

SUPREME COURT OF OHIO

State ex rel. Schmitt v. Bridgeport

State ex rel. Schmitt v. Bridgeport (Slip Opinion), 2021 Ohio 2664 (Ohio 2021) · No. 2021-0878 · Decided August 3, 2021

SUMMARY

The Supreme Court of Ohio denied a writ of mandamus sought to compel Bridgeport officials or the Belmont County Board of Elections to process and place a marijuana-related initiative petition on the November 2021 ballot. The court held that the relators had not filed the completed petition with the proper village official and therefore had not established a clear legal right to relief; it also denied costs and attorney fees.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Maureen O'Connor, C.J.; Eileen T. Gallagher, J.; Jennifer Brunner, J.; Patrick F. Fischer, J.; Michael P. Donnelly, J.; Pat DeWine, J.; Melody J. Stewart, J.
JURISDICTION	Ohio
DECIDED	August 3, 2021
DOCKET	2021-0878
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original action in mandamus seeking to compel the Bridgeport village clerk to certify an initiative petition to the Belmont County Board of Elections, or alternatively to compel the board to place the initiative directly on the November 2021 ballot.
STANDARD OF REVIEW	A relator seeking mandamus must establish by clear and convincing evidence a clear legal right to the requested relief, a clear legal duty on the respondent to provide it, and the lack of an adequate remedy in the ordinary course of law.
PRECEDENTIAL VALUE	Published Supreme Court of Ohio opinion; majority decision is precedential, subject to formal revision of the slip opinion.
PARTIES	William Schmitt, Dean Michael Barath v. Village of Bridgeport, Clerk of the Village of Bridgeport, Mayor of the Village of Bridgeport, Belmont County Board of Elections

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QUESTIONS PRESENTED

1. Whether relators established a clear legal right to mandamus compelling the village clerk to certify the initiative petition to the board of elections.
2. Whether relators established a basis for mandamus compelling the Belmont County Board of Elections to place the initiative directly on the November 2021 ballot.
3. Whether relators were entitled to costs and attorney fees under R.C. 733.61.
4. Whether the motion to establish security for costs remained justiciable after the court denied the requested relief.

HOLDINGS

1. Relators were not entitled to mandamus because R.C. 731.28 conditions the village clerk's and board of elections' duties on the proponent's filing the completed petition with the village clerk, and Schmitt did not file or attempt to file the signed petition with the proper official.
2. Relators were not entitled to a writ compelling the Belmont County Board of Elections to place the initiative directly on the November 2021 ballot.
3. Relators were not entitled to costs or attorney fees under R.C. 733.61 because judgment was not entered in their favor and they lacked good cause to believe their allegations were well founded.
4. The motion to establish the amount of security for costs was denied as moot.

KEY QUOTATIONS

“To be entitled to a writ of mandamus, a party must establish, by clear and convincing evidence, (1) a clear legal right to the requested relief, (2) a clear legal duty on the part of the respondent to provide it, and (3) the lack of an adequate remedy in the ordinary course of the law.” (¶ 17)

“For the foregoing reasons, we deny the writ. We also deny the request for costs and attorney fees, and we deny as moot the motion to establish the amount of security for costs. Writ denied.” (¶ 22)

FACTUAL BACKGROUND

The relators sought to place a proposed Bridgeport ordinance concerning penalties for marijuana or hashish possession or cultivation on the November 2021 ballot. William Schmitt delivered the certified proposed ordinance and later attempted to submit signed petition parts at the mayor's office, where a volunteer secretary or clerk accepted the initial document but was not the village clerk. Bridgeport's village clerk and treasurer duties had been consolidated into the fiscal-officer position held by Mary Lyle, whose office was separate from the

mayor's office, and Schmitt never filed the signed petition with her. After the village ultimately offered to accept the petition on July 17, Schmitt declined to submit it because the statutory filing deadline had passed.

PROCEDURAL HISTORY

Relators filed an original mandamus action in the Supreme Court of Ohio after allegedly attempting to submit an initiative petition and signature petitions at the mayor's office rather than to the village fiscal officer who performed the duties of village clerk. The court denied the writ because relators never filed or attempted to file the signed petition with the proper village official. It also denied attorney fees and costs and denied as moot a motion to establish security for costs.

DISPOSITION

writ_denied

CASES CITED

- State ex rel. Save Your Courthouse Comm. v. Medina, 157 Ohio St.3d 423, 2019-Ohio-3737, 137 N.E.3d 1118, ¶ 33
- State v. Billingsley, 133 Ohio St.3d 277, 2012-Ohio-4307, 978 N.E.2d 135, ¶ 26
- Master Consol. Corp. v. BancOhio Natl. Bank, 61 Ohio St.3d 570, 575 N.E.2d 817 (1991)