

SUPREME COURT OF OHIO

State ex rel. Allen v. Warren County Board of Elections

115 Ohio St. 3d 186 (Ohio 2007) · Decided September 17, 2007

SUMMARY

The Ohio Supreme Court granted a writ of mandamus compelling the Warren County Board of Elections to accept and certify the relators’ nonpartisan candidacies for Mason Municipal Court judge and place their names on the November 6, 2007 ballot. The court held that the board improperly applied the political-party nonaffiliation requirement for independent candidates to nonpartisan candidates.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Pfeifer; Lundberg Stratton; O'Connor; O'Donnell; Lanzinger; Cupp
JURISDICTION	Ohio
DECIDED	September 17, 2007
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original action for a writ of mandamus seeking to compel the Warren County Board of Elections and its members to accept and certify the relators' nominating petitions and place their names on the November 6, 2007 ballot as nonpartisan candidates for Mason Municipal Court judge.
STANDARD OF REVIEW	Mandamus requires proof of a clear legal right, a clear legal duty, and the absence of an adequate remedy in the ordinary course of law. To establish the right and duty, relators must show that the board engaged in fraud, conspiracy, abuse of discretion, or clear disregard of applicable statutes or other pertinent law.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential
PARTIES	Mitchell W. Allen, James A. Whitaker Jr., George M. Parker v. Warren County Board of Elections, Members of the Warren County Board of Elections

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QUESTIONS PRESENTED

1. Whether the relators were entitled to a writ of mandamus compelling certification of their nonpartisan candidacies and placement on the ballot.
2. Whether Ohio law imposed an unaffiliation or disaffiliation requirement on nonpartisan candidates for municipal court judge.
3. Whether the board of elections abused its discretion or clearly disregarded applicable law by applying the independent-candidate affiliation requirement to the relators.

HOLDINGS

1. The relators were entitled to a writ of mandamus because they had a clear legal right to certification and ballot placement, the board had a corresponding clear legal duty, and the proximity of the election left them without an adequate remedy in the ordinary course of law.
2. Ohio law does not impose an unaffiliation or disaffiliation requirement on nonpartisan candidates for municipal court judge merely because their petitions must conform to petition requirements applicable to independent candidates.
3. The board abused its discretion and clearly disregarded applicable law by applying an independent-candidate nonaffiliation requirement to the relators' nonpartisan candidacies.

KEY QUOTATIONS

“where a proposed candidate strictly follows all the requirements stated in the statute governing the candidacy, [the candidate] is not required to do things required by another statute concerned with a different class of candidates.” (¶ 19)

“Based on the foregoing, relators have established that they are entitled to the requested extraordinary relief in mandamus.” (¶ 21)

FACTUAL BACKGROUND

Mitchell W. Allen, James A. Whitaker Jr., and George M. Parker submitted properly completed nominating petitions with sufficient valid signatures to run as nonpartisan candidates for Mason Municipal Court judge. Each satisfied the statutory qualifications for the office, but each was a registered Republican who voted in the May 8, 2007 Republican primary after filing the petitions. The Warren County Board of Elections refused to certify their candidacies, relying on a Secretary of State advisory opinion and *Morrison v. Colley*, authorities concerning independent candidates and affiliation with political parties.

PROCEDURAL HISTORY

The board voted not to certify the relators' petitions after they voted in the Republican primary following submission of their petitions. Allen filed an original mandamus action, and the relators filed an amended complaint. The board answered and moved for judgment on the pleadings; the Supreme Court of Ohio granted an alternative writ, ordered expedited briefing and evidence, denied oral argument, and granted the writ on the merits.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The Warren County Board of Elections and its members were ordered to accept and certify the relators' candidacies and place their names on the November 6, 2007 general election ballot as candidates for Mason Municipal Court judge.

CASES CITED

- Rust v. Lucas Cty. Bd. of Elections, 108 Ohio St. 3d 139, 2005-Ohio-5795, 841 N.E.2d 766, ¶¶ 7-8
- State ex rel. Gemienhardt v. Delaware Cty. Bd. of Elections, 109 Ohio St. 3d 212, 2006-Ohio-1666, 846 N.E.2d 1223, ¶ 29
- Morrison v. Colley, 467 F.3d 503 (6th Cir. 2006)
- In re Election of Member of Rock Hill Bd. of Edn., 76 Ohio St. 3d 601, 669 N.E.2d 1116 (1996)
- State ex rel. Reese v. Cuyahoga Cty. Bd. of Elections, 115 Ohio St. 3d 126, 2007-Ohio-4588, 873 N.E.2d 1251, ¶ 33
- State ex rel. Nagin v. Celebrezze, 63 Ohio St. 2d 323, 17 O.O.3d 391, 410 N.E.2d 762 (1980)
- State ex rel. Leslie v. Duffy, 164 Ohio St. 178, 57 O.O. 371, 129 N.E.2d 632 (1955)
- State ex rel. Altieri v. Trumbull Cty. Bd. of Elections, 65 Ohio St. 3d 164, 602 N.E.2d 613 (1992)
- State ex rel. Davis v. Pub. Emps. Retirement Bd., 111 Ohio St. 3d 118, 2006-Ohio-5339, 855 N.E.2d 444, ¶ 16

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