

Arizona Supreme Court

Civil Election Appeal

CV-24-0179-AP/EL

PROGRESS ARIZONA et al v STATE OF ARIZONA et al

Appellate Case Information

Case Filed: 7-Aug-2024 Archive on: 27-Aug-2034 (planned)
Case Closed: 22-Aug-2024

Dept/Composition

Side 1. PROGRESS ARIZONA, PROGRESS ARIZONA PAC, JOEL EDMAN, Plaintiff/Appellant

(Litigant Group) PROGRESS ARIZONA, PROGRESS ARIZONA PAC, JOEL EDMAN

- Progress Arizona
Progress Arizona PAC
Joel Edman
AZ Bar No. 31324
[Current Member]
Admitted 7/17/14

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Side 2. STATE OF ARIZONA, ADRIAN FONTES, Defendant/Appellee

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Defendant/Appellee

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(Litigant Group) ADRIAN FONTES

- Adrian P Fontes
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Kristin K Mayes, Esq. (AZ Bar No. 22584)

Side 3. BEN TOMA, WARREN PETERSON, Intervenor Defendant

(Litigant Group) BEN TOMA, WARREN PETERSON

- Ben Toma
Warren Petersen

Attorneys for: Intervenor Defendant

Kory A Langhofer, Esq. (AZ Bar No. 24722)
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Side 4. DAVID REDKEY, Amicus Curiae

(Litigant Group) DAVID REDKEY

- David Wayne Redkey

PRO SE

Side 5. CIVIC ENGAGEMENT BEYOND VOTING, Amicus Curiae

(Litigant Group) CIVIC ENGAGEMENT BEYOND VOTING

- Civic Engagement Beyond Voting

Attorneys for: Amicus Curiae

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CASE STATUS

Aug 22, 2024...Case Closed

Aug 22, 2024...Decision Rendered

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR, CV2024-016113, [blank], John David Napper, Judge on PC, [blank], [blank]

**Arizona Supreme Court**

**Civil Election Appeal**

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**PROGRESS ARIZONA et al v STATE OF ARIZONA et al**

**CASE DECISION**

**22-Aug-2024 DECISION ORDER**

\* The Court, en banc, has considered the briefs, the record, the superior court's order, and the relevant authorities and case law in this expedited election appeal concerning Senate Concurrent Resolution 1044 ("SCR 1044"), a proposed measure for the Nove

Filed:	<b>22-Aug-2024</b>	Mandate:	<b>27-Aug-2024</b>
Decision Disposition			
<b>Affirmed</b>			

**17 PROCEEDING ENTRIES**

1. 7-Aug-2024 FILED: Statement Identifying Appeal as Expedited Election Matter and Request for Initial Telephonic Scheduling Conference; Certificate of Service (Appellants Progress Arizona et al.)
2. 8-Aug-2024 FILED: Record
3. 8-Aug-2024 On August 7, 2024, Plaintiffs/Appellants Progress Arizona, an Arizona nonprofit corporation; Progress Arizona PAC, an Arizona political action committee; and Joel Edman, a qualified elector, filed their "Statement Identifying Appeal as Expedited Election Matter and Request For Initial Telephonic Scheduling Conference."  
In lieu of a telephonic scheduling conference, Court staff has consulted with counsel for Appellants, who advises he has conferred with counsel for Appellees/Intervenors Ben Toma, in his official capacity as Speaker of the Arizona House of Representatives, and Warren Petersen, in his official capacity as President of the Arizona State Senate. Court staff has been informally advised that the ballot printing deadline is August 22, 2024.  
IT IS ORDERED the Secretary of State shall file a statement forthwith advising the Court of the last day to decide this matter. Upon consideration of this matter and agreement of the parties,  
IT IS ORDERED Appellants will file their opening brief (no more than 5,000 words) no later than 9:00 a.m. on Monday, August 12, 2024.  
IT IS FURTHER ORDERED that any amicus brief (no more than 3,000 words) will be filed no later than 4:00 p.m. on Wednesday, August 14, 2024. The parties give blanket consent to the filing of amicus briefs. Notwithstanding such consent, any amicus brief not meeting the requirements of ARCAP 16(b)(1)(C) will be summarily stricken by the Court.  
IT IS FURTHER ORDERED Appellees/Intervenors will file their answering brief (no more than 5,000 words) no later than 11:59 p.m. on Friday, August 16, 2024.  
IT IS FURTHER ORDERED Appellants may file their reply brief (no more than 1,500 words) no later than 9:00 a.m. on Monday, August 19, 2024. If Appellants elect not to file a reply brief, they are to file a notice to that effect as soon as possible. Due to the expedited nature of these proceedings, the parties are encouraged to utilize shorter briefs and file their pleadings before their deadlines if 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 SACrtdocs@courts.az.gov and Court staff when filed. (Hon. William G. Montgomery)
4. 9-Aug-2024 FILED: Notice Regarding Printing Deadline; Certificate of Service (Appellee Fontes)
5. 12-Aug-2024 FILED: Opening Brief; Certificate of Service; Certificate of Compliance (Appellants Progress Arizona et al.)
6. 12-Aug-2024 FILED: [Stricken Per 8/13/24 Order] Notice of Filing an Amicus Curiae Brief Bases on ARCAP 16(C)(ii) Due to Denial to the Right to a Jury Trial; Dual-Representation by Attorney William A. Clarke; & the Denial of Change of Judge for Cause.; Certificate of Service (Amicus Redkey, Pro Se)
7. 12-Aug-2024 FILED: [Stricken Per 8/13/24 Order] Brief Amici Curiae of David Redkey; Certificate of Service; Certificate of Compliance (Amicus Redkey, Pro Se)
8. 12-Aug-2024 FILED: (Copy of) Order (ASC) Filed 8/9/24 (Amicus Redkey, Pro Se)
9. 13-Aug-2024 On August 12, 2024, David Redkey filed a pro se "Brief Amici [sic] Curiae of David Redkey," and a "Notice Of Filing An Amicus Curiae Brief Based On ARCAP 16(C)(ii) Due To Denial To The Right To A Jury Trial; Dual-Representation By Attorney William A. Clarke; & The Denial Of Change Of Judge For Cause," alleging pursuant to ARCAP 16(b)(1)(C)(ii) that the decision from the instant case may have an impact on other cases in which Mr. Redkey is involved.  
This Court concludes that the "Brief Amici [sic] Curiae of David Redkey," and "Notice Of Filing An Amicus Curiae Brief Based On ARCAP 16(C)(ii) Due To Denial To The Right To A Jury Trial; Dual-Representation By Attorney William A. Clarke; & The Denial Of Change Of Judge For Cause" fail to meet the requirements of ARCAP 16(b)(1)(C)(ii) and (iii). Therefore,  
IT IS ORDERED striking the "Brief Amici [sic] Curiae of David Redkey," and "Notice Of Filing An Amicus Curiae Brief Based On ARCAP 16(C)(ii) Due To Denial To The Right To A Jury Trial; Dual-Representation By Attorney William A. Clarke; & The Denial Of Change Of Judge For Cause" both filed on August 12, 2024, from the record in this matter. (Hon. William G. Montgomery)
10. 14-Aug-2024 FILED: Brief of Amicus Curiae Civic Engagement Beyond Voting in Support of Plaintiffs/Appellants; Certificate of Service; Certificate of Compliance (Amicus Civil Engagement)

