

SUPREME COURT OF MINNESOTA

Tamara Monaghan v. Steve Simon, Minnesota Secretary of State

A16-1252 · No. A16-1252 · Decided September 8, 2016

SUMMARY

The Minnesota Supreme Court held that Robert Barrett was constitutionally ineligible to hold the office of State Representative for Legislative District 32B because he would not have resided in the district for the required six months before the November 8, 2016 election. The court denied the request to remove Barrett's name from the general-election ballot, concluding that Minnesota law instead required the resulting vacancy in nomination to be addressed through a special election. The court ordered that Barrett's name remain on the ballot, that vote totals not be certified, and that a special election be held on February 14, 2017.

CASE DETAILS

COURT	Supreme Court of Minnesota
JURISDICTION	Minnesota
DECIDED	September 8, 2016
DOCKET	A16-1252
DISPOSITION	other
PROCEDURAL POSTURE	Petition under Minn. Stat. § 204B.44 seeking to remove a partisan legislative candidate from the general-election ballot based on an alleged failure to satisfy the Minnesota Constitution's six-month legislative-district residency requirement.
STANDARD OF REVIEW	The Supreme Court independently adopted the referee's factual findings after an evidentiary hearing; the order states that the residency determination was established by clear and convincing evidence.
PRECEDENTIAL VALUE	published
PARTIES	Tamara Monaghan v. Steve Simon, Minnesota Secretary of State

TOPICS

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PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Robert Barrett was constitutionally ineligible to run for State Representative in Legislative District 32B because he would not have resided in the district for six months immediately preceding the November 8, 2016 election.
2. Whether the Minnesota Supreme Court could remove Barrett's name from the 2016 general-election ballot after determining that he was ineligible.
3. What statutory procedures apply when a major-party candidate for a partisan office is declared ineligible less than 79 days before the general election.

HOLDINGS

1. Barrett was ineligible to hold the office of State Representative for Legislative District 32B because he would not have resided in that district for the six months preceding the November 8, 2016 general election.
2. The court denied the request to remove Barrett's name from the 2016 general-election ballot because Minnesota law did not provide for removal under these circumstances.
3. Because the vacancy in nomination occurred fewer than 79 days before the general election, Barrett's name was to remain on the ballot, vote totals for the office were not to be certified, and the office was to be filled at a special election on February 14, 2017.

KEY QUOTATIONS

"A candidate who has not resided in the legislative district for six months immediately preceding the ... election is not qualified to run for state legislative office in that district." (at 1)

"Minnesota law does not provide for the removal of a candidate's name from the ballot in the circumstances present in this case." (at 2)

"If a vacancy in nomination 'occurs after the 79th day before the general election,' the general election ballot remains unchanged, and the county and state canvassing boards 'must not certify the vote totals for that office from the general election.'" (at 2)

FACTUAL BACKGROUND

Robert Barrett was the nominee of a major political party for State Representative in Legislative District 32B. His affidavit of candidacy listed a Taylors Falls address in District 32B, but the referee found that he did not reside in the district from approximately July 4 through August 1, 2016. Because that period fell within the six months preceding the November 8, 2016 general election, the court concluded that Barrett would not satisfy the constitutional residency requirement.

PROCEDURAL HISTORY

Monaghan filed the petition on August 5, 2016. The court appointed George T. Stephenson as referee, and an evidentiary hearing was held on August 19, 2016. The referee found by clear and convincing evidence that Robert Barrett did not reside in Legislative District 32B from approximately July 4 through August 1, 2016, and recommended granting the petition. After objections and memoranda from the parties, the Supreme Court held a hearing on September 6, 2016, adopted the referee's findings, declared Barrett ineligible to hold the office, but denied the requested removal of his name from the 2016 ballot.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. The Secretary of State was ordered to keep Barrett's name on the 2016 general-election ballot, notify the county and state canvassing boards not to certify the vote totals for the office, and prepare and distribute the required notice to affected county auditors.

CASES CITED

- Studer v. Kiffmeyer, 712 N.W.2d 552, 557 (Minn. 2006)