

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-008448

06/18/2014

HON. ROBERT H. OBERBILLIG

CLERK OF THE COURT

T. Nosker

Deputy

VINCENT KERRY SMITH

TIMOTHY A LASOTA

v.

SUSAN CLANCY, et al.

SUSAN CLANCY
5703 E CANYON RIDGE N DR
CAVE CREEK AZ 85331

DAVID J OUIMETTE
JAMES RANDALL JUE

MINUTE ENTRY AND FINAL APPEALABLE ORDER

OCH-Courtroom 309

10:11 a.m. Order to Show Cause Hearing on Plaintiff's Petition for Special Action and Application for Preliminary and Permanent Injunctive Relief continues from June 9, 2014. Plaintiff, Vincent Kerry Smith, is present and represented by counsel, Timothy A. LaSota. Defendant, Susan Clancy, is present on her own behalf. Defendant, Hani Saba, is present on his own behalf. Defendants, Helen Purcell and Board of Supervisors of Maricopa County, are represented by counsel, James Randall Jue. Defendant, Helen Purcell, is present. Defendants, Carrie Dyrek and Town Council of Cave Creek Arizona, are represented by counsel, David J. Ouimette. Defendant, Carrie Dyrek, is present.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Jasper Altaha is sworn and testifies.

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Plaintiff's exhibits 1-4 are received in evidence.

The witness is excused.

Plaintiff rests.

Defendants' case:

Janet Mohr is sworn and testifies.

The witness is excused.

Susan Clancy and Hani Saba are sworn.

Susan Clancy testifies.

Hani Saba testifies.

Defendants rest.

Closing arguments are presented.

11:26 a.m. Court stands at recess.

11:48 a.m. Court reconvenes with the parties and respective counsel present.

RULING

The Court finds in favor of Plaintiff and finds as follows:

Out of the 331 signatures for the Durkin recall that the County Recorder found to be valid, 40 are invalid on the basis of knowingly false circulator affidavits. Thus, the 291 signatures gathered against Durkin fall short of the 293 needed to force a recall election.

Out of the 328 signatures for the Spitzer recall that the County Recorder found to be valid, 43 are invalid on the basis of knowingly false circulator affidavits. Thus, the 285 signatures gathered against Spitzer fall short of the 293 needed to force a recall election.

Another petition sheet for Durkin (containing 8 signatures certified as valid by the County Recorder) and another petition sheet for Spitzer (containing 9 signatures certified as valid by the County Recorder) are invalid because Franco Marzella witnessed at least one signature on each of those sheets yet Hani Saba knowingly signed a false circulator affidavit

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indicating he had witnessed all the signatures. That takes the valid signature count to 283 for Durkin and 276 for Spitzer.

Further,

IT IS ORDERED there shall be no recall election as to Mike Durkin and Charlie Spitzer.

IT IS FURTHER ORDERED enjoining Town of Cave Creek Arizona, Board of Supervisors of Maricopa County and Helen Purcell from taking any further action to conduct a recall election.

IT IS FURTHER ORDERED signing this minute entry as a final appealable written Order of the Court. The Court notes that no further matters remain pending and this order is entered pursuant to Rule 54(c).

DATE: 6-19-14

/ s / HON. ROBERT H. OBERBILLIG

HONORABLE ROBERT H. OBERBILLIG

JUDICIAL OFFICER OF THE SUPERIOR COURT

11:59 a.m. Matter concludes.