

SUPREME COURT OF ARIZONA

Morales v. Archibald, 246 Ariz. 398

439 P.3d 1179 (2019) · No. CV-19-0065-T/AP · Decided April 25, 2019

SUMMARY

The Arizona Supreme Court held that an elector’s statutory right to challenge a recall petition under A.R.S. § 19-208.04 is limited to challenges concerning the number of certified signatures. It affirmed the injunction against a Phoenix City Council recall election because the petition sheets were not attached to a time-and-date-marked copy of the recall application as required by statute.

CASE DETAILS

COURT	Supreme Court of Arizona
WRITING FOR THE COURT	Chief Justice Bales; Vice Chief Justice Brutinel; Justice Timmer; Justice Bolick; Justice Gould; Justice Lopez; Justice Pelander (retired)
JURISDICTION	Arizona
DECIDED	April 25, 2019
DOCKET	CV-19-0065-T/AP
DISPOSITION	affirmed
PROCEDURAL POSTURE	Morales challenged the validity of a recall petition in Maricopa County Superior Court. The superior court dismissed two objections for lack of statutory authorization, sustained Morales's objection concerning attachment of the recall application, and enjoined the recall election. Morales and Urban Phoenix Project PAC appealed; the Arizona Supreme Court granted the Committee's motion to transfer from the Court of Appeals.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Urban Phoenix Project PAC v. Rosa Maria Morales, Denise Archibald, Russell Bowers, Karen Fann

TOPICS

- recall elections
- election law
- statutory interpretation
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether A.R.S. § 19-208.04 authorizes an elector to bring a broad private action challenging recall petitions for statutory noncompliance beyond the number of certified signatures.
2. Whether Morales could challenge the failure to attach a time-and-date-marked copy of the recall application to the petition sheets.
3. Whether petition sheets not attached to the time-and-date-marked recall application may be counted and certified for purposes of a recall election.
4. Whether the Committee's substantial-compliance and constitutional arguments required resolution.

HOLDINGS

1. A.R.S. § 19-208.04 authorizes an elector to challenge the number of signatures certified on a recall petition, including statutory grounds bearing on whether signatures should have been counted, but it does not create a broad private right of action to challenge every statutory requirement applicable to recall petitions.
2. Petition sheets must be attached to a copy of the complete, time-and-date-marked recall application for their signatures to be validly verified and counted.
3. Because none of the Committee's petition sheets was attached to the complete time-and-date-marked application, the Committee failed to comply with the statutory requirements and its signatures could not be certified; the recall election was therefore properly enjoined.

KEY QUOTATIONS

“Taken together, the statutes require that any petition signature sheet not attached to a copy of the time-and-date-marked application be removed from the verification process.” (¶ 21)

“We therefore affirm the trial court’s decision enjoining the recall election.” (¶ 23)

FACTUAL BACKGROUND

Urban Phoenix Project PAC sought to recall Phoenix City Councilman Michael Nowakowski and filed a recall-petition application on August 29, 2018. After collecting signatures, the Committee submitted 2,361 signatures to the Phoenix City Clerk, who certified enough signatures for placement on the March 2019 city-election ballot. The petition sheets were not attached to a time-and-date-marked copy of the recall application, and the Arizona Supreme Court concluded that the signatures therefore could not be certified.

PROCEDURAL HISTORY

The Maricopa County Superior Court held that A.R.S. § 19-208.04 provides the only private right of action in the recall context and allowed Morales to challenge whether petition sheets were properly counted. It ruled that the Committee failed to attach the required time-and-date-marked recall application to the petition sheets and

enjoined the recall election, while issuing alternative rulings on other objections and constitutionality. The parties appealed, and the Arizona Supreme Court transferred the appeal from the Court of Appeals and affirmed.

DISPOSITION

affirmed

CASES CITED

- Kromko v. Superior Court, 168 Ariz. 51, 55-56 (1991)
- Ross v. Bennett, 228 Ariz. 174, 176 ¶ 7, 178 ¶¶ 19-21, 180 ¶ 33 (2011)
- City of Flagstaff v. Mangum, 164 Ariz. 395, 398 (1990)
- Stanwitz v. Reagan, 245 Ariz. 344, 348 ¶ 12 (2018)