

Unsuccessful Suit to Overturn Arizona's 2020 Presidential Election Results

Bowyer v. Ducey

(Diane J. Humetewa, D. Ariz. 2:20-cv-2321)

Six days after a federal action alleged substantial fraud in Arizona's 2020 presidential election, the district judge dismissed the complaint as without possible merit.

Subject: Voting irregularities. *Topics:* Election errors; intervention; laches; Electoral College; case assignment.

A federal complaint filed in the District of Arizona on December 2, 2020, by fourteen voters—including eleven would-be members of the Electoral College—against state election officials alleged a “scheme and artifice to defraud . . . for the purpose of illegally and fraudulently manipulating the vote count to manufacture an election of Joe Biden as President of the United States, and also of various down ballot democrat candidates in the 2020 election cycle.”¹ Among the relief sought was an injunction against a reflection in the Electoral College of Arizona's presidential election results.² With their complaint, the plaintiffs filed a motion for a temporary restraining order and a preliminary injunction.³

Senior Judge James A. Teilborg declined assignment of the case because of its needing an expedited schedule, and the court reassigned the case to Judge Diane J. Humetewa.⁴ Judge Humetewa set the case for an afternoon telephonic status conference, and the docket sheet included an email address for members of the public to request contact information for audio access to the conference.⁵ Following the conference, she set the case for a December 8 hearing and posted contact information in the docket sheet.⁶

Judge Humetewa granted intervention by Maricopa County officials but denied intervention by the Arizona Democratic Party.⁷

She dismissed the complaint on December 9.⁸

1. Complaint at 2, *Bowyer v. Ducey*, No. 2:20-cv-2321 (D. Ariz. Dec. 2, 2020), D.E. 1; see Howard Fischer, *Trump Supporters File Federal Suit Seeking to Overturn Results of Arizona's Election*, *Ariz. Daily Star*, Dec. 3, 2020, at B1.

2. Complaint, *supra* note 1, at 51–52.

3. Motion, *Bowyer*, No. 2:20-cv-2321 (D. Ariz. Dec. 2, 2020), D.E. 2.

4. Order, *id.* (Dec. 2, 2020), D.E. 7.

5. Docket Sheet, *id.* (Dec. 2, 2020) (D.E. 11); see Transcript, *id.* (Dec. 3, 2020, filed Jan. 20, 2021), D.E. 89.

6. Docket Sheet, *supra* note 5 (D.E. 28, 43, 69, 74); see Howard Fischer, *1 of 2 Remaining Ariz. Election Suits to be Heard by Federal Judge Today*, *Ariz. Daily Star*, Dec. 8, 2020, at B1.

7. *Bowyer v. Ducey*, 506 F. Supp. 3d 699, 707 (D. Ariz. 2020); Docket Sheet, *supra* note 5 (D.E. 32); see Intervention Motion, *Bowyer*, No. 2:20-cv-2321 (D. Ariz. Dec. 3, 2020), D.E. 27 (Maricopa County officials); Intervention Motion, *id.* (Dec. 3, 2020), D.E. 26 (Arizona Democratic Party).

8. *Bowyer*, 506 F. Supp. 3d 699; see Howard Fischer, *Federal Judge Tosses Last Lawsuit Challenging Biden Win in Arizona*, *Ariz. Daily Star*, Dec. 10, 2020, at B2; Maria Polletta, *Last*

Not only have Plaintiffs failed to provide the Court with factual support for their extraordinary claims, but they have wholly failed to establish that they have standing for the Court to consider them. Allegations that find favor in the public sphere of gossip and innuendo cannot be a substitute for earnest pleadings and procedure in federal court. They most certainly cannot be the basis for upending Arizona's 2020 General Election. The Court is left with no alternative but to dismiss this matter in its entirety.⁹

On April 13, 2021, the court of appeals accepted a voluntary dismissal of an appeal.¹⁰

Pending Arizona Elections Challenge Dismissed, Ariz. Republic, Dec. 10, 2020, at A14.

9. *Bowyer*, 506 F. Supp. 3d at 724.

10. Order, *Bowyer v. Ducey*, No. 20-17399 (9th Cir. Apr. 13, 2021), D.E. 7.