

SUPREME COURT OF ARIZONA

KARI LAKE,) Arizona Supreme Court
) No. CV-23-0046-PR
Plaintiff/Appellant,)
) Court of Appeals
v.) Division One
) No. 1 CA-CV 22-0779
KATIE HOBBS, et al.,) 1 CA-SA 22-0237
) (Consolidated)
Defendants/Appellees.)
) Maricopa County
KARI LAKE,) Superior Court
) No. CV2022-095403
Petitioner,)
)
v.)
)
THE HONORABLE PETER THOMPSON,)
JUDGE OF THE SUPERIOR COURT OF)
THE STATE OF ARIZONA, in and for)
the County of Maricopa,)
)
Respondent Judge,)
)
KATIE HOBBS, personally as)
Contestee; ADRIAN FONTES, in his)
official capacity as Secretary)
of State; STEPHEN RICHER, in his)
official capacity as Maricopa)
County Recorder, et al.,)
)
Real Parties in Interest.)
)
) **FILED 03/22/2023**

O R D E R

On December 24, 2022, the trial court issued its Under Advisement Ruling rejecting Petitioner Lake's challenge and "confirming the election of Katie Hobbs as Arizona Governor-elect pursuant to A.R.S. § 16-676(B)." The Court of Appeals affirmed in an Opinion issued February 16, 2023.

Petitioner Lake filed her Petition for Review and request for Expedited Consideration on March 1, 2023. The Court, *en banc*, granted Petitioner's Motion for Expedited Consideration of her Petition for Review on March 3, 2023.

The Court has considered Petitioner Lake's Petition for Review and responses filed by Governor Katie Hobbs, Secretary of State Adrian Fontes, and the Maricopa County defendants. The Court has also considered the record, the trial court ruling, and the Court of Appeals' Opinion affirming the trial court. The Court has also considered briefing of amici curiae in support of Petitioner.

Upon consideration of the Court, *en banc*,

IT IS ORDERED denying review of issues one through five and seven. The Court of Appeals aptly resolved these issues, most of which were the subject of evidentiary proceedings in the trial court, and Petitioner's challenges on these grounds are insufficient to warrant the requested relief under Arizona or federal law.

IT IS FURTHER ORDERED granting review of issue number six to the extent count three of the complaint challenges the Maricopa County Recorder's application of signature-verification policies during the election. Issue number six asks, "Did the panel err in dismissing the signature-verification claim on laches[,] mischaracterizing Lake's claim as a challenge to existing signature verification policies, when Lake in fact alleged that Maricopa failed to follow these

policies during the 2022 general election?" In Count three of her complaint, which alleged a violation of A.R.S. § 16-550(A), Petitioner alleged in paragraph 151, "Upon information and belief, a material number of early ballots cast in the November 8, 2022 general election were transmitted in envelopes containing an affidavit signature that the Maricopa County Recorder or his designee determined did not match the signature in the putative voter's 'registration record.' The Maricopa County Recorder nevertheless accepted a material number of these early ballots for processing and tabulation." Contrary to the ruling of the trial court and the Court of Appeals Opinion, this signature verification challenge is to the application of the policies, not to the policies themselves. Therefore, it was erroneous to dismiss this claim under the doctrine of laches because Lake could not have brought this challenge before the election.

IT IS FURTHER ORDERED vacating ¶¶ 26-30 of the Court of Appeals Opinion.

IT IS FURTHER ORDERED remanding to the trial court to determine whether the claim that Maricopa County failed to comply with A.R.S. § 16-550(A) fails to state a claim pursuant to Ariz. R. Civ. P. 12(b)(6) for reasons other than laches, or, whether Petitioner can prove her claim as alleged pursuant to A.R.S. § 16-672 and establish that "votes [were] affected 'in sufficient numbers to alter the outcome of the election'" based on a "competent mathematical basis to

conclude that the outcome would plausibly have been different, not simply an untethered assertion of uncertainty.” (Opinion ¶ 11.)

IT IS FURTHER ORDERED Petitioner may file a response and Respondents may file a reply to Respondents’ Motions for Sanctions in accordance with ARCAP Rule 6(a)(2). The parties shall address as a basis for sanctions only Petitioner’s factual claims in her Petition for Review (i.e., that the Court of Appeals should have considered “the undisputed fact that 35,563 unaccounted for ballots were added to the total of ballots at a third party processing facility”), and not legal arguments (i.e., pertaining to the burden of proof or purported conflict in the lower courts). The record does not reflect that 35,563 unaccounted ballots were added to the total count. The motions for sanctions will be considered in due course.

DATED this 22nd day of March, 2023.

/s/
ROBERT BRUTINEL
Chief Justice

TO:

Bryan James Blehm
Kurt Olsen
Alexis E Danneman
Abha Khanna
Lalitha D Madduri
Christina Ford
Elena Rodriguez Armenta
Shayna Gabrielle Stuart
Jake Tyler Rapp
Craig A Morgan
Thomas P Liddy
Joseph Eugene La Rue
Joseph Branco
Karen J Hartman-Tellez
Jack O'Connor
Sean M Moore
Rosa Aguilar
Emily M Craiger
Hon Peter A Thompson
Amy M Wood
David T Hardy
Ryan L Heath