

SUPREME COURT OF UTAH

Anderson v. Bell

234 P.3d 1147 (Utah 2010) · No. No. 20100237 · Decided June 22, 2010

SUMMARY

The Utah Supreme Court considered whether electronic signatures satisfy the signature requirement for an unaffiliated candidate's certificate of nomination under Utah Code section 20A-9-502. The court held that electronic signatures qualify, concluding that the Lieutenant Governor exceeded his discretion by excluding them, and granted extraordinary relief directing a recount of the submitted signatures.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Chief Justice Durham; Associate Chief Justice Durrant; Justice Parrish; Justice Nehring; District Judge Glen R. Dawson
JURISDICTION	Utah
DECIDED	June 22, 2010
DOCKET	No. 20100237
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for extraordinary writ under Utah Rule of Appellate Procedure 19 challenging the Lieutenant Governor's rejection of an unaffiliated gubernatorial candidate after excising electronic signatures from his nomination petition.
STANDARD OF REVIEW	Abuse of discretion under Utah Rule of Civil Procedure 65B(c), reviewing whether the public official failed to do what the statute requires or did something the statute does not permit.
PRECEDENTIAL VALUE	Published Utah Supreme Court opinion; precedential.
PARTIES	Farley Anderson, Helen Anderson, Steven G. Maxfield, Steven K. Maxfield v. Lt. Governor Gregg Bell, Mark Thomas, Paul Neuenschwander, Spencer Hadley, John Does 1-10

TOPICS

- ballot access
- election law
- statutory interpretation
- writ of certiorari
- appellate procedure

PRACTICE AREAS

Election law

Statutory interpretation

Appellate procedure

Administrative law

QUESTIONS PRESENTED

1. Whether an electronic signature satisfies the signature requirement in Utah Code section 20A-9-502 for an unaffiliated candidate seeking statewide office.
2. Whether the Lieutenant Governor exceeded the bounds of his discretion by removing the electronic signatures from Anderson's nomination petition.
3. Whether the Utah Supreme Court could entertain Anderson's extraordinary-writ petition directly under Utah Rule of Appellate Procedure 19 without prior district-court review.

HOLDINGS

1. The signature requirement of Utah Code section 20A-9-502 includes electronic signatures; a qualifying electronic signature may satisfy the requirement that an unaffiliated statewide candidate obtain signatures from at least 1,000 registered voters.
2. The Lieutenant Governor exceeded the bounds of his discretion when he excised the electronic signatures from Anderson's certificate of nomination.
3. The Supreme Court could entertain the petition directly under Utah Rule of Appellate Procedure 19 because the impending election made it practically impossible for Anderson to obtain effective relief by proceeding first in district court.

KEY QUOTATIONS

“We hold that electronic signatures may satisfy the Election Code's requirements under section 20A-9-502 regarding unaffiliated candidates wishing to run for statewide office.” (234 P.3d at 1156)

“Ultimately, we are persuaded that a signature under section 20A-9-502 does not require a signor to physically handle a piece of paper and sign her name with a pen; an electronic signature is sufficient to satisfy the Election Code.” (234 P.3d at 1156)

FACTUAL BACKGROUND

Farley Anderson sought to run for governor without affiliating with a registered political party and was required to collect at least 1,000 signatures from registered Utah voters. He submitted both handwritten and electronic signatures, and county clerks apparently certified 1,055 signatures as valid. The Lieutenant Governor excised the electronic signatures on the ground that they were not legally recognized signatures, leaving Anderson below the statutory threshold and rejecting his candidacy.

PROCEDURAL HISTORY

Anderson submitted a nomination petition containing handwritten and electronic signatures. County clerks certified 1,055 signatures as valid, but the Lieutenant Governor removed the electronic signatures and rejected Anderson's candidacy because fewer than 1,000 signatures remained. Anderson petitioned the Utah Supreme

Court directly for extraordinary relief under Rule 19 without first proceeding in district court; the court found the circumstances appropriate for direct review, granted the writ, and ordered a recount.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The Lieutenant Governor was instructed to recount the signatures Anderson submitted on March 19, 2010, including the electronic signatures, to determine whether he satisfied Utah Code section 20A-9-502.

CASES CITED

- Walker v. Weber County, 973 P.2d 927, 929-30 (Utah 1998)
- State ex rel. Z.C., 2007 UT 54, ¶ 5, 165 P.3d 1206
- Lyon v. Burton, 2000 UT 19, ¶¶ 10, 17, 5 P.3d 616
- Duke v. Graham, 2007 UT 31, ¶ 16, 158 P.3d 540
- Gohler v. Wood, 919 P.2d 561, 562-63 (Utah 1996)
- Sill v. Hart, 2007 UT 45, ¶ 7, 162 P.3d 1099
- State v. Maestas, 2002 UT 123, ¶ 54, 63 P.3d 621
- State v. Schofield, 2002 UT 132, ¶ 8, 63 P.3d 667
- R & R Indus. Park, L.L.C. v. Utah Prop. & Cas. Ins. Guar. Ass'n, 2008 UT 80, ¶¶ 23, 36, 199 P.3d 917
- Salt Lake City v. Hanson, 19 Utah 2d 32, 425 P.2d 773, 774 (1967)
- State v. Montague, 671 P.2d 187, 191 (Utah 1983)
- State v. Laycock, 2009 UT 53, ¶ 19, 214 P.3d 104
- C.T. v. Johnson, 1999 UT 35, ¶ 33, 977 P.2d 479 (Zimmerman, J., dissenting)