Arizona Supreme Court

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17 PROCEEDING ENTRIES

11.	14-Aug-2024	FILED: (Copy of) Order (ASC) Filed 8/9/24 (Amicus Civil Engagement)
12.	15-Aug-2024	RECEIPT No.: 2024-00212 ; \$280.00, Authorization: 8652288467098302, Applied to: PROGRESS ARIZONA, PROGRESS ARIZONA PAC, JOEL EDMAN - Class A Filing Fee (\$280.00) Paid for: PROGRESS ARIZONA, PROGRESS ARIZONA PAC, JOEL EDMAN - By nCourt LLC
13.	16-Aug-2024	FILED: Answering Brief; Certificate of Service; Certificate of Compliance (Intervenors Toma, et al.)
14.	16-Aug-2024	FILED: Notice of No Reply; Certificate of Service (Appellants Progress Arizona et al.)
15.	22-Aug-2024	<p>DECISION ORDER The Court, en banc, has considered the briefs, the record, the superior court's order, and the relevant authorities and case law in this expedited election appeal concerning Senate Concurrent Resolution 1044 ("SCR 1044"), a proposed measure for the November 2024 General Election. SCR 1044 seeks to implement amendments to the Arizona Constitution, including certain provisions within article 6.</p> <p>Appellants challenged the legal sufficiency of SCR 1044 on grounds that it violated the separate amendment rule. See Ariz. Const. art. 21, § 1 ("If more than one proposed amendment is submitted at any election, the proposed amendments shall be submitted in such a manner that the electors may vote for or against such proposed amendments separately."). In particular, Appellants argued that SCR 1044 section 8's provisions establishing legislative involvement in judicial performance review processes are separate from the earlier provisions in SCR 1044 that address judicial retention elections. Accordingly, Appellants filed an application for preliminary injunction that would bar the State and its agents from placing SCR 1044 on the November 2024 ballot.</p> <p>After hearing arguments from the parties, the superior court entered an order denying Appellants' request for injunctive relief. The court concluded that SCR 1044 satisfies the separate amendment rule, and it denied all relief sought in the Appellants' verified complaint. The court also rejected Appellants' argument that the title of SCR 1044 is misleading. Appellants have timely appealed. The sole issue raised on appeal is whether SCR 1044 complies with the separate amendment rule. On appeal, Appellants do not raise any argument relative to SCR 1044's title.</p> <p>For the reasons explained by the superior court, we unanimously conclude that Appellants have failed to show that SCR 1044 violates article 21, section 1 of the Arizona Constitution. The Court finds that SCR 1044 complies with the separate amendment rule because its provisions are topically related and sufficiently interrelated so as to form a consistent and workable proposition that, logically speaking, should stand or fall as a whole. See <i>McLaughlin v. Bennett</i>, 225 Ariz. 351, 354 ¶ 8 (2010).</p> <p>Therefore,</p> <p>IT IS ORDERED affirming the superior court's decision.</p> <p>IT IS FURTHER ORDERED that the Secretary of State shall leave SCR 1044 on the November 2024 general election ballot.</p> <p>IT IS FURTHER ORDERED directing the Clerk to issue the mandate forthwith. (Ann A. Scott Timmer)</p> <p>Justices Bolik and King are recused.</p>
16.	22-Aug-2024	---CASE STATISTICALLY TERMINATED---
17.	27-Aug-2024	<p>MANDATE TO THE SUPERIOR COURT</p> <p>Issued Mandate and Copy of Decision Order to Trial Court</p> <hr/>