

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. RICHARD E GORDON

CASE NO. C20163926

COURT REPORTER: Mary Bernal
Courtroom - 586

DATE: October 14, 2016

RICHARD HERNANDEZ
Plaintiff

Kasey C Nye, Esq. counsel for Plaintiff

VS.

PIMA COUNTY
Defendant

Karen S. Friar, Esq. and Daniel S Jurkowitz, Esq.
counsel for Defendant

MINUTE ENTRY

PIMA COUNTY'S MOTION TO DISMISS

Plaintiff is present. Defendant is not present.

Brad Nelson, Pima County Elections Director, is present.

Mr. Jurkowitz, Mr. Nye, and Ms. Friar argue to the Court.

The Court and counsel confer as to procedural matters.

Mr. Nye orally moves to amend the complaint to include another Plaintiff.

Mr. Jurkowitz and Mr. Nye argue to the Court.

IT IS ORDERED GRANTING the Plaintiff's oral motion to amend the complaint; the Second Amended Complaint shall be filed within ten (10) days of this date.

Based upon the Plaintiff's impending amended complaint,

THE COURT FINDS that it has subject matter jurisdiction in this case under the public records statute as well as some general statutes that confer jurisdiction in the Superior Court that allow it to carry out its duty, specifically A.R.S § 12-124(C).

THE COURT FINDS that the images at issue are public records for purposes of public records statutes.

In consideration of the arguments this date,

IT IS FURTHER ORDERED DENYING Pima County's Motion to Dismiss.

Upon inquiry of Mr. Jurkowitz,

THE COURT FINDS Titles 39 and 41 are applicable in this matter, namely Title 39 in regard to a public record request.

Elizabeth Wilshin
Deputy Clerk

MINUTE ENTRY

Page 2

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The Court declines to make a determination as to whether the records would be disclosable under the facts of this case.

IT IS ORDERED entering a Preliminary Injunction that these records be preserved until the full public records request is resolved.

THE COURT FINDS the merits and irreparable harm by the destruction support the preliminary injunction.

Mr. Jurkowitz moves for ballot images to not be disclosed, maintaining that they are secret and confidential.

IT IS ORDERED GRANTING Defendant's request that the ballot images be treated as secret. The Pima County Board of Supervisors and Elections Department shall take any and all precautions to keep the material, being ballot imaging, secret as if it were a paper ballot, not to be disclosed until further order of the Court.

The Court and counsel hold the any requests for Special Action and/or Rule 54(b) language in abeyance.

The Court signs this minute entry in lieu of a more formal order.


/s/
HON. RICHARD E. GORDON
(ID: 91f34aa3-0d67-453f-ae19-439d367118ca)

cc: Hon. Richard E Gordon
Daniel S Jurkowitz, Esq.
Karen S. Friar, Esq.
Kasey C Nye, Esq.

Elizabeth Wilshin
Deputy Clerk