

Arizona Supreme Court

Civil Election Appeal

CV-24-0177-AP/EL

BRANTNER-SMITH v HUNTER HOLT et al

Appellate Case Information

Case Filed: 6-Aug-2024
Case Closed: 27-Aug-2024

Dept/Composition

En Banc

Side 1. ELIZABETH BRANTNER-SMITH, Plaintiff/Appellant

(Litigant Group) ELIZABETH BRANTNER-SMITH

- Elizabeth Brantner-Smith

Attorneys for: Plaintiff/Appellant

Paul J Gattone, Esq. (AZ Bar No. 12482)

Side 2. HUNTER HOLT, DUSTIN WILLIAMS, GABRIELLA CAZARES-KELLY, REX SCOTT, MATT HEINZ, SYLVIA LEE, STEVE CHRISTY, ADELITA GRIJALVA, and CONSTANCE HARGROVE, Defendant/Appellee

(Litigant Group) HUNTER HOLT

- Hunter Holt

Attorneys for: Defendant/Appellee

James E Barton, II, Esq. (AZ Bar No. 23888)

Daniella Anais Fernandez Lertzman, Esq. (AZ Bar No. 037943)

(Litigant Group) DUSTIN WILLIAMS, GABRIELLA CAZARES-KELLY, REX SCOTT, MATT HEINZ, SYLVIA LEE, STEVE CHRISTY, ADELITA GRIJALVA, and CONSTANCE HARGROVE

- Dustin Williams
Gabriella Cazares-Kelley
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CASE STATUS

Aug 27, 2024...Case Closed

Aug 27, 2024...Decision Rendered

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: PIM, C20244276, D Gregory Sakall, Judge on PC

CASE DECISION

27-Aug-2024 DECISION ORDER

* This Court, by a panel consisting of Chief Justice Timmer, Justice Brutinel, Justice Bolick, and Justice King, considered the briefs of the parties, the trial court's under advisement ruling, and the relevant statutes and case law in this expedited elec

Table with 2 columns: Filed: 27-Aug-2024, Mandate: Decision Disposition Affirmed

Ann Timmer

14 PROCEEDING ENTRIES

- 1. 6-Aug-2024 FILED: Statement Identifying Appeal as Expedited Election Matter Pursuant to Rule 10, Ariz. R. Civ. App. P.; Certificate of Service; Exhibit A; Exhibit B (Appellant Brantner-Smith)
2. 7-Aug-2024 SENT: Letter to Pima County Requesting Entire Record

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3. 7-Aug-2024 On August 6, 2024, Appellant Elizabeth Brantner-Smith filed her "Statement Identifying Appeal as Expedited Election Matter Pursuant to Rule 10, Ariz. R. Civ. App. P."
In lieu of a telephonic scheduling conference, Court staff has consulted with counsel for Appellant and Appellee Hunter Holt. Court staff has been informally advised that the ballot printing deadline is September 6, 2024, and that Pima County seeks a resolution before that date. The parties have also agreed that no transcript of the proceedings will be required, and they anticipate submitting stipulated facts as an appendix to the opening brief.
IT IS ORDERED the Pima County defendants shall file a statement forthwith advising the Court of the last day to decide this matter.
Upon consideration and agreement of the parties,
IT IS ORDERED Appellant will file her opening brief (no more than 2,500 words) no later than 4:00 p.m. on Monday, August 12, 2024.
IT IS FURTHER ORDERED Appellee will file his answering brief (no more than 2,500 words) no later than 4:00 p.m. on Thursday, August 15, 2024.
IT IS FURTHER ORDERED Appellant may file her reply brief (no more than 1,500 words) no later than 4:00 p.m. on Monday, August 19, 2024. If Appellant elects not to file a reply brief, she is to file a notice to that effect as soon as possible.
IT IS FURTHER ORDERED briefs will be in a legible 14-point font, double-spaced, and will include all arguments the parties wish to present to the Court. They may be filed in memorandum format (no tables of contents or authorities).
IT IS FURTHER ORDERED in addition to filing briefs with the Clerk of the Supreme Court (with filing and service through AZTurboCourt), all filings are also to be sent by email to all the parties as required by ARCAP Rule 10(h) and to SACrDocs@courts.az.gov and Court staff when filed.
This matter will be considered without oral argument. (Hon William G Montgomery)
4. 8-Aug-2024 FILED: Pima County Defendants'/Appellees' Statement of Deadline; Certificate of Service (Appellees Williams, et al.)
5. 12-Aug-2024 FILED: Appellant's Opening Brief; Certificate of Service; Certificate of Compliance (Appellant Brantner-Smith)
6. 12-Aug-2024 FILED: Appendix; Certificate of Service (Appellant Brantner-Smith)
7. 12-Aug-2024 FILED: Appellant's Motion to Accept Late Filing of Appellant's Opening Brief; Certificate of Service (Appellant Brantner-Smith)
8. 13-Aug-2024 On August 12, 2024, Appellant Brantner-Smith filed a "Motion to Accept Late Filing of Appellant's Opening Brief." Pursuant to Arizona Rules of Civil Appellate Procedure 6(b), the caption of a motion for procedural order must include the words, "Motion for Procedural Order." This Court notes that the motion does not comply with this requirement. Nonetheless, in this instance,

