

CASE NO. 125,084

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

LEAGUE OF WOMEN VOTERS OF KANSAS,
LOUD LIGHT, KANSAS APPLESEED CENTER
FOR LAW AND JUSTICE, INC., AND TOPEKA
INDEPENDENT LIVING RESOURCE CENTER,
Plaintiffs-Appellants,

v.

SCOTT SCHWAB, IN HIS OFFICIAL
CAPACITY AS KANSAS SECRETARY
OF STATE, AND DEREK SCHMIDT,
IN HIS OFFICIAL CAPACITY AS KANSAS
ATTORNEY GENERAL,
Defendants-Appellees.

ORDER

This order concerns Appellees' motion for involuntary dismissal and Appellants' motion to expedite. We deny on present showing Appellees' motion for involuntary dismissal and note the reply and response. We grant in part Appellants' motion to expedite and note the reply and response.

This appeal involves, in part, the denial of a temporary injunction, giving rise to an appeal as of right under K.S.A. 2020 Supp. 60-2102(a)(2). The extent to which our review of that injunction will reach the constitutionality of the challenged statutory provisions goes to the merits of the parties' arguments, not to our jurisdiction to consider the appeal at all. And appellate jurisdiction under K.S.A. 2020 Supp. 60-2102(a)(3)—a

matter rarely litigated—turns on novel legal analyses intertwined with factual questions we cannot answer without the benefit of further briefing and the record on appeal.

This case will thus proceed to briefing and will be assigned to a panel for its consideration. To permit a more comprehensive review by the panel of appellate jurisdiction, we order the parties to address the following questions in their briefs (in addition to any arguments regarding the merits of the district court's decision):

1. Which of Appellants' claims remain pending before the district court, and what is the status of those claims?
2. What is required for a decision to have a "semblance of finality" such that it may be reviewable under K.S.A. 2020 Supp. 60-2102(a)(3)?
3. How, if at all, does the finality requirement of K.S.A. 2020 Supp. 60-2102(a)(3) differ from the final order requirement of K.S.A. 2020 Supp. 60-2102(a)(4)?
4. What was the basis of the district court's conclusion that the request for temporary injunction of the Signature Verification Requirement was moot?
5. May we review the district court's denial of the temporary injunction since the district court dismissed the constitutional challenges to the Signature Verification Requirement on the merits?
6. How, if at all, was the district court's constitutional analysis of the Ballot Collection Restrictions related to the district court's constitutional analysis of the Signature Verification Requirement?

Turning now to Appellants' motion to expedite, we grant that motion in part and note the response and reply. We cannot commit to issuing a decision by June 24, 2022.

But we will endeavor to decide this case as quickly as possible. To that end, extensions of time for briefing will be granted only if exceptional circumstances are shown. Once briefing is complete, we will make every effort to assign the case to a panel for decision.

DATED: May 19, 2022.

FOR THE COURT

/s/ Sarah E. Warner

SARAH E. WARNER, Presiding Judge

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