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FILED

04/03/2024

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 24-0182

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 24-0182

MONTANANS SECURING REPRODUCTIVE
RIGHTS and SAMUEL DICKMAN, M.D.,

Petitioners,

v.

AUSTIN MILES KNUDSEN, in his official
capacity as MONTANA ATTORNEY GENERAL;
and CHRISTI JACOBSEN, in her official Capacity
as MONTANA SECRETARY OF STATE,

Respondents.

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ORDER

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APR - 3 2024

Bowen Greenwood
Clerk of Supreme Court
State of Montana

Petitioners Montanans Securing Reproductive Rights and Samuel Dickman, M.D. (MSRR), have moved this Court for “supplemental relief” in this case. On April 1, 2024, this Court issued an Opinion and Order that, in relevant part, certified a ballot statement for CI-14 to Montana Secretary of State Christi Jacobsen. In that Opinion and Order, this Court further concluded that § 13-27-228(1), MCA, providing for the Secretary of State to provide the text to the Executive Director of the Legislative Services Division, who in turn shall forward that text to the appropriate interim committee for review, did not apply because the condition precedent for this procedure was not met. Specifically, the statute first requires that the Attorney General find the proposed statewide initiative legally sufficient, which he did not do in this case. *Montanans Securing Reproductive Rights v. Knudsen*, 2024 MT 67, ¶ 9 n.2, __ Mont. __, __ P.3d __.

MSRR asserts that, under § 13-27-233(1), MCA, when a proposed statewide ballot issue has been found legally sufficient under § 13-27-226, MCA, the Secretary of State “shall immediately send to the person submitting the proposed statewide ballot issue a sample petition form” that includes the parts specified and that complies with the format specified in § 13-27-241, MCA. MSRR alleges that the Secretary of State has failed to perform her duties under the statute, as “[u]nder the particular circumstances of this action,

‘immediately’ cannot mean that the Secretary can refrain from any action for nearly 48 hours where her function is merely ministerial.”

MSRR requests three forms of relief: (1) this Court directs the Secretary to immediately provide to MSRR a finalized petition form that substantially complies with the format provided in § 13-27-241, MCA, with the language concerning interim committee review stricken as inapplicable to CI-14; (2) this Court declare that § 13-27-228, MCA, does not apply to CI-14, may not delay the collection of signatures, and may not be used to question the collection of otherwise-valid signatures for CI-14; and (3) this Court retain jurisdiction over this matter through the signature collection process, including sanctions and contempt powers.

The first form of relief requested by MSRR would, in substance, be a writ of mandamus. Under M. R. App. P. 14(2), original proceedings in this Court to obtain a writ, including writs of mandate, shall be commenced and conducted in the manner prescribed by the applicable sections of the Montana Code Annotated. Thus, if MSRR wishes this Court to consider issuance of a writ of mandamus, MSRR must follow the procedure for obtaining such writ. Its request for this relief in the form of a declaratory ruling is unavailable.

As to the second and third requests for relief, this Court deems it appropriate to obtain a summary response on an expedited basis.

Therefore, in accordance with M. R. App. P. 14(7),

IT IS ORDERED that MSRR’s request that this Court order the Secretary of State to perform her duties under § 13-27-233, MCA, is DENIED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that Respondents are granted until noon on Monday, April 8, 2024, to prepare, file, and serve a response(s) to MSRR’s requests for relief as set forth in (2) and (3) above.

The Clerk is directed to provide immediate notice of this Order to counsel for all parties.

DATED this 3rd day of April, 2024.