

SUPREME COURT OF ARIZONA

APRIL SMITH, et al., ) Arizona Supreme Court  
 ) No. CV-24-0222-AP/EL  
 Plaintiffs/Appellants, )  
 ) Maricopa County  
 v. ) Superior Court  
 ) Nos. CV2024-019846  
 ADRIAN FONTES, et al., ) CV2024-019880  
 ) (Consolidated)  
 Defendants/Appellees, )  
 )  
 MAKE ELECTIONS FAIR PAC, )  
 )  
 Real Party in Interest. ) **FILED 10/04/2024**  
 )  
 )  
 \_\_\_\_\_ )

**DECISION ORDER**

On September 19, 2024, Plaintiffs/Appellants Smith et al. ("Smith Plaintiffs") filed their Rule 10 Statement and Request for Expedited Consideration in this expedited election matter pertaining to the "Make Elections Fair Act."

The Committee proposed the "Make Elections Fair Arizona Act," I-14-2024, aka Proposition 140 ("Initiative"), to comprehensively reform candidate elections by eliminating partisan primaries by moving Arizona's elections to an "open primary" where all voters receive the same primary ballot, and the highest two vote getters advance from the primary to the general election. Under the Initiative, if more than two candidates are to advance, candidates advance through a ranked-voting system. Other provisions limit public funding of most campaigns and eliminate primaries for most city elections.

On September 19, the trial court entered its order rejecting the challenge to the Initiative. First, the court dismissed the Plaintiffs' underlying § 19-122(C) action as moot as of August 23, 2024, the ballot printing deadline. Second, the court determined that the "double counting" of invalid signatures mandated by A.R.S. § 19-121.04 is unconstitutional as applied under the Arizona and United States Constitutions. Third, the court concluded it "lacks the authority to grant the injunction requested by Plaintiffs and their Amended Complaint seeking such relief is dismissed as futile and/or moot."

Plaintiffs appealed, and the Court set an expedited briefing schedule.

The Court has considered the opening brief of the Smith Plaintiffs, the Committee's answering brief, and the Smith Plaintiffs' reply brief. The Court has also considered the record in this matter, additional briefing from AFEC Plaintiff, and additional amicus briefing from: Senate President Warren Petersen and House Speaker Ben Toma; Maricopa County Recorder Stephen Richer; the Goldwater Institute; Attorney General Kris Mayes; and former election officials Ken Bennett and Helen Purcell.

Upon consideration of the unanimous Court en banc,

**IT IS ORDERED** affirming the trial court decision and dismissing the challenge to the Initiative. An opinion explaining the Court's reasons will follow in due course.

**IT IS FURTHER ORDERED** denying the Committee's Motion to Strike.

DATED this 4th day of October, 2024.

\_\_\_\_\_/s/\_\_\_\_\_  
ANN A. SCOTT TIMMER  
Chief Justice

TO:

Roy Herrera  
Daniel A Arellano  
Jane Ahern  
Austin T Marshall  
Kara Karlson  
Karen J Hartman-Tellez  
Kyle R Cummings  
Brunn W Roysden III  
Celeste M Robertson  
Paul Correa  
Rose Winkeler  
Bradley D Beauchamp  
Jean Anne Roof  
Gary Griffith  
Scott Adams  
Jeremy O Ford  
Rachel F Shackelford  
Joseph Eugene La Rue  
Jack O'Connor  
Rosa Aguilar  
Ryan Henry Esplin  
Jason Mitchell  
Jason S Moore  
Daniel S Jurkowitz  
Ellen Ridge Brown  
Javier Adalberto Gherna  
Craig C Cameron  
Scott Matthew Johnson  
Jim Mitchell  
Ian Daranyi  
William Moran  
Robert F May  
Thomas M Stoxen  
Michael J Gordon

William J Kerekes  
Jessica Holzer  
Mary R O'Grady  
Andrew G. Pappas  
Travis Charles Hunt  
Emma Cone-Roddy  
Joshua J. Messer  
Gideon Cionelo  
Mark Kokanovich  
Alberto Rodriguez  
Hon. Frank W Moskowitz  
Hon. Jeff Fine  
Katlyn J Divis  
Jessica Scibelli  
Andrew W. Gould  
Drew Curtis Ensign  
Brennan AR Bowen  
Daniel Tilleman  
Joshua G. Nomkin  
Timothy Sandefur  
Stephen W Tully  
Hayleigh S Crawford  
Nathan Arrowsmith  
Joseph A Kanefield  
Charlene Anne Warner  
Dallin B Holt