

SUPREME COURT OF ARIZONA

CHAD CAMPBELL, a qualified) Arizona Supreme Court
elector,) No. CV-18-0168-AP/EL
)
Plaintiff/Appellee,) Maricopa County
) Superior Court
v.) No. CV2018-008840
)

LESLIE PICO, a real party in) **FILED 06/29/2018**
interest; MICHELE REAGAN, in her)
official capacity as Arizona)
Secretary of State; EDISON J.)
WAUNEKA, in his official)
capacity as Recorder for Apache)
County, APACHE COUNTY BOARD OF)
SUPERVISORS, in their official)
capacity; DAVID STEVENS, in his)
official capacity as Recorder)
for Cochise County, COCHISE)
COUNTY BOARD OF SUPERVISORS in)
their official capacity; PATTY)
HANSEN, in her official capacity)
as Recorder for Coconino County,)
COCONINO COUNTY BOARD OF)
SUPERVISORS, in their official)
capacity; SADIE JO BINGHAM, in)
her official capacity as)
Recorder for Gila County, GILA)
COUNTY BOARD OF SUPERVISORS, in)
their official capacity; WENDY)
JOHN, in her official capacity)
as Recorder for Graham County,)
GRAHAM COUNTY BOARD OF)
SUPERVISORS, in their official)
capacity; BERTA MANUZ, in her)
official capacity as Recorder)
for Greenlee County, GREENLEE)
COUNTY BOARD OF SUPERVISORS, in)
their official capacity; SHELLY)
BAKER, in her official capacity)
as Recorder for La Paz County,)
LA PAZ COUNTY BOARD OF)
SUPERVISORS, in their official)
capacity; ADRIAN FONTES, in his)
official capacity as Recorder)
for Maricopa County, MARICOPA)
COUNTY BOARD OF SUPERVISORS, in)

their official capacity; KRISTI)
BLAIR, in her official capacity)
as Recorder for Mohave County,)
MOHAVE COUNTY BOARD OF)
SUPERVISORS, in their official)
capacity; DORIS CLARK, in her)
official capacity as Recorder)
for Navajo County, NAVAJO COUNTY)
BOARD OF SUPERVISORS, in their)
official capacity; F. ANN)
RODRIGUEZ, in her official)
capacity as Recorder for Pima)
County, PIMA COUNTY BOARD OF)
SUPERVISORS, in their official)
capacity; VIRGINIA ROSS, in her)
official capacity as Recorder)
for Pinal County, PINAL COUNTY)
BOARD OF SUPERVISORS, in their)
official capacity; SUZANNE SAINZ,)
in her official capacity as)
Recorder for SANTA CRUZ County,)
SANTA CRUZ COUNTY BOARD OF)
SUPERVISORS, in their official)
capacity; LESLIE HOFFMAN, in her)
official capacity as Recorder)
for Yavapai County, YAVAPAI)
COUNTY BOARD OF SUPERVISORS, in)
their official capacity; ROBYN)
STALLWORTH POUQUETTE, in her)
official capacity as Recorder)
for Yuma County, YUMA COUNTY)
BOARD OF SUPERVISORS, in their)
official capacity,)

Defendants/Appellants.)

DECISION ORDER

The Court, by a panel consisting of Chief Justice Bales, Vice Chief Justice Brutinel, Justice Timmer, and Justice Bolick, has considered the briefs of the parties, the record, the trial court's minute entry order, and the relevant statutes and case law in this expedited election matter.

Leslie Pico, a candidate for the Democratic nomination for the office of Secretary of State, appeals from the trial court's judgment ordering that her name not be printed on the ballot for the August 28 primary election.

Pico filed petition signature sheets containing 6,916 signatures. On June 13, Chad Campbell timely filed a nomination petition challenge that, consistent with A.R.S. § 16-351(A), specified the petition, line number, and basis for the challenge for each challenged signature. The next day, the trial court set the matter for trial at 9 a.m. on June 22.

On the evening of June 21, the Maricopa County Recorder's Office ("MCRO") sent counsel by e-mail an unsigned copy of the MCRO's certification report. A final, signed copy of the report was provided at 8:30 a.m. the next morning, just before trial. The report indicated that 1,793 of the submitted signatures were invalid. Arguing that she had been provided the report too late, Pico moved to continue the trial and to dismiss on due process grounds. The trial court denied these motions.

After taking evidence, including testimony from Pico, and officials from Maricopa County Elections Department and Pima County, the trial court found that Campbell had proved by clear and convincing evidence that Pico had submitted only 5,128 valid signatures, having

successfully invalidated 1,788 of the submitted 6,916 signatures, leaving Pico below the 5,801 required to appear on the ballot.

We reject Pico's arguments that the trial court abused its discretion by denying her motion to continue the trial and that she was denied due process. Pico had notice - provided by the complaint - and an opportunity to be heard at the trial. She has not alleged that the signatures were invalidated for reasons other than those listed in the complaint. Although Pico is correct that the ten-day deadline for hearing and deciding petition challenges is "directive and not mandatory," *Brousseau v. Fitzgerald*, 138 Ariz. 453, 456 (1984), that does not mean the trial court abused its discretion in denying a continuance. Nor has she shown prejudice from the denial, as she has not shown she could have rehabilitated sufficient signatures had she been allowed more time.

IT IS ORDERED affirming the trial court's June 22, 2018 minute entry order.

IT IS FURTHER ORDERED denying Pico's Motion for Stay as moot.

IT IS FURTHER ORDERED denying the Secretary of State's Motion to Strike as moot.

IT IS FURTHER ORDERED that the County Boards of Supervisors and County Recorders for the following counties shall remove Leslie Pico's name from the Democratic ballot for the office of Secretary of State for the August 28, 2018 primary election: Apache, Cochise,

TO:

Roy Herrera
Daniel A Arellano
Kara Karlson
Joseph Eugene La Rue
Kelly Gillilan-Gibson
Apache County Attorney's Office
Britt W Hanson
Elda E Orduno
Cochise County Attorney's Office
Coconino County Attorney's Office
Bradley D Beauchamp
Kenneth A Angle
Jeremy O Ford
Tony Rogers
M Colleen Connor
Talia J Offord
Matthew J Smith
Navajo County Attorney's Office
Daniel S Jurkowitz
Yavapai County Attorney's Office
Pinal County Attorney's Office
George E Silva
William J Kerekes
Mark B Zinman
Scott Andrew Baluha
Hon Chris DeRose
Hon Christopher A Coury