

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

Meghan Gallagher

Court of Appeals No. L-10-1051

Appellant/Cross-Appellee

Trial Court No. CI0201001192

v.

Lucas County Board of Elections, et al.

DECISION AND JUDGMENT

Appellees/Cross-Appellants

Decided: September 3, 2010

* * * * *

Anthony J. DeGidio and Scott A. Ciolek, for appellant/
cross-appellee.

Julia R. Bates, Lucas County Prosecuting Attorney, Steven J.
Papadimos, John A. Borell, and Andrew K. Ranazzi, for
appellee Lucas County Board of Elections.

R. Kent Murphree and Gary O. Sommer, for appellees/
cross-appellants Jeffrey Simpson and Paul Hoag.

* * * * *

SINGER, J.

{¶ 1} Appellant, Meghan Gallagher, appeals from a decision of the Lucas County Court of Common Pleas denying her motion for a temporary restraining order and a preliminary injunction. For the reasons set forth below, we affirm.

{¶ 2} This case arises out of a dispute between members of the Lucas County Republican Party ("LCRP"). On March 4, 2008, appellant and appellees/cross-appellants, Jeffrey Simpson and Paul Hoag, were elected to the Central Committee of the LCRP. After several delays¹, an organizational meeting was held on June 14, 2008. At said meeting, appellant was elected chair of the Central Committee.

{¶ 3} On December 21, 2009, the Central Committee met and split into two factions. One faction was in support of appellant and another faction was in support of Simpson and Hoag.

{¶ 4} On December 23, 2009, Hoag submitted a list of Central Committee members to the Lucas County Board of Elections ("LBOE"). This list named Hoag as Chair of the Committee. On December 24, 2009, Mark Nowak, secretary of the LCRP submitted a different list of Central Committee members to the LBOE. This list named appellant as Chair of the Committee.

{¶ 5} On January 12, 2010, the LBOE, pursuant to R.C. 3517.05, certified both lists to the Ohio Republican Party State Central Committee ("ORCC") for a determination of which committee should be recognized as the rightful county Central Committee.

{¶ 6} On January 12, 2010, appellant filed a "motion for temporary restraining order and preliminary injunction" against appellees, the LBOE and the ORCC. Appellant

¹See Haynam v. Lucas County Republican Party (May 16, 2008), 6th Dist. No. L-08-1156.

alleged that fraudulent documents had been submitted to the LBOE by Simpson and Hoag. Appellant alleged that the documents were submitted in an effort to oust her from her committee position and that the LBOE facilitated the fraud by accepting the documents.

{¶ 7} On January 25, 2010, Simpson and Hoag filed a motion to intervene in the action which was granted on February 11, 2010.

{¶ 8} On February 18, 2010, the court denied appellant's motion and ordered the ORCC to resolve the matter "in conformity with its statutory duties." Appellant now appeals setting forth the following assignments of error:

{¶ 9} "I. The trial court erred by failing to rule that Meghan Gallagher is the de jure and de facto chairman and member of the LCRP Central Committee which organized on June 14, 2008, and she remains so until ordered otherwise by a court of law.

{¶ 10} "II. The trial court erred by failing to rule that neither the BOE nor the ORP have any authority under the law of Ohio to remove central committee members after the BOE has certified the results of their election.

{¶ 11} "III. The trial court erred in holding that an 'organizational meeting' prescribed by R.C. 3517.04 is unlawful when held outside the statutorily set deadline, when a court has issued a stay to refrain from holding the meeting.

{¶ 12} "IV. The trial court erred by failing to issue a ruling requested by Plaintiff as to the meaning of the word 'certify' as it is used in R.C. 3517.05."

{¶ 13} Appellees/cross-appellants, Simpson and Hoag, have filed the following assignment of error:

{¶ 14} "I. The trial court erred by concluding that challenges to internal political party leadership can only be made through an 'organizational meeting' held pursuant to R.C. 3517.04."

{¶ 15} The standard of review for a denial of a preliminary injunction is abuse of discretion. *Garono v. State* (1988), 37 Ohio St.3d 171, 173. A trial court will not be found to have abused its discretion unless its decision involves more than an error of judgment or law and can be characterized as unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219. An abuse of discretion "implies not merely error of judgment, but perversity of will, passion, prejudice, partiality, or moral delinquency." The term has been defined as "a view or action that no conscientious judge, acting intelligently, could have honestly taken." *State ex rel. Shafer v. Ohio Turnpike Comm.* (1953), 159 Ohio St. 581, 590-591. When applying the abuse of discretion standard of review, an appellate court must not substitute its judgment for that of the trial court. *In re Jane Doe 1* (1991), 57 Ohio St.3d 135, 138.