IT IS ORDERED granting the motion. The opening brief will be considered timely filed. (Tracie K. Lindeman, Clerk)
9. 14-Aug-2024 FILED: Answering Brief; Certificate of Service; Certificate of Compliance (Appellee Holt)
10. 15-Aug-2024 RECEIPT No.: 2024-00209 ; \$280.00, Authorization: 8124516562052943, Applied to: ELIZABETH BRANTNER-SMITH - Class A Filing Fee (\$280.00) Paid for: ELIZABETH BRANTNER-SMITH - By nCourt LLC
11. 16-Aug-2024 FILED: Record from CofA

1 box

CD Containing Record on Appeal from Court of Appeals, Division Two, Tucson
12. 21-Aug-2024 RECEIPT No.: 2024-00222 ; \$140.00, Authorization: 8476415187870314, Applied to: HUNTER HOLT - Class B Filing Fee (\$140.00) Paid for: HUNTER HOLT - By nCourt LLC

Arizona Supreme Court

Civil Election Appeal

CV-24-0177-AP/EL

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14 PROCEEDING ENTRIES

13. 27-Aug-2024 DECISION ORDER This Court, by a panel consisting of Chief Justice Timmer, Justice Brutinel, Justice Bolick, and Justice King, considered the briefs of the parties, the trial court's under advisement ruling, and the relevant statutes and case law in this expedited election matter.
- Hunter Holt is a candidate for a nonpartisan position on the Marana Unified School District Governing Board. Elizabeth Brantner-Smith filed an action challenging Holt's nomination petition for lack of valid signatures. Brantner-Smith argued that Holt did not list his "actual residence address" at the top of each of the nominating petition sheets that he circulated and filed, as required by A.R.S. §§ 16-311 and -314, and challenged all Holt's qualifying signatures on that basis.
- Holt's nominating petition sheets listed the address on Ina Road where Holt was living in January 2024, at the time he filed his statement of interest pursuant to A.R.S. § 16-311(H). In February 2024, Holt moved to a different address on Albatross Place. The nomination petition sheets that were circulated, and later filed in July 2024, listed the Ina Road address. Both the Ina Road address and the Albatross Place address are within the geographic boundaries of the Marana Unified School District. Following oral argument, the trial court found that Holt had substantially complied with the address requirements of A.R.S. §§ 16-311 and -314.
- A challenge to the form or content of nomination documents is reviewed to determine whether the documents "substantially complie[d] with the statutory requirements' before denying access to a ballot." *Bee v. Day*, 218 Ariz. 505, 506 ¶ 8 (2008)(quoting *Moreno v. Jones*, 213 Ariz. 94, 101-02 ¶ 40 (2006)). Under a substantial compliance analysis, a court "considers the nomination paper as a whole and 'focuse[s] on whether the omission of information could confuse or mislead electors.'" *Dedolph v. McDermott*, 230 Ariz. 130, 133 ¶ 17 (2012) (quoting *Moreno*, 213 Ariz. at 102 ¶ 42)(alteration in original)(internal citation omitted). The purpose of the statutory address requirement is to ensure that a candidate resides in the district he or she is seeking to represent. *Lohr v. Bolick*, 249 Ariz. 428, 432 ¶ 12 (2020). It is undisputed that Holt has, at all relevant times, resided within the geographic boundaries of the Marana Unified School District. Further, the record does not demonstrate that Holt used the Ina Road address to mislead voters. Holt listed the Ina Road address when he filed his statement of interest, and maintained consistency by using the same address during his signature collection period. Based on the record in this case, we conclude that the trial court did not err in finding that Holt substantially complied with the statutory address requirements of A.R.S. §§ 16-311 and -314. Therefore,
- IT IS ORDERED affirming the trial court's ruling.
- IT IS FURTHER ORDERED that the Pima County Board of Supervisors, the Pima County School Superintendent, and the Pima County Recorder shall include Hunter Holt's name on the November 2024 general election ballot for the Governing Board – Marana Unified School District.
- IT IS FURTHER ORDERED directing the Clerk to issue the mandate forthwith. (Hon. Ann A. Scott Timmer)
14. 27-Aug-2024 ----CASE STATISTICALLY TERMINATED----