

IN THE SUPREME COURT OF THE STATE OF NEVADA

TODD A. PLIMPTON, AN
INDIVIDUAL; JOHN H. MILTON, III,
AN INDIVIDUAL; AND LINDA L.
SCHREMPP, AN INDIVIDUAL,
Appellants,

vs.

THE STATE OF NEVADA EX REL. JIM
C. SHIRLEY, PERSHING COUNTY
DISTRICT ATTORNEY; AND THE
STATE OF NEVADA EX REL.
RUSSELL D. SMITH, HUMBOLDT
COUNTY DISTRICT ATTORNEY,
Respondents.

No. 51944

FILED

SEP 05 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Yama
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order disqualifying appellants as candidates for office based on the Nevada Constitution's Article 15, Section 3(2) term-limit provision. Sixth Judicial District Court, Humboldt and Pershing Counties; Richard Wagner, Judge.

This appeal concerns the qualifications for office of three candidates who were running for reelection to local governing bodies in Pershing and Humboldt Counties: appellants (1) Todd A. Plimpton, Pershing County School Trustee; (2) John H. Milton III, Humboldt County Commissioner; and (3) Linda L. Schrempp, Humboldt County School Board member. Respondent district attorneys challenged appellants' candidacies in the district court based on the Nevada Constitution's

Article 15, Section 3(2) term-limit provision.¹ That provision, which became effective in late November 1996, essentially provides that a person may not serve more than 12 years in any state office or as a member of any particular local governing body.² Respondents argued that appellants, at the end of this year, will have completed their twelfth year of service in their current offices, since the term-limit provisions became effective, precluding them from being reelected to any further terms. Accordingly, respondents asserted, appellants' names could not be included on this year's primary and general election ballots.

Following a hearing, the district court entered an order disqualifying appellants as candidates for their offices based on Article 15, Section 3(2)'s term limit provision. Consequently, the district court's order directed that appellants' names not appear on the 2008 primary and general election ballots. This appeal followed.

¹See NRS 293.182 (setting forth a procedure for challenging an individual's candidacy for office on the ground that the candidate has failed to meet any constitutional or statutory qualification required to hold that office).

Appellants appear to take issue with the timing of the challenges to their candidacies. But, as the record reflects, the challenges followed the procedure set forth under NRS 293.182.

²Nev. Const. art. 15, § 3(2).

On appeal, appellants raise questions of constitutional interpretation. Questions of constitutional interpretation are questions of law, which we review de novo.³

We recently addressed the proper application of Article 15, Section 3(2), in Secretary of State v. Burk.⁴ In Burk, we determined that, under Article 15, Section 3(2)'s plain language, "if a person 'has served' in an office or 'will have served' in that office for 12 years or more by the time his or her current term expires, the person may not be elected to that office."⁵ A person's years of service are counted from Article 15, Section 3(2)'s effective date, November 27, 1996.⁶

Here, at the conclusion of their current terms, appellants undisputedly will have served in their current positions on local governing bodies for at least 12 years since Article 15, Section 3(2)'s effective date. Thus, they may not be elected to, and are disqualified as candidates for, any further terms of service in their current positions. The district court

³See SIIS v. United Exposition Services Co., 109 Nev. 28, 30, 846 P.2d 294, 295 (1993) (noting that this court reviews questions of law de novo); State v. Alaska Civil Liberties Union, 978 P.2d 597, 603 (Alaska 1999) (observing that issues of constitutional interpretation present questions of law that are reviewed de novo); Robson Ranch Mountains v. Pinal County, 51 P.3d 342 (Ariz. Ct. App. 2002) (same); Blair v. Harris, 45 P.3d 798 (Haw. 2002) (same).

⁴124 Nev. ___, 188 P.3d 1112 (2008).

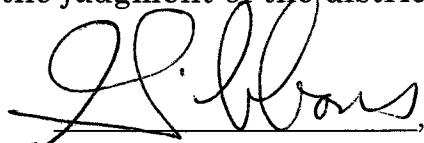
⁵Id. at ___, 188 P.3d at 1120 (quoting Nev. Const. art. 15, § 3(2) (emphasis added)).


⁶Id. at ___, 188 P.3d at 1119.


therefore did not err when it determined that appellants' names may not be included on this year's primary and general election ballots.

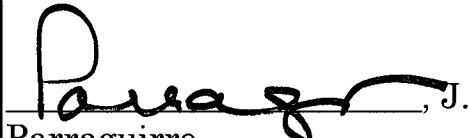
Accordingly, we

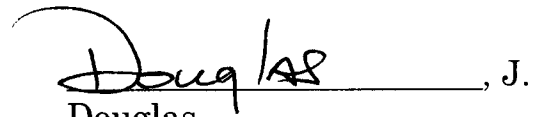
ORDER the judgment of the district court AFFIRMED.

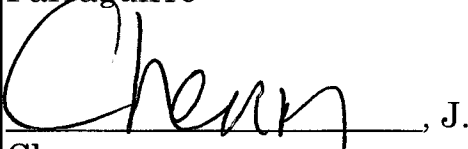

Gibbons, C.J.



Maupin, J.


Hardesty, J.


Parraguirre, J.


Douglas, J.


Cherry, J.


Saitta, J.

cc: Hon. Richard Wagner, District Judge
Bradley Drendel & Jeanney
Jones Vargas/Las Vegas
O. Kent Maher
Attorney General Catherine Cortez Masto/Carson City
Humboldt County District Attorney
Pershing County District Attorney
Humboldt County Clerk
Pershing County Clerk