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IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

Filing Date: April 8, 2024

No. S-1-SC-40068

**NEW MEXICO TURN AROUND, Sponsor of
Referendum Petitions Directed to N.M. Laws
2023, Chapters 39 & 84, and CHERYL D.
ARMSTRONG, CHERYLE E. BAKEWELL,
G. TRACY BAKEWELL, PAMELA M. BURGAN,
TIFFANY BURNINGHAM, CRAIG D. CANNER,
CYNTHIA CANNER, NANCY E. C'DEBACA-JINKS,
LISA A. CHAPMAN, LORA CURTIS, BURR
DICKINSON, THERESA M. DICKINSON, CAROL
L. DOOLEY, ELIZABETH A. DOWLING, LESLEY
ELKINS GOMEZ, PETER GOMEZ, MARK
GOOLSBY, RAMONA L. GOOLSBY, JOSEPH C.
GUZZO, BARBARA HALL, DEBRA HANCOCK,
STEPHEN R. HARRINGTON, MICHAEL E.
HENDRICKS, MARLEE HUGHES, SCOTT A.
HUGHES, MARY KAY INGHAM, STEWART
INGHAM, LORI LAICHE, THOMAS P. LAICHE,
JOHN LARRY LEIJA, KAREN C. MACY,
TIMOTHY A. MACY, LARRY MARKER, TERESA
A. MERKLEY, ELIZABETH MUNOZ-HAMILTON,
RONDA ORCHARD, LENA SHAFFER, LULIN
SIMPSON, ROBERT E. SIMPSON, MARIJO A.
STREETZ, TRACEY L. TRIMBLE, and JOHN
VELTRI, More Than 25 Qualified Electors Aggrieved
by the Denial of Those Referendum Petitions,**

Petitioners,

v.

**MAGGIE TOULOUSE OLIVER,
New Mexico Secretary of State,**

Respondent.

ORIGINAL PROCEEDING

Harrison & Hart, LLC
Carter B. Harrison IV
Albuquerque, NM

for Petitioners

Raúl Torrez, Attorney General
Erica Schiff, Assistant Attorney General
Mark W. Allen, Assistant Attorney General
Santa Fe, NM

for Respondent

DISPOSITIONAL ORDER

PER CURIAM.

{1} WHEREAS, this matter came before this Court on verified petition for writ of mandamus, response, and reply thereto filed under Rule 12-504 NMRA and NMSA 1978, Section 1-17-13(A) (1969), and expedited unopposed request for expedited oral argument and/or merits decision;

{2} WHEREAS, Petitioners seek an order from this Court directing Respondent, Secretary of State Maggie Toulouse Oliver, to approve and certify two referendum petitions for two election-related laws, 2023 N.M. Laws, Chapters 39 and 84, see NMSA 1978, Section 1-17-8(A) (2023);

{3} WHEREAS, the New Mexico Constitution vests the Legislature with the power to legislate, and reserves for the people a right of referendum—“the power to disapprove, suspend and annul any law enacted by the legislature,” with certain exceptions, including “laws providing for the preservation of the public peace, health or safety,” N.M. Const. art. IV, § 1, and the Legislature vests the Secretary of State with the authority to determine whether referendum petitions “meet[] the requirements of law,” NMSA 1978, Section 1-17-8(A);

{4} WHEREAS, under this authority, Respondent denied Petitioners’ referendum petitions based on Respondent’s determination that the relevant laws were exempt from referendum under New Mexico’s “public peace, health, or safety” exception, N.M. Const. art. IV, § 1;

{5} WHEREAS, this Court previously considered the breadth of this exception and concluded that New Mexico has the broadest public peace, health, and safety exception resulting in an “undeniably conservative” right of referendum, see *State ex rel. Hughes v. Cleveland*, 1943-NMSC-029, ¶¶ 13, 17, 32, 47 N.M. 230, 141 P.2d 192 (discussing

the breadth of the exception and holding the exception applied to the law at issue as it bore “a real and substantial relationship to public health”);

{6} WHEREAS, considering the public peace, health, and safety exception a decade later this Court held that under the same, a law is exempt from referendum if it “bears a valid, reasonable relationship to the preservation of the public peace, health, or safety,” *Otto v. Buck*, 1956-NMSC-040, ¶ 20, 61 N.M. 123, 295 P.2d 1028;

{7} WHEREAS, this Court exercises its discretion under Rule 12-405(B)(1) NMRA to dispose of this case by nonprecedential order rather than a formal opinion;

{8} NOW, THEREFORE, IT IS ORDERED that pursuant to the broad swath of legislative authority carved out of the reserved referendum power by New Mexico’s public peace, health, and safety exception, N.M. Const. art. IV, § 1, the authority bestowed by the Legislature upon the Secretary of State under Section 1-17-8, and under *Hughes* and *Otto*, the two election-related bills at issue here, 2023 N.M. Laws, Chapters 39 and 84, are EXEMPT from referendum;

{9} IT IS FURTHER ORDERED that the petition is DENIED and this matter is hereby DISMISSED; and

{10} IT IS FURTHER ORDERED that the request for expedited oral argument and/or merits decision is DENIED as MOOT.

{11} IT IS SO ORDERED.

C. SHANNON BACON, Chief Justice

MICHAEL E. VIGIL, Justice

DAVID K. THOMSON, Justice

JULIE J. VARGAS, Justice

BRIANA H. ZAMORA, Justice