{¶ 16} Appellant's first two assignments of error will be addressed together. In her first assignment of error, appellant contends that she acted as the "de facto" central committee chair and the trial court should have recognized her as such. In her second assignment of error, she contends she cannot be removed by the BOE or the ORCC

because she was elected by the public, and thus absent a proper ouster she must be removed by a court of law.

{¶ 17} "Political parties are basically voluntary associations of persons who act together principally for party and community purposes. Courts should defer to the appropriate party tribunals established by the members for the resolution of internal disputes of the party." *State ex rel. Cain v. Kay* (1982), 38 Ohio St.2d 15, 18-19. By enacting R.C. 3517.05, the General Assembly obviously thought that a party's state central committee should be the arbiter of situations involving conflicting claims of party leadership." *Ctr. Commt. of Hamilton Cty. Republican Party v. Kohnen* (Aug. 12, 1991), 1st Dist. No. C900603.

{¶ 18} R.C. 3517.05 states:

{¶ 19} "If more than one organized group claims to be the rightful county central or executive committee, each such group shall file a list of its officers and members as provided in section 3517.06 of the Revised Code, and the board of elections with which such lists are filed shall certify them to the state central committee of the party concerned. The state central committee shall meet within thirty days after receipt of such certification and forthwith determine and certify which committee shall be recognized as the rightful county central or executive committee."

{¶ 20} Courts generally defer to the State Central Committee to determine which body is the appropriate group to recognize as leaders. R.C. 3517.05; *Federspiel v. Ohio Republican Party State Cent. Comm.* (S.D. Ohio 1994), 867 F.Supp. 617, 622.

{¶ 21} Whether appellant "acted" as the committee chair or not and the fact that she was elected is irrelevant for our purposes here given R.C. 3517.06, which clearly requires the BOE to certify competing lists of central committee members, all of whom have supposedly been elected by the public, to the ORCC for a determination. Finding no abuse of discretion, appellant's first and second assignments of error are found not well-taken.

{¶ 22} Appellant's third assignment of error seeks to have this court hold that the organizational meeting should be allowed via equitable tolling. Appellant contends that by mandating the meeting be held within the statutory timeline, it was in direct conflict with the lower court's stay. However, since the trial judge modified the five day notice requirement by merging it into his original requirement mandating the meeting to be held within fifteen days of the May 6 appeal, it was perfectly reasonable to have held the meeting within the remaining five days when this court lifted its stay. Thus, appellant's third assignment of error is not well-taken.

{¶ 23} Finally, appellant's fourth assignment of error seeks to clarify the meaning of the word certify. She asks this court to determine that the BOE should have rejected the lists supplied by appellees/cross-appellants because the lists had apparent facial imperfections. Appellant cites *State ex rel. Stoll v. Logan Cty. Bd. of Elections* (2008), 117 Ohio St.3d 76, which states that certify means: "[t]o attest to being true or meeting certain criteria." (Citation omitted.)

{¶ 24} Once again, we look to R.C. 3517.05 and defer to the authority of the ORCC to review the lists supplied by appellees/cross-appellants. Appellant's fourth assignment of error is found not well-taken.

{¶ 25} On cross-appeal, appellees/cross-appellants argue that the trial court reached the right result for the wrong reason. Specifically, appellees/cross-appellants contend that the court erred in finding that challenges to internal party leadership can only be made through an "organizational meeting" as that term is defined in R.C. 3517.04. We do not interpret the trial court's opinion in this way. While the trial court recognized that "a group which fails to call an 'organizational meeting' within the proper time or which fails to call and/or provide proper notice of an 'organizational meeting' via the proper retiring officers, has no 'valid claim to the leadership' of the central or executive committees * * *," (citing *Cent. Commt. of Hamilton Cty. Republican Party v. Kohnen*, supra), the trial court at no time concluded that challenges to party leadership can only be made through R.C. 3517.04 "organizational meetings." Appellees/cross-appellants' assignment of error is found not well-taken.

{¶ 26} On consideration whereof, we find substantial justice has been done to the parties complaining and the judgment of the Lucas County Court of Common Pleas is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, J.

JUDGE

Thomas J. Osowik, P.J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.