

SUPREME COURT OF ARIZONA

WENDY ROGERS, individually,)
) Arizona Supreme Court
) No. CV-24-0084-AP/EL
 Plaintiff/Appellant,)
) Maricopa County
 v.) Superior Court
) No. CV2024-008715
 DAVID COOK, individually, et al.,)
)
 Defendants/Appellees.)
)
) **FILED 05/09/2024**

DECISION ORDER

The Court, by a panel consisting of Chief Justice Brutinel, Justice Bolick, Justice Lopez, and Justice Beene, has considered the record, the parties' briefs, the trial court's under advisement ruling following trial, and the relevant legal authorities in this expedited election matter.

Appellant appeals the trial court's ruling that Appellee, a Republican candidate for state senate representing Legislative District 7, had more than the 595 valid signatures required to appear on the ballot. Appellant claims that the trial court erred in failing to invalidate 132 out-of-district signatures and in failing to invalidate either all, or at least 66, signatures collected by circulator Jason Wessel on the ground that he forged signatures and falsely certified petitions.

This Court will "uphold a trial court's findings of fact unless clearly erroneous as not either 'supported by reasonable evidence or based on a reasonable conflict of evidence.'" *Moreno*

v. Jones, 213 Ariz. 94, 98 ¶ 20 (2006) (quoting *O'Hern v. Bowling*, 109 Ariz. 90, 92-93 (1973)); *Shooter v. Farmer*, 235 Ariz. 199, 200 ¶ 4 (2014). Here, the Court cannot conclude that the trial court's failure to find that Wessel committed forgery was clearly erroneous.

Contrary to Appellant's arguments, the trial court did not rule that Appellant's challenge to the signatures collected by Wessel failed because there was no direct evidence Wessel forged signatures or because the counties had already invalidated signatures collected by Wessel for not matching a signature on file. Rather, the trial court was simply noting these facts as a part of its findings, just as it noted Appellant's evidence of forgery--the testimony of four witness that they had not signed petitions circulated by Wessel and the testimony of a Gila County recorder who had a concern about fraudulent signatures on petitions circulated by Wessel--and the conflicting trial evidence--Wessel's testimony denying he had forged signatures.

Considering this evidence and the trial court's superior position to "weigh[] the evidence and resolve[] any conflicting facts, expert opinions, and inferences therefrom," the trial court's finding that Appellant failed to prove by clear and convincing evidence that Wessel committed forgery was not clearly erroneous, and it therefore did not err in failing to invalidate any further signatures collected by Wessel. See

TO:

Timothy A LaSota
Jason S Moore
Craig C Cameron
Roy Herrera
Daniel A Arellano
Jane Ahern
Austin T Marshall
Rose Winkeler
Jefferson R Dalton
Joshua M Conway
Hon John L Blanchard, Judge
Hon Jeff Fine, Clerk
Alberto Rodriguez
**** **
Karen J Hartman-Tellez
Kara Karlson
Kyle R Cummings