

Challenging Post-Election Disqualification of Winning Candidates

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

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

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.

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

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

10. Quartzsite Town Council Minutes, Oct. 9, 2012, 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; *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.