

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2022-013185

02/09/2023

HONORABLE KATHERINE COOPER

CLERK OF THE COURT
C. Ladden
Deputy

REPUBLICAN NATIONAL COMMITTEE, et al. TIMOTHY A LASOTA

v.

STEPHEN RICHER, et al.

JOSEPH EUGENE LA RUE

DANIEL A ARELLANO
ALEXANDER M KOLODIN
THOMAS PURCELL LIDDY
DAVID R FOX
JUDGE COOPER

RULINGS RE MOTIONS TO DISMISS

Pending before the Court are the fully-briefed Motions to Dismiss Plaintiffs' First Amended Complaint ("FAC") filed by the Maricopa County Defendants and Intervenor Defendants on November 22, 2022. The Court has reviewed the Motions, Responses, and Replies and considered counsels' oral argument.

In considering a motion to dismiss, the Court construes the allegations in the Complaint in the light most favorable to the plaintiff(s). *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417 (2008). Plaintiffs must plead sufficient facts to support their claims. "[A] complaint that states only legal conclusions, without any supporting factual allegations, does not satisfy Arizona's notice pleading standard under Rule 8." *Id.* At 419. Similarly, "inferences or deductions" not supported by well-pled facts are not sufficient. *Jeter v. Mayo Clinic Ariz.*, 211 Ariz. 386, 389 (App. 2005).

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2022-013185

02/09/2023

Election boards are an essential part of the elections process. They are created and governed by statute to help election officials administer elections. Election boards consist of an inspector, judges, marshal (and clerks, if applicable), appointed for a particular voting location by, in this case, the Maricopa County Board of Supervisors. These boards, also referred to as “poll workers,” or “board workers,” are paid for their work as temporary County employees. The law requires party parity between Republicans and Democrats on the boards. It does not require absolute party equality.¹

The FAC alleges that the Maricopa County Defendants have and will in the future violate certain Election Board statutes² by imposing work requirements on Republican board worker nominees. Plaintiffs seek a writ of mandamus requiring Defendants to adopt specific work conditions for Republican election workers, to hire additional Republican workers to replace those who fail to show up to work, and to appoint all election workers nominated by the County Republican Party Chair.

The FAC is dismissed for these reasons:

As to the 2022 election cycle, the allegations are moot. That election and recount(s) are completed. The FAC concedes that Defendants achieved the party parity required for a lawful election. FAC ¶ 7.

As to the hiring of election workers for future elections, the action is not ripe. There are no facts alleged regarding what the work requirements will be in 2024 or beyond.

The RNC and AZGOP lack standing to seek mandamus or declaratory relief. A person seeking redress in the courts must establish standing. *Bennett v. Napolitano*, 206 Ariz. 520, 524, ¶ 16 (2003). The Election Board statutes provide that the county chairs of political parties, here the Maricopa County Republican Committee, make appointments for certain election board worker positions and have a statutory role in the election board appointment process. The RNC AZGOP do not make the appointments and, therefore, have no direct official interest or duty to serve in the proceedings. As a result, they cannot show a particularized injury necessary to have standing. Even under the more relaxed “beneficial interest” standard to bring mandamus and declaratory relief, they lack standing. *Arizona Public Integrity Alliance v. Fontes*, 250 Ariz. 58, 62, ¶ 11 (2020). The county political party, not the state or national party, have the “beneficial interest” in the appointment process.

¹ For example, for precincts consisting of more than 300 qualified electors, such boards “shall be appointed to provide *as equal as practicable* representation of member of the two largest political parties on the board.” A.R.S. 16-531(D) (emphasis added).

² A.R.S. §§16-531, 532, 549, 551, 552, 621, and 602

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2022-013185

02/09/2023

Finally, the FAC fails to state a claim on which relief may be granted. The Election Board statutes relied on by Plaintiffs require Defendants to appoint and instruct inspectors, judges, marshals, and clerks. They do not impose a legal duty to employ specific work requirements, modify work conditions for Republican workers, hire “extra” Republican workers, or employ every nominee (including those who decline to serve). The County has discretionary authority to require its employees, including poll workers, to work set hours and perform tasks as a condition of employment. *See* A.R.S. § 11-251(3) (providing for appointment of election judges and inspectors), (38) (establish salary and wage plans), (50) (provide employee benefits plans), and (51) (allow for sick leave, personal leave, vacation and holiday pay and jury duty pay). The Election Board statutes require that the County offer the appointment to the nominee; it cannot force a nominee to serve. The statutes do not require the County to modify work conditions to employ the nominee in some capacity. No law requires the hiring of “extra” Republican workers to replace those who do not show up for work.

IT IS ORDERED granting the Motions to Dismiss filed by the Maricopa County Defendants and Intervenor-Defendants.

RETRIEVED FROM DEMOCRACY DOCKET.COM