

Arizona Supreme Court

Civil Special Action

CV-24-0198-SA

GINA SWOBODA et al v HOBBS

Appellate Case Information

Case Filed: 21-Aug-2024 Archive on: 12-Sep-2034 (planned)
Case Closed: 12-Sep-2024

Dept/Composition

Side 1. GINA SWOBODA, as Chair of the Republican Party of Arizona, an Arizona non-profit company; BELINDA RODRIGUEZ, a qualified Arizona elector; KRISTIN BAUMGARTNER, a qualified Arizona elector, Petitioner
(Litigant Group) GINA SWOBODA, as Chair of the Republican Party of Arizona, an Arizona non-profit company; BELINDA RODRIGUEZ, a qualified Arizona elector; KRISTIN BAUMGARTNER, a qualified Arizona elector

- Gina Swoboda
Belinda Rodriguez
Kristin Baumgartner

Attorneys for: Petitioner
Andrew W. Gould, Esq. (AZ Bar No. 13234)
Dallin B Holt, Esq. (AZ Bar No. 37419)
Daniel Tillemann, Esq. (AZ Bar No. 37422)

Side 2. KATIE HOBBS, in her official capacity as Governor of the State of Arizona, Respondent
(Litigant Group) KATIE HOBBS, in her official capacity as Governor of the State of Arizona

- Katie Hobbs, Office of the Governor

Attorneys for: Respondent
Sambo Dul, Esq. (AZ Bar No. 30313)
Noah Gabrielsen, Esq. (AZ Bar No. 37161)
D Andrew Gaona, Esq. (AZ Bar No. 28414)
Austin C Yost, Esq. (AZ Bar No. 34602)

Side 3. ONE ARIZONA, Amicus Curiae
(Litigant Group) ONE ARIZONA

- One Arizona

Attorneys for: Amicus Curiae
James E Barton, II, Esq. (AZ Bar No. 23888)
Jacqueline Mendez Soto, Esq. (AZ Bar No. 22597)
Daniella Fernandez Lertzman, Esq. (AZ Bar No. 37943)
Aria C Branch, Esq. (AZ Bar No. AZBranch)
Christopher D Dodge, Esq. (AZ Bar No. christopherdodge)
Daniel Cohen, Esq. (AZ Bar No. COHEN-Elias.law)
Makeba Rutahindurwa, Esq. (IL Bar No. 6335098)

Side 4. LEAGUE OF WOMEN VOTERS OF ARIZONA, Amicus Curiae
(Litigant Group) LEAGUE OF WOMEN VOTERS OF ARIZONA

- League of Women Voters of Arizona

Attorneys for: Amicus Curiae
Daniel J Adelman, Esq. (AZ Bar No. 11368)
Nina Beck, Esq. (AZ Bar No. ninabeck)
Beauregard Patterson, Esq. (AZ Bar No. bpatterson)

CASE STATUS

Sep 12, 2024...Case Closed

Sep 12, 2024...Decision Rendered

CASE DECISION

12-Sep-2024 ORDER

* On August 21, 2024, Petitioners Gina Swoboda, as Chair of the Republican Party of Arizona, Belinda Rodriguez, a qualified elector, and Kristin Baumgartner, a qualified elector ("Petitioners"), filed a petition for special action relief seeking a declara

