

SUPREME COURT

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Cases decided February 1, 2024.

Tim Knopp v. LaVonne Griffin-Valade, (ELECT 12-2023, ELECT 16-2023) (CA A182122) (SC S070456)

On certification from the Court of Appeals under ORS 19.405 on judicial review of rules adopted by the Secretary of State. The Secretary of State's Temporary Rules ELECT 12-2023 and ELECT 16-2023 are upheld. Opinion of the Court Per Curiam. Justice Aruna A. Masih did not participate in the consideration or decision of this case. Senior Judge Martha L. Walters, Justice pro tempore, participated in the consideration and decision of this case.

Today, the Oregon Supreme Court upheld temporary rules adopted by the Secretary of State to implement Ballot Measure 113 (2022), which amended Article IV, section 15, of the Oregon Constitution in an effort to curtail legislative walkouts, which occur when a minority of legislators of a legislative chamber opt to not be present, so as to prevent the chamber from conducting business. The Secretary's rules provided that any legislator who accrued 10 or more unexcused absences during a legislative session was ineligible to run for reelection for the immediate next term after their current term ends.

Voters approved Ballot Measure 113 at the 2022 General Election by a vote of 68.3 percent in favor and 31.7 percent in opposition. The resulting amendment to Article IV, section 15, provides that any state legislator who accrues 10 or more unexcused absences during a legislative session shall be disqualified from holding legislative office "for the term following the election after the member's current term is completed." The Secretary issued rules implementing the amendment and applying the disqualification to a legislator's next term of office -- that is, the term immediately following the term in which the legislator accrued 10 or more unexcused absences. Petitioners, all legislators who accrued 10 or more unexcused absences during the 2023 legislative session, challenged the validity of those rules, disagreeing with the Secretary as to the timing of the disqualification and contending instead that it should apply one term later -- that is, not to the immediate next term of office, but to the term after that. Petitioners initiated their challenge in the Court of Appeals; that court later certified the

case to the Supreme Court, which accepted certification.

In a unanimous per curiam opinion, the Supreme Court upheld the Secretary's rules. The Court rejected petitioners' argument that the text of the amendment to Article IV, section 15, was not capable of supporting the Secretary's interpretation, concluding that the text did not unambiguously support either interpretation. The Court then explained that the ballot measure history uniformly supported the Secretary's interpretation. In particular, the ballot title and the voters' pamphlet expressly and repeatedly informed voters that the disqualification would occur immediately following the legislator's current term. The Court concluded that, reading the text of the amendment in light of the ballot title and the voters' pamphlet, voters would have understood the disqualification to apply to the term of office immediately following the term in which a legislator accrued 10 or more unexcused absences.