

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Mar 27 2020 11:04 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

REV. LEONARD JACKSON,

Appellant,

vs.

FAIR MAPS NEVADA PAC,
NEVADA SECRETARY OF STATE,

Respondents.

Case No.: 80563

District Court Case No.:
19 OC 00209 1B

Motion to Expedite Appeal

Kevin Benson, Esq.
Benson Law Nevada
123 W. Nye Lane, Suite 487
Carson City, Nevada 89706
(775) 884-0838

kevin@bensonlawnv.com

Attorney for Appellant Rev. Leonard Jackson

I. Introduction

This appeal involves a challenge to the description of effect of a constitutional initiative petition. Appellant Rev. Leonard Jackson respectfully requests that this Court, pursuant to NRAP 2, expedite its decision in this case in order to resolve this appeal prior to the June 24, 2020 deadline to submit signatures on the petition for verification.

II. Relevant Facts and Procedural History

On November 4, 2019, Respondent Fair Maps Nevada PAC filed a constitutional initiative petition designated as “#C-02-2019” by the Secretary of State (the “Petition”). The Petition would amend the Nevada Constitution to create a redistricting commission.

On November 26, 2019, Appellant Rev. Leonard Jackson filed a timely complaint pursuant to NRS 295.009 and NRS 295.061 alleging that the Petition’s Description of Effect violated NRS 295.009(1)(b) because, among other things, the proposed redistricting commission would not in fact be “independent,” as Fair Maps claimed.

The case was assigned to Department II of the First Judicial District Court. *Id.* On December 4, 2019, Fair Maps filed a peremptory challenge of judge, causing the case to be transferred to Department I. On December 13, 2019, Fair Maps filed its Answer and Answering Brief. On December 16, 2019 the district

court held a setting and ordered that the hearing on the case be set for December 23, 2019. On December 20, 2019, Appellant filed his Reply brief.

The district court held the hearing on December 23, 2019. At that hearing, the court heard argument from each party. The district court indicated that it found the Petition's description of effect to be insufficient, and that it would write its own description of effect. It ordered both parties to submit proposed orders within ten days of the hearing.

On January 2, 2020, the district court issued its order. Notice of entry of that order was served on January 6, 2020. Appellant timely filed his notice of appeal on February 5, 2020. Respondent Fair Maps filed its notice of cross-appeal on February 18, 2020.

III. Argument

This case was brought to challenge the Petition's description of effect, pursuant to NRS 295.009(1)(b) and NRS 295.061(1). NRS 295.061(1) requires that the district court expedite these types of challenges by giving them priority over all other civil cases. The purpose of this statute is to resolve litigation before the deadline to turn in signatures, and well before the deadline for printing ballots.

There is no corresponding statute or rule specifically related to appeals of these types of challenges. However, the same purpose and policy applies. NRAP 2 provides: "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, except as otherwise provided in Rule 26(b).”

A. Expedited review is necessary to resolve this appeal before the deadline to turn in signatures.

The deadline to turn in signatures on this Petition is June 24, 2020. NRS 295.056(3). Once the signatures are turned in, the Petition can no longer be amended and still appear on the 2020 ballot. *See id.* A petition must be filed with the Secretary of State before it is presented to the voters for their signatures. Nev. Const. Art. 19, § 2(4); NRS 295.015(1). Should this Court find the Petition’s description of effect invalid, the Petition would have to be amended to fix the problems and then re-filed with the Secretary of State. NRS 295.015(2)(a). Any signatures collected on the previous version are not valid. NRS 295.015(2)(b); *see also Nevadans for Nevada v. Beers*, 122 Nev. 930, 949, 142 P.3d 339, 352 (2006) (invalidating initiative petition where the version that was circulated was not the same as the version on file with the Secretary of State).

Appellant makes this request based upon reasons of fairness. Because the deadline to turn in signatures is June 24, 2020, the Court should give expedited treatment to this appeal, so that the Proponents of the Petition will have time to make any necessary changes to the Petition and still have time to gather signatures to qualify for the 2020 ballot. Otherwise, a reversal issued after the June 24, 2020

would effectively require the Petition to be struck from the 2020 ballot. However, like in *Beers*, the Proponents could attempt to qualify it for the 2022 election. 122 Nev. at 949, 142 P.3d at 352.

B. Expedited review is necessary to resolve this appeal before ballots are printed in early September.

Uniformed and Overseas Citizens Absentee Voting Act requires that ballots be sent to UOCAVA voters 45 days before the general election. 52 U.S.C. § 20203(a)(8). The deadline to mail the ballots out to overseas and military voters is September 18, 2020. *Id.*; NRS 293D.320. However, it takes at least a couple weeks, if not several, for ballots to be finalized, proofed, and actually printed so that they can be mailed out by the UOCAVA deadline.

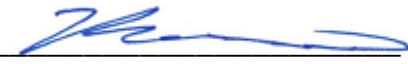
Therefore, even if the Court cannot resolve this case before the June 24, 2020 deadline, expedited treatment is still required because the Secretary of State and the county clerks and registrars of voters will need to know by the end of August or early September whether this Petition will appear on the November 2020 ballot.

IV. Conclusion

For the reasons set forth above, Appellant Rev. Leonard Jackson respectfully requests that this Court expedite its decision in this case in order to resolve this appeal prior to the early September deadline for printing ballots, and if possible, prior to the June 24, 2020 deadline to submit signatures.

Dated this 27th day of March, 2020.

BENSON LAW NEVADA

By: 
Kevin Benson, Esq.
Bar No. 9970
Benson Law Nevada
123 W. Nye Lane, Suite 487
Carson City, NV 89706


CERTIFICATE OF SERVICE

Pursuant to NRCPC Rule 5(b), I hereby certify that I am an employee of Benson Law Nevada, and that on this date, I caused the foregoing document to be served to all parties to this action by electronically filing it with the Court's e-filing system, which will electronically serve the following:

Adam Hosmer-Henner, Esq.
McDonald Carano LLP
100 West Liberty Street, 10th Floor
Reno, Nevada 89501
ahosmerhenner@mcdonaldcarano.com

Aaron D. Ford, Esq.
Greg Zunino, Esq.
Office of the Attorney General
100 N. Carson Street
Carson City, NV 89701
GZunino@ag.nv.gov

Dated: March 27th, 2020.



Kevin Benson