Table with columns: Filed: 12-Sep-2024, Mandate: Decision Disposition, Dismissed

Ann Timmer

Arizona Supreme Court

Civil Special Action

CV-24-0198-SA

GINA SWOBODA et al v HOBBS

11 PROCEEDING ENTRIES

1. 21-Aug-2024 FILED: Petition for Special Action; Certificate of Service (Petitioners Swoboda, et al.)
2. 26-Aug-2024 FILED: Notice of Appearance; Certificate of Service (Respondent Hobbs)
3. 29-Aug-2024 RECEIPT No.: 2024-00241 ; \$280.00 Applied to: GINA SWOBODA, as Chair of the Republican Party of - Class A Filing Fee (\$280.00) Paid for: GINA SWOBODA, as Chair of the Republican Party of Arizona, an Arizona non-profit company; BELINDA RODRIGUEZ, a qualified Arizona elector; KRISTIN BAUMGARTNER, a qualified Arizona elector - By nCourt LLC Portal (Memo: BCC727C3-3BAA-4267-998C-27B029232129)
4. 30-Aug-2024 FILED: Arizona Governor Katie Hobbs's Response to Petition for Special Action; Certificate of Service; Certificate of Compliance (Respondent Hobbs)
5. 30-Aug-2024 FILED: Amicus Brief of One Arizona in Opposition to Special Action Petition; Certificate of Service; Certificate of Compliance; Appendix (Amicus Curiae One Arizona)
6. 30-Aug-2024 FILED: Consent of all Parties; Exhibit A (Amicus Curiae One Arizona)
7. 6-Sep-2024 FILED: Brief of Amicus Curiae League of Women Voters of Arizona in Opposition to Petition for Special Action; Certificate of Service; Certificate of Compliance (Amicus Curiae League of Women Voters of Arizona)
8. 6-Sep-2024 FILED: Consent of all Parties (Amicus Curiae League of Women Voters of Arizona)
9. 9-Sep-2024 FILED: Motion for a Procedural Order: Request for Leave to File a Reply Brief; Certificate of Service (Petitioners Swoboda, et al.)
10. 9-Sep-2024 FILED: Arizona Governor Katie Hobbs's Response in Opposition to Motion for Procedural Order for Leave to File Reply Brief; Certificate of Service (Respondent Hobbs)
11. 12-Sep-2024 On August 21, 2024, Petitioners Gina Swoboda, as Chair of the Republican Party of Arizona, Belinda Rodriguez, a qualified elector, and Kristin Baumgartner, a qualified elector ("Petitioners"), filed a petition for special action relief seeking a declaratory judgment, injunctive relief, and writ of quo warranto against Governor Katie Hobbs in relation to Executive Order 2023-23 ("EO 23") and Executive Order 2023-25 ("EO 25").

Petitioners allege that the Governor does not have the statutory or constitutional authority to enter these executive orders, and they request that the Court enjoin the Governor from enforcing them. Petitioners further allege that, in August 2024, they requested that County Attorney Rachel Mitchell file this same action in superior court. Both EO 23 and EO 25 were entered in November 2023, and they have remained in effect since that time. Petitioners seek an award of attorney fees and costs under the private attorney general doctrine and/or pursuant to Rule 4(g) of the Rules of Procedure for Special Actions.

On August 30, 2024, Respondent Governor Hobbs responded to the petition. On the same day, One Arizona filed an amicus brief. Both Governor Hobbs and One Arizona ask this Court to decline special action jurisdiction or deny the relief sought. Governor Hobbs requests that this Court award her costs pursuant to A.R.S. §§ 12-341 and 12-342. She additionally requests that the Court enter, as a sanction against both Petitioners and their counsel, an award of reasonable attorney fees pursuant to Rule 25, Arizona Rules of Civil Appellate Procedure, and A.R.S. § 12-349.

On September 6, 2024, League of Women Voters of Arizona filed an amicus brief in opposition to the petition.

On September 9, 2024, Petitioners filed a Motion for a Procedural Order for Leave to File a Reply Brief. That same day, Respondents responded in opposition to Petitioners' motion.

Pursuant to Rule 7(b), Rules of Procedure for Special Actions, "[i]f a special action is brought in any appellate court, and if such an action might lawfully have been initiated in a lower court in the first instance, the petition shall also set forth the circumstances which in the opinion of the petitioner render it proper that the petition should be brought in the particular appellate court to which it is presented. If the appellate court finds such circumstances insufficient, the court will on that ground dismiss the petition." The Court concludes that Petitioners have not presented adequate justification for the action to commence in this Court rather than the superior court. The issues raised in the special action petition will not be mooted by the November 2024 election. We further note that Petitioners have not addressed why neither EO was challenged until this point in time. An earlier challenge would have permitted the Petitioners to secure a final ruling well before the upcoming election.

Upon consideration,

IT IS ORDERED that the petition is dismissed under Rule 7(b) without prejudice to Petitioners bringing a proper proceeding in a lower court. In dismissing the petition without prejudice under Rule 7(b), the Court expresses no view on the merits of the parties' claims or defenses.

IT IS FURTHER ORDERED that Petitioners' and Governor Hobbs' respective requests for attorney fees and costs are denied without prejudice.

IT IS FURTHER ORDERED that Petitioners' Motion for a Procedural Order for Leave to File a Reply Brief is denied as moot. (Hon. Ann A. Scott Timmer)

Arizona Supreme Court
Civil Special Action

CV-24-0198-SA

GINA SWOBODA et al v HOBBS

11 PROCEEDING ENTRIES