

Summary of SC100876, *Raymond McCarty, et al. v. Missouri Secretary of State, et al.*

Original election contest proceeding

Argued and submitted March 12, 2025; opinion issued April 29, 2025

Attorneys: McCarty, three other voters and several nonprofit associations were represented by Marc H. Ellinger and Stephanie S. Bell of Ellinger Bell in Jefferson City, (573) 750-4100. The secretary of state was represented by Andrew J. Crane and Matthew J. Tkachuk of the attorney general's office in Jefferson City, (573) 751-3321. The state auditor was represented by LeslieAnn Korte and Robert C. Tillman of the auditor's office in Jefferson City, (573) 751-4213. Richard von Glahn and Jobs with Justice Ballot Fund were represented by Christopher N. Grant and Loretta K. Haggard of Schuchat, Cook & Werner in St. Louis, (314) 621-2626; Ben Stafford of Elias Law Group LLP in Seattle, Washington, (206) 656-0177; and Emma Olson Sharkey and Richard A. Medina of Elias Law Group LLP in Washington, D.C., (202) 968-4490.

Five Missouri business owners, who filed a brief as a friend of the Court, were represented by Alexandria E. Schaefer of Hartnett Reyes-Jones LLC in St. Louis, (314) 531-1054.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: Several Missouri voters (contestants) filed an election contest in this Court alleging the summary statement and fiscal note summary for Proposition A, which appeared on the November 2024 election ballot, were so misleading they constituted an irregularity of sufficient magnitude to cast doubt on the fairness of the election and the validity of its results. In a decision written by Chief Justice Mary R. Russell and joined by five judges, the Supreme Court of Missouri finds the election results are valid. Proposition A's summary statement and fiscal note summary were not misleading or inaccurate so as to constitute an irregularity casting doubt on the election. This Court lacks jurisdiction over whether Proposition A violated the state constitution's clear title and single subject requirements in context of this election contest.

In a separate opinion, Judge Robin Ransom reiterates she does not believe this Court has jurisdiction over post-election ballot title challenges.

Facts: In 2024, an initiative petition known as Proposition A was submitted to voters in the November general election. The ballot title for Proposition A, in its entirety, read:

Do you want to amend Missouri law to:

- increase minimum wage January 1, 2025 to \$13.75 per hour, increasing \$1.25 per hour each year until 2026, when the minimum wage would be \$15.00 per hour;
- adjust minimum wage based on changes in the Consumer Price Index each January beginning in 2027;
- require all employers to provide one hour of paid sick leave for every thirty hours worked;
- allow the Department of Labor and Industrial Relations to provide oversight and enforcement; and

- exempt governmental entities, political subdivisions, school districts and education institutions?

State governmental entities estimate one-time costs ranging from \$0 to \$53,000, and ongoing costs ranging from \$0 to at least \$256,000 per year by 2027. State and local government tax revenue could change by an unknown annual amount depending on business decisions.

Missouri voters approved Proposition A. The contestants timely brought an election contest against the secretary of state and state auditor in this Court seeking a new election, alleging Proposition A's summary statement and fiscal note summary were misleading.

ELECTION RESULTS VALID.

Court en banc holds: (1) This Court has original jurisdiction over the contestants' election challenge. This Court derives its original jurisdiction to hear post-election contests from article VII, section 5 of the Missouri Constitution and section 115.555, RSMo. This Court recently reaffirmed its jurisdiction for election contests, and there have been no intervening cases or events requiring this Court to reconsider that precedent.

(2) The summary statement was not misleading such that it constituted an irregularity casting doubt on the entire election. The statement's reference to the consumer price index fairly summarized what Proposition A's minimum wage provisions would accomplish. The summary statement's sick leave provisions accurately and impartially informed voters Proposition A would require employers to provide one hour of sick leave to employees for every 30 hours worked; allow oversight and enforcement; and exempt public governmental entities.

(3) The fiscal note summary was not inaccurate or misleading such that it constituted an election irregularity. The auditor is not required to include private costs in the fiscal note or the fiscal note summary. Likewise, the auditor's failure to include estimated costs from one county when the other counties indicated there would be no costs or savings resulting from Proposition A did not render the fiscal note summary materially inaccurate or seriously misleading.

(4) The Court lacks jurisdiction over the contestants' single subject and clear title claims. This Court's post-election authority over all matters relating to the contest refers only to matters relating to the election process. The validity of Proposition A – the question raised by the contestants' clear title and single subject claims – is not a matter related to the election process. As those arguments do not relate to the fairness of the election, they are not election irregularities falling within this Court's constitutionally and statutorily derived original jurisdiction.

Separate opinion by Judge Ransom: The author reiterates her position that this Court lacks jurisdiction over post-election ballot title challenges. Were this Court to have jurisdiction, she would concur with the principal opinion's conclusion that Proposition A's ballot title did not result in election irregularity.