner seeking judicial review of an electoral board decision to serve the petition on the electoral board as a separate legal entity; service only on the board members does not satisfy the statute.
3. Naming the electoral board and its members in the caption, identifying their roles, attaching or quoting the board's decision, and filing a summons were not independent jurisdictional requirements under section 10-10.1(a).

KEY QUOTATIONS

“Accordingly, the requirements mandated upon the parties as provided in [the Election Code] are jurisdictional requirements that must be followed.” (¶ 14)

“We agree with the First District’s holdings in Nelson and Rivera and find section 10-10.1(a) of the Election Code clearly requires service on an electoral board as a separate legal entity.” (¶ 26)

FACTUAL BACKGROUND

Bettis sought to place a proposition concerning the North Mac Community Unit School District's issuance of \$2 million in working cash bonds on the April 9, 2013, ballot. Marsaglia and O’Neal objected to the petitions because they were unnumbered and improperly bound, and the Education Officers Electoral Board sustained the objections. Bettis filed a petition for judicial review naming Marsaglia and O’Neal in the caption and serving copies on several individuals, including the three Electoral Board members, but she did not identify or separately serve the Electoral Board as an entity.

PROCEDURAL HISTORY

Bettis filed a petition seeking judicial review of the Education Officers Electoral Board's decision sustaining objections to her petitions for a school-district working-cash-bond proposition. The circuit court dismissed the

petition for lack of subject-matter jurisdiction after finding that Bettis had not served the Electoral Board as a separate legal entity. Although the election had already occurred and the appeal was moot, the appellate court applied the public-interest exception and affirmed.

DISPOSITION

affirmed

CASES CITED

- Rivera v. City of Chicago Electoral Board, 2011 IL App (1st) 110283, 956 N.E.2d 20
- Jackson v. Board of Election Commissioners, 2012 IL 111928, 975 N.E.2d 583
- Zack v. Ott, 381 Ill. App. 3d 545, 886 N.E.2d 487 (2008)
- Pullen v. Mulligan, 138 Ill. 2d 21, 561 N.E.2d 585 (1990)
- Nelson v. Qualkinbush, 389 Ill. App. 3d 79, 907 N.E.2d 400 (2009)
- Allord v. Municipal Officers Electoral Board, 288 Ill. App. 3d 897, 682 N.E.2d 125 (1997)
- Russ v. Hoffman, 288 Ill. App. 3d 281, 681 N.E.2d 519 (1997)
- Bill v. Education Officers Electoral Board of Community Consolidated School District No. 181, 299 Ill. App. 3d 548, 701 N.E.2d 262 (1998)
- Langenstein v. Kassimali, 2012 IL App (5th) 120343, 975 N.E.2d 340
- Carlasare v. Will County Officers Electoral Board, 2012 IL App (3d) 120699, 977 N.E.2d 298
- Associated General Contractors of Illinois v. Chun, 245 Ill. App. 3d 750, 615 N.E.2d 386 (1993)