

IN THE SUPREME COURT OF THE STATE OF NEVADA

BARBARA CEGAVSKE, in her
official capacity as Nevada Secretary
of State,

Appellant,

vs.

ROBERT HOLLOWOOD, et al.

Respondents.

Supreme Court Case No. 84420
District Court No.: 21-OC-00182-1B
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Clerk of Supreme Court

**DECISION REQUIRED BY JUNE
1, 2022**

**STIPULATED MOTION BY ALL PARTIES TO EXPEDITE APPEAL
PURSUANT TO NRAP 2 AND NRAP 26(d)**

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I. INTRODUCTION

The Appellant and Respondents identified above jointly request an expedited decision in this Appeal pursuant to NRAP 2 and NRAP 26(d) including, if this Court deems it appropriate, oral argument scheduled for the May Supreme Court Calendar. Expedited treatment is necessary because this Appeal will determine whether two ballot measures are to be placed on the ballot for the November 2022 general election. Regardless of the outcome of this appeal and whether the questions raised by initiative petitions are placed on the ballot, the Secretary of State must have sufficient time to determine language for and format ballots in time for the printing and mailing of ballots. Because of those constraints, the Appellant and Respondents have stipulated to an extremely truncated briefing schedule pursuant to NRAP 26(d) to conclude briefing before the end of April, argument (should the Court require) in early May, and the Parties jointly request a determination from this Court by June 1, 2022, or as soon as practicable for this Court.

II. FACTUAL AND PROCEDURAL HISTORY

A. The Original Proceedings on the Initiative Petitions

The Original Petitioners, Robert Hollowood, Kenneth Belknap, Nevadans for Fair Gaming Taxes PAC, and Fund Our Schools PAC (jointly “Original Petitioners”) are sponsors of two separate initiative petitions, S-01-2020 and S-02-2020 (“Initiative Petitions”) which were circulated pursuant to Article 19, Section

2 of the Nevada Constitution. The Original Petitioners sponsored the Initiative Petitions and collected signatures prior to the 2021 Legislative Session. After collecting signatures, the Original Petitioners submitted the signed Petitions for verification pursuant to Nevada law. Once the County Clerks and the Secretary of State verified the signatures, the Secretary of State submitted the Initiative Petitions to the Nevada Legislature at the beginning of the 2021 Legislative Session.

While in session, the Legislature did not vote on the Initiative Petitions which sought to increase the sales tax and gaming tax in order to raise revenue for education in Nevada. Instead, the Legislature raised taxes on the mining industry to fund education, and, as part of a Legislative bargain, the sponsors agreed to withdraw the Initiative Petitions under NRS 295.026. The Original Petitioners subsequently requested that the Secretary of State withdraw the Initiative Petitions and take no further action to place them on the general election ballot.

The Office of Governor Sisolak sought an opinion from the Attorney General who issued Opinion No. 2021-04 on July 28, 2021. That opinion determined that the sponsors of an initiative petition could withdraw a verified initiative petition without offending the language in the Nevada Constitution. However, the Secretary of State sent the Attorney General a letter stating that she was obligated under the Nevada Constitution to place the verified Initiative Petitions on the ballot in the November 2022 general election because of the language contained in the

Constitution. Article 19, section 2(3) provides that, unless the Legislature enacts the initiative petition, “the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election.” Based on the language in the Constitution, the Secretary of State refused to recognize the withdrawal of the verified Initiative Petitions and intended to place those questions on the ballot for the electorate “to enact or reject them at the polls.” *See Nev. Const. art. 19, § 2(1).*

On December 28, 2021, the Original Petitioners filed a Petition for Writs of Mandamus and Prohibition in the First Judicial District Court to prevent the Secretary of State from placing the Initiative Petitions on the ballot in the general election scheduled for November 8, 2022. The Vegas Chamber and Nevada Resort Association moved for and were granted status as intervenors by order dated February 7, 2022. After briefing pursuant to a stipulated and abbreviated schedule, the District Court issued an Order on March 9, 2022, finding that the writs should issue and concluding that the duty of the Secretary of State was to recognize the withdrawal of the Initiative Petitions and not place the questions on the November 2022 ballot.

On March 14, 2022, the Original Petitioners served the Secretary of State with the Writ of Mandamus and the Writ of Prohibition. On March 18, 2022, the Secretary of State filed a Notice of Appeal challenging the Order and Writs of

Mandamus and Prohibition issued by the District Court. The Appeal was docketed by the Clerk of the Supreme Court on March 22, 2022.

B. Schedule for Formatting and Printing Ballots for November 2022 General Election.

The general election in Nevada will be held on November 8, 2022. Prior to that date, the Secretary of State's Office must determine ballot content and format so that ballots can be finalized, printed, and mailed. Because the two Initiative Petitions present statewide questions, the determination submitted in this appeal will affect all ballots in Nevada. Currently, the content of statewide measures is to be provided to County Clerks by the Secretary of State on August 1, 2022. *See* NRS 293.253. There must also be sufficient time for the formulation of opposing arguments for electors' sample ballots. In order to provide that content, the language must be drafted and formatted, and the ballot measures must be finalized.

C. Stipulated Briefing Schedule on Appeal.

NRAP 26(d) provides that the parties may stipulate to shorten the time prescribed to perform any act. In an effort to assist the Court and hasten a decision in this Appeal, the Parties stipulate and agree to a truncated briefing schedule shortening the time for opening, answering, and reply briefs as follows:

- Appellant's Opening Brief due: April 5, 2022;
- Respondents' Answering Brief(s) due: April 15, 2022;
- Appellant's Reply Brief due: April 22, 2022.

III. ARGUMENT

“On the court’s own or a party’s motion, the court may—to expedite its decision or for other good cause—suspend any provision of these Rules in a particular case and order proceedings as the court directs, . . .” NRAP 2. Additionally, this Court has often expedited decisions in ballot-related appeals when requested to do so in order to meet election deadlines. *See, e.g., In re Candelaria*, 126 Nev. Adv. Op. 40, 245 P.3d 518, 519 (2010) (expediting briefing and entering summary disposition to meet election deadlines); *LVCVA v. Secretary of State*, 124 Nev. 669, 677, 191 P.3d 1138 (2008) (expediting appeals and resolving case prior to November general election).

In this Appeal, the Parties request expedited argument, if determined appropriate by this Court, scheduled for the May oral argument calendar as well as an expedited decision as soon as practicable after any argument ordered by the Court. In order to meet deadlines for the general election including submission of the final ballot language to County Clerks by the August 1, 2022, deadline, the Parties jointly request a decision by June 1, 2022, or as soon as practicable.

In order to expedite this Appeal, the Parties have significantly reduced the briefing time for all briefs, condensing what is normally at least a 180-day schedule down to just 35 days. Counsel for all Parties will also endeavor to clear any calendar conflicts in order to make any date and time available to this Court for oral argument.

IV. CONCLUSION

Based on the foregoing and NRAP 2, the Parties request this Court expedite this Appeal by scheduling oral argument for the May 2022 calendar and by rendering a decision in this Appeal by June 1, 2022, or as soon as practicable following any oral argument.

Dated this 24th day of March, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that on this date, the foregoing document was served on the individuals registered to receive service pursuant to the Court's electronic filing system. For users not registered with the Court's electronic filing system, service was completed via electronic mail pursuant to a stipulation of the parties, and completed on the following individuals at the email addresses shown:

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