



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**BONNIE KNIGHT et al. v. ADRIAN FONTES
CV-24-0220-T/AP**

PARTIES:

Petitioners: Bonnie Knight, Deborah McEwen, Sarah Ramsey and Leslie White
("Petitioners")

Respondent: State of Arizona ("Respondent")

FACTS:

In 1964, the Arizona Legislature created the Arizona Court of Appeals as a single court with two geographic divisions. 1964 Ariz. Sess. Laws, ch. 102, § 1 (2^d Reg. Sess.). Currently, Division One consists of Maricopa, Yuma, La Paz, Mohave, Coconino, Yavapai, Navajo, and Apache counties. Division Two consists of Pima, Pinal, Cochise, Santa Cruz, Greenlee, Graham, and Gila counties. A.R.S. § 12-120.

In 1974, a voter initiative amended the Arizona Constitution to create a merit selection and electoral retention process for appellate courts. Proposition 108, Ariz. Sec'y of State, 1974 Publicity Pamphlet 26-28. Judicial retention elections are governed by A.R.S. § 12-120.02. Under this statute, the voters in Maricopa County vote for retention of judges residing in Maricopa County and the voter in all other Division One counties vote for judges on Division One residing outside Maricopa County. Similarly, the voters in Pima County vote for the retention of judges residing in Pima County and the voters in all other Division Two counties vote for judges on Division Two residing outside of Pima County. In 1992, voters established the judicial performance review process. Ariz. Sec'y of State, 1992 Publicity Pamphlet 51-58.

Bonnie Knight is a registered voter residing in Yuma County. Deborah McEwen is a registered voter residing in Santa Cruz County. Sarah Ramsey is a registered voter residing in Pima County. Leslie White is a registered voter residing in Maricopa County. Petitioners filed a special action in the superior court in Maricopa County to challenge the constitutionality of A.R.S. § 12-120.02. The superior court dismissed Petitioner's special action for failure to state a claim. Petitioners appealed and the case was transferred to the Arizona Supreme Court.

ISSUE: Petitioners assert the following issues:

1. Do the judicial retention election provisions of A.R.S. § 12-120.02 violate the Arizona Constitution's Free and Equal Elections Clause, Ariz. Const. art. II § 21, by creating unequal retention elections for Court of Appeals judges?
2. Do the judicial retention election provisions of A.R.S. § 12-120.02 violate the Arizona Constitution's Equal Privileges and Immunities Clause, Ariz. Const.

art. II § 13, by treating Arizona voters (and Court of Appeals judges) unequally for purposes of retention elections for Court of Appeals judges?

3. Did the trial court err as a matter of law in concluding that it could not order the Secretary of State to certify the names of Court of Appeals judges who state their candidacy for retention elections to be placed on the statewide ballot?

CONSTITUTION:

The Free and Equal Elections Clause, Ariz. Const. art. II § 21, provides “All elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”

The Equal Privileges and Immunities Clause, Ariz. Const. art. II § 13, provides “No law shall be enacted granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which, upon the same terms, shall not equally belong to all citizens or corporations.”

STATUTE:

The relevant statute provides as follows:

12-120.02. Election of judges

A. In division 1, of the nineteen judges, ten of the judges shall be residents of and elected for retention from Maricopa county, five of the judges shall be residents of the remaining counties in the division and shall be elected for retention by the voters of the counties in division 1, excluding Maricopa county, and four of the judges shall be at-large judges and be residents of any county in the division. If an at-large judge is a resident of Maricopa county, the judge shall be elected for retention by the voters of Maricopa county. If an at-large judge is not a resident of Maricopa county, the judge shall be elected for retention by the voters of the counties in division 1, excluding Maricopa county.

B. In division 2, of the nine judges, four of the judges shall be residents of and elected from Pima county, two of the judges shall be residents of the remaining counties in the division and shall be elected by the voters of the counties in division 2, excluding Pima county, and three of the judges shall be at-large judges and be residents of any county in the division. If an at-large judge is a resident of Pima county, the judge shall be elected for retention by the voters of Pima county. If an at-large judge is not a resident of Pima county, the judge shall be elected for retention by the voters of the counties in division 2, excluding Pima county.

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