

Appeals court revives referendum on Montgomery ambulance fees

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The red-robed judges of the Maryland Court of Appeals had tough questions Wednesday for Kevin Karpinski, the lawyer representing Montgomery County's Board of Elections, peppering him with openly skeptical queries and comments about why thousands of residents who sought to challenge a county law imposing ambulance fees saw their signatures scratched by elections officials.

More than 52,000 people signed a petition to put the ambulance fee before voters Nov. 2, but elections officials, and later a Montgomery Circuit Court judge, blocked the referendum, citing problems with the way people signed their names. Thousands of signatures were junked, for example, because they were illegible. "No physician would ever be able to get his or her name on the petition," quipped Court of Appeals Judge Joseph F. Murphy Jr.

In the culmination of an extraordinarily swift challenge that made it from Rockville through the high court in Annapolis in just a month - not the years it can sometimes take to fight government overreach - Maryland's highest court ruled in favor of the petition signers. In a 5 to 2 decision, with an opinion to come later, the majority ordered the lower court to have the referendum placed on the ballot in November.

"It's a crucial victory for democracy and common sense," said Montgomery County Council member Phil Andrews (D-Gaithersburg-Rockville), who was irked after some of the signatures he gathered were among the thousands elections officials threw out.

Exactly what the decision will mean for petition signers - and gatherers - across the state will depend on the judges' written opinion.

What appears clear is that the majority of judges were not satisfied with the fallout from one of their earlier decisions. In another Montgomery case in 2008, the court ruled that elections officials must strictly adhere to a state law setting out signature requirements. Montgomery elections officials had previously taken a more lenient approach.

At the time, the court said Maryland law was clear. Voters had two choices: They could sign their name as it appeared on the state voter registration list, or they had to include the surname from their registration and "at least one full given name and the initials of any other names."

Elections officials took that to mean that signatures that didn't match the list and didn't include a middle initial were no good, even if the signature was the same one a voter might use on a check or a will. Officials also interpreted that to mean that signatures in which they couldn't make out the letters would be disqualified.

But in their bout of questioning Wednesday, "it seemed like the court was of the opinion that your signature is unique and it doesn't need to match what appears in the voter registration list," Karpinski said. "It'll be very interesting to see how the opinion reconciles the court's decision today with" its 2008 opinion, he added. In the 2008 case, he said, the court found that "the statute was clear and unambiguous and not burdensome."

Karpinski said Wednesday's decision represented "another nuance in validating petitions."

"Our board spent in excess of 3,000 staff hours validating the petitions. It's not as if this is not a considerable undertaking," Karpinski said. "It's my hope we will have very clear and detailed guidance on what is expected in validating a person's signature on petitions."

John T. Bentivoglio, a lawyer who is a volunteer firefighter and emergency medical technician in Chevy Chase and whose team at Skadden Arps put in more than 1,000 hours of pro bono work on the case, called the result "a stunning victory."

"Voters will have a say in whether to impose ambulance fees," he said. "I think a majority of the judges were very skeptical of the notion that a person has to concoct a signature solely for the petition form."

The case was filed on behalf of the Montgomery County Volunteer Fire-Rescue Association.

County spokesman Patrick Lacefield said County Executive Isiah Leggett (D) would send the council a list this week of \$14 million in cuts, including to public safety, in case the ambulance fees are thrown out in November's referendum. "The court reversed itself, obviously, on the issue" of signature standards, Lacefield said.

"I think you're going to see a world-class scare campaign starting in the next week or two," said Andrews, a longtime opponent of ambulance fees.