

Challenging Post-Election Disqualification of Winning Candidates

Orgeron v. Quartzsite
(*Roslyn O. Silver, D. Ariz. 2:12-cv-1238*)

A federal complaint challenged the disqualification of a town-council election victor for insufficient residency and the disqualification of the mayoral election victor for indebtedness to the city. The district judge ruled in favor of the council victor, but she determined that the council victor did not have standing to seek a remedy for the mayoral victor's injury.

Subject: Voting irregularities. *Topics:* Enjoining certification; matters for state courts; case assignment.

Nearly four weeks after a May 15, 2012, election in Quartzsite, Arizona, an allegedly prevailing candidate for town council filed a federal complaint challenging his June 4 disqualification for insufficient residency and the allegedly victorious mayoral candidate's June 4 disqualification for indebtedness to the town.¹ With the complaint, the plaintiff filed a motion for a temporary restraining order.²

On the day that the complaint was filed, Judge Susan R. Bolton set the case for hearing before Judge Roslyn O. Silver eight days later.³ Following the hearing, Judge Silver took the matter under advisement;⁴ on July 5, she set a preliminary-injunction hearing for July 12.⁵

On July 20, Judge Silver ruled that evidence of the plaintiff's more-than-one-year term of residency in Quartzsite was uncontroverted, so he was qualified to be a member of the town council.⁶ He did not, however, have standing to sue on behalf of the mayoral candidate.⁷

Judge Silver declined to abstain from ruling in light of a pending quo warranto action in state court by the county attorney to determine the election winners, because the federal plaintiff was not a party in the state court case.⁸

1. Complaint, *Orgeron v. Quartzsite*, No. 2:12-cv-1238 (D. Ariz. June 11, 2012), D.E. 1; see Amended Complaint, *id.* (June 18, 2012), D.E. 19; see also *Quartzsite Refuses to Seat Winning Mayor*, *Ariz. Republic*, June 12, 2012, at A1 (reporting that the mayoral candidate "was disqualified because he failed to pay court-ordered attorney fees from a lawsuit he lost against the town").

2. Temporary-Restraining-Order Motion, *Quartzsite*, No. 2:12-cv-1238 (D. Ariz. June 11, 2012), D.E. 3.

3. Order, *id.* (June 11, 2012), D.E. 5.

4. Docket Sheet, *id.* (June 11, 2012) (D.E. 24).

5. Order, *id.* (July 5, 2012), D.E. 30; see Minutes, *id.* (July 12, 2012), D.E. 32.

6. Opinion at 6–7, *id.* (July 20, 2012), D.E. 38; see *id.* at 7 ("Defendants presumably had some basis for determining Plaintiff was not a resident of Quartzsite but Defendants chose not to present the Court with that basis").

7. *Id.* at 8–9.

8. *Id.* at 5–6.

Judge Silver signed a stipulated dismissal of the case on August 2.⁹

The plaintiff assumed his seat on the council, which voted on October 9 against a settlement with the disputed mayoral victor.¹⁰ Later that month, the disputed victor was mayor.¹¹

9. Order, *id.* (Aug. 2, 2012), D.E. 43.

10. Quartzsite Town Council Minutes, Oct. 9, 2012, ci.quartzsite.az.us/Support%20Docs/Council_meeting_minutes/2012%20Council%20Minutes/100912%20Council%20Min.html, *archived at* web.archive.org/web/20211130033438/ci.quartzsite.az.us/Support%20Docs/Council_meeting_minutes/2012%20Council%20Minutes/100912%20Council%20Min.html.

11. Quartzsite Town Council Draft Minutes, Oct. 23, 2012, ci.quartzsite.az.us/Support%20Docs/Council_meeting_minutes/2012%20Council%20Minutes/102312%20Council%20Min%20Draft.html, *archived at* web.archive.org/web/20211130032212/ci.quartzsite.az.us/Support%20Docs/Council_meeting_minutes/2012%20Council%20Minutes/102312%20Council%20Min%20Draft.html; *see* Docket Sheet, *Foster v. Quartzsite*, No. S-1500-cv-201200100 (Ariz. Super. Ct. La Paz Cnty. Aug. 13, 2012) (noting an October 18, 2012, judgment), apps.supremecourt.az.gov/PublicAccess/caselookup.aspx.