


Mark Reynolds

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

**REPUBLICAN PARTY OF NEW MEXICO,
DAVID GALLEGOS, TIMOTHY
JENNINGS, DINAH VARGAS, MANUEL
GONZALES, JR., BOBBY AND DEE ANN
KIMBRO, and PEARL GARCIA,**

Plaintiffs-Appellees,

v.

**No. A-1-CA-40520
Lea County
D-506-CV-2022-00041**

**MICHELLE LUJAN GRISHAM in her
official capacity as Governor of New Mexico,
HOWIE MORALES in his official capacity
as New Mexico Lieutenant Governor and
President of the New Mexico Senate, MIMI
STEWART in her official capacity as
President Pro Tempore of the New Mexico
Senate, and BRIAN EGOLF in his official
Capacity as Speaker of the New Mexico House
of Representatives,**

Defendants-Appellants,

and

**MAGGIE TOULOUSE OLIVER, in her
official capacity as New Mexico Secretary of
State,**

Defendant.

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**ORDER OF CERTIFICATION TO THE
NEW MEXICO SUPREME COURT**

This matter is before the Court on its own motion. The Court notes the following:

1. Defendants-Appellants present this Court with a petition for a writ of error, seeking to appeal the district court's denial of their motions to dismiss. Defendants-Appellants ask this Court to consider whether the district court erred in deciding that the New Mexico Constitution may provide a remedy for claims of discriminatory partisan gerrymandering. [Pet. 5; Pet. Exh. B]

2. At the time of filing their petition for a writ of error in this Court, Defendants-Appellants filed a simultaneous petition for a writ of superintending control with the Supreme Court, raising the identical legal issue. That case appears to be proceeding in case number S-1-SC-39481. On August 17, 2022, the Supreme Court issued an order requesting responses to that petition.

3. The appeal filed in this Court involves a matter of substantial public interest as well as significant questions of law concerning the New Mexico Constitution's application to redistricting. *See* NMSA 1978, § 34-5-14(C) (1972); *Glaser v. LeBus*, 2012-NMCA-028, ¶ 20, 274 P.3d 114, *opinion adopted*, 2012-NMSC-012, ¶ 20, 276 P.3d 959 (transferring an election contest appeal to the Supreme Court pursuant to NMSA 1978, Section 1-14-5 (1969) and concluding that the contest of an election may derive from a "violation of a provision of the Election Code, from a violation of another statute governing the particular election at issue, or from the New Mexico Constitution" (citations omitted)); *see also Walker v.*

Walton, 2003-NMSC-014, ¶ 7, 133 N.M. 766, 70 P.3d 756 (noting that the Court of Appeals certified an issue that “involve[d] matters of substantial public interest and matters of superintending control”).

4. In addition, were this Court to proceed on Defendant-Appellants petition for a writ of error at this time, it would likely be duplicative and cause undue delay given that the petition for superintending control remains pending before the Supreme Court. *Cf. In re Extradition of Martinez*, 2001-NMSC-009, ¶ 12, 130 N.M. 144, 20 P.3d 126 (“[The Supreme] Court has held that the writ of superintending control is appropriate when the remedy by appeal seems wholly inadequate or where otherwise necessary to prevent irreparable mischief, great, extraordinary, or exceptional hardship; costly delays and unusual burdens of expense.” (alteration, internal quotation marks, and citation omitted)).

IT IS THEREFORE ORDERED that this matter is certified to the Supreme Court pursuant to Rule 12-606 NMRA and Section 34-5-14(C).



J. MILES HANISEE, Chief Judge



KRISTINA BOGARDUS, Judge