

SUPREME COURT OF ARKANSAS

Lange v. Martin

2016 Ark. 337 (2016) · No. CV-16-796 · Decided October 13, 2016

SUMMARY

The Supreme Court of Arkansas reviewed an original action challenging the legal sufficiency of the ballot title for a proposed constitutional amendment authorizing three casinos in Arkansas. The court held that the ballot title was misleading because it described sports wagering that conflicted with the federal Professional and Amateur Sports Protection Act without informing voters of that conflict; it granted the petition, denied the motion to dismiss, and did not reach the remaining constitutional challenges.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Karen R. Baker; Warren E. Dupwe, Special Justice; Howard W. Brill, Chief Justice; Wood, Justice; Goodson, Justice, not participating
JURISDICTION	Arkansas
DECIDED	October 13, 2016
DOCKET	CV-16-796
DISPOSITION	other
PROCEDURAL POSTURE	Original action challenging the legal sufficiency of the ballot title for a proposed Arkansas constitutional amendment authorizing three casinos. Sponsor and taxpayer intervenors intervened, and a sponsor intervenor moved to dismiss.
STANDARD OF REVIEW	The court reviewed the ballot title for whether it was intelligible, honest, and impartial and whether it gave voters a fair understanding of the issues and the scope and significance of the proposed amendment. The challenger bore the burden of proving that the ballot title was misleading or insufficient.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Chuck Lange, Bill Walmsley, individually and on behalf of Committee to Protect Arkansas’ Values/Stop Casinos Now v. Mark Martin, in his official capacity as Secretary of State of the State of Arkansas

TOPICS

election law

casino regulation

gambling

appellate jurisdiction

federalism

PRACTICE AREAS

election law

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gaming and gambling regulation

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QUESTIONS PRESENTED

1. Whether the ballot title for Issue No. 5 was legally sufficient under Amendment 7 to the Arkansas Constitution.
2. Whether the ballot title was materially misleading because it described sports gambling and Nevada-authorized wagering without informing voters that federal law prohibited sports gambling in Arkansas.

HOLDINGS

1. A ballot title is legally insufficient when it describes an amendment as permitting sports gambling but omits the essential fact that federal law prohibits Arkansas from authorizing sports gambling, because the omission prevents voters from receiving an honest, impartial, and intelligible understanding of the measure.
2. The court did not reach the remaining ballot-title challenges or the constitutional challenge because the ballot title was already legally insufficient.

KEY QUOTATIONS

“ballot titles must include an impartial summary of the proposed amendment that will give voters a fair understanding of the issues presented and of the scope and significance of the proposed changes in the law.” (4)

“The ballot title in this case does not honestly and accurately reflect what is contained in the proposed Amendment.” (8-9)

“The voters are entitled to a ballot title that is honest, impartial, and intelligible and will give them a fair understanding of the issues presented.” (9)

FACTUAL BACKGROUND

Issue No. 5 proposed an amendment to the Arkansas Constitution authorizing three casinos in Boone, Miller, and Washington Counties. The ballot title defined casino gaming broadly to include accepting wagers on sporting and other events and wagering permitted in specified states, including Nevada. The proposed language did not disclose that the federal Professional and Amateur Sports Protection Act prohibited Arkansas from authorizing sports gambling.

PROCEDURAL HISTORY

The Secretary of State declared Issue No. 5's ballot title sufficient and certified the measure for the November 8, 2016 general-election ballot. Petitioners brought an original action in the Arkansas Supreme Court under

Arkansas Supreme Court Rule 6-5(a). The court granted the petition, denied the motion to dismiss, and did not reach the remaining ballot-title or constitutional challenges.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The court shortened the time for issuance of the mandate to five days and directed that any petition for rehearing be filed within five days after issuance of the opinion.

CASES CITED

- Bradley v. Hall, 220 Ark. 925, 251 S.W.2d 470 (1952)
- Parker v. Priest, 326 Ark. 123, 930 S.W.2d 322 (1996)
- Ward v. Priest, 350 Ark. 345, 86 S.W.3d 884 (2002)
- Ferstl v. McCuen, 296 Ark. 504, 758 S.W.2d 398 (1988)
- Porter v. McCuen, 310 Ark. 562, 839 S.W.2d 512 (1992)
- Finn v. McCuen, 303 Ark. 418, 798 S.W.2d 34 (1990)
- Dust v. Riviere, 277 Ark. 1, 638 S.W.2d 663 (1982)
- Gaines v. McCuen
- Hoban v. Hall, 229 Ark. 416, 316 S.W.2d 185 (1958)
- Walton v. McDonald, 192 Ark. 1155, 97 S.W.2d 81 (1936)
- Plugge v. McCuen, 310 Ark. 449, 838 S.W.2d 348 (1992)
- Cox v. Daniels, 374 Ark. 437, 288 S.W.3d 591 (2008)
- Cox v. Martin, 2012 Ark. 352, 423 S.W.3d 75 (2012)
- Wilson v. Martin, 2016 Ark. 334

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