

IN THE SUPREME COURT OF THE STATE OF NEVADA

GEORGE BETHURUM,
INDIVIDUALLY,
Petitioner,

vs.

DANIEL G. BURK, IN HIS OFFICIAL
CAPACITY AS REGISTRAR OF
VOTERS FOR WASHOE COUNTY; AND
ROSS MILLER, IN HIS OFFICIAL
CAPACITY AS SECRETARY OF THE
STATE OF NEVADA,

Respondents,

and

WILLIAM J. RAGGIO, IN HIS
CAPACITY AS CANDIDATE FOR
NEVADA STATE SENATE DISTRICT
NO. 3,

Real Party in Interest.

No. 51913

FILED

SEP 04 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION FOR WRITS OF
QUO WARRANTO, MANDAMUS, AND PROHIBITION

This original petition for writs of quo warranto, mandamus, and prohibition seeks to exclude real party in interest William J. Raggio's name from the 2008 primary and general election ballots, under the Nevada Constitution's term-limit provision.

In Nevada's 1996 general election, held on November 5, the voters approved proposed amendments to Nevada's Constitution that preclude a person from serving in certain public offices, including the Legislature, for more than 12 years. Thereafter, on November 27, 1996, following a canvass of the November 5 election results, the proposed

amendments became effective as part of Nevada's Constitution.¹ With respect to legislators, the amendments were included in Nevada's Constitution as Article 4, Section 3(2), "[n]o person may be elected or appointed as a member of the Assembly who has served in that Office, or at the expiration of his current term if he is so serving will have served, 12 years or more, from any district of this State," and Article 4, Section 4(2), "[n]o person may be elected or appointed as a Senator who has served in that Office, or at the expiration of his current term if he is so serving will have served, 12 years or more, from any district of this State."

Raggio currently is seeking reelection to the Nevada State Senate, District 3. He previously was elected to the Nevada State Senate in 1996. He served in that office after his election, and through reelections, he has continued to serve in that office. Raggio will complete his twelfth year of service in the Nevada Senate since 1996 when his current term expires following this year's general election in November. According to petitioner George Bethurum, if Raggio is reelected this year and begins to serve another term in the Nevada Senate, the first year of

¹See Child v. Lomax, 124 Nev. ___, ___ P.3d ___ (Adv. Op. No. 57, July 25, 2008) (noting that the Nevada Constitution's term-limit amendment pertaining to members of the Nevada State Assembly became effective on November 27, 1996); Secretary of State v. Burk, 124 Nev. ___, ___ P.3d ___ (Adv. Op. No. 56, July 25, 2008) (recognizing that the Nevada Constitution's term-limit amendment pertaining to state offices and positions on local governing bodies became effective on November 27, 1996); Torvinen v. Rollins, 93 Nev. 92, 94, 560 P.2d 915, 917 (1977) (stating that a constitutional amendment adopted through the ballot initiative process becomes effective on "the canvass of the votes by the supreme court").

that term would constitute his thirteenth year in that office since the Nevada Constitution's term-limit provision became effective.

We recently addressed that issue as it relates to members of the Assembly, in Child v. Lomax.² In Child, we noted that the Nevada Constitution's plain language provides that a State Assembly member-elect begins serving in office on the day after the election.³ Thus, members' terms of office associated with their 1996 election commenced on November 6, 1996, before the term-limit amendments' November 27, 1996, effective date.⁴ As a result, their terms of office that began on November 6, 1996, "cannot be included in calculating whether [their] service in office has exceeded the 12-year limitation period."⁵

That analysis applies here. With respect to his 1996 election, Raggio began serving in office on the day after the election.⁶ His term of office associated with his 1996 election, then, commenced on November 6, 1996, before the applicable term-limit amendment's November 27, 1996, effective date. Consequently, his term of office that began on November 6, 1996, cannot be included in calculating whether his service in office has

²124 Nev. ___, ___ P.3d ___.

³Id. at ___, ___ P.3d at ___.

⁴Id.

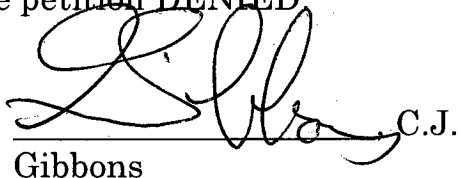
⁵Id.; see also Burk, 124 Nev. at ___, ___ P.3d at ___ (noting that a term-limit amendment adopted through the 1996 election applies prospectively only to terms of service that commenced after the amendment's November 27, 1996, effective date).

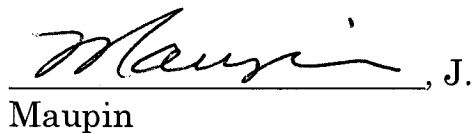
⁶See Nev. Const. art. 4, § 4(1) (providing a Nevada Senator's term of office commences "the day next after [his] election").

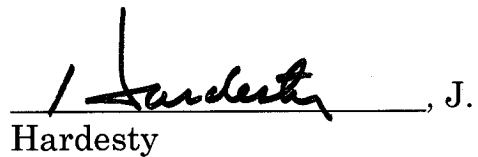
exceeded the 12-year limitation period. Thus, Raggio has not exceeded the Nevada Constitution's 12-year term limit for senators and may remain on the 2008 general election ballot.

Accordingly, we

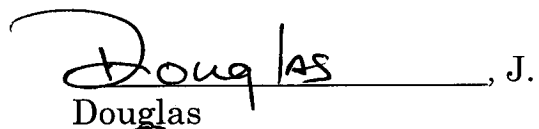
ORDER the petition DENIED

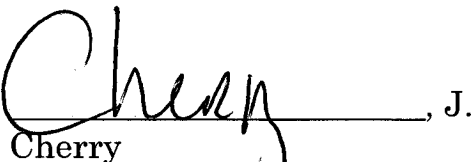

Gibbons C.J.


Maupin


Hardesty


Parraguirre


Douglas


Cherry


Saitta

cc: Charles C. Rainey
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Jones Vargas/Reno