

# SUPREME COURT

## Media Release



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Case decided March 18, 2022.

*State ex rel James Ofsink, et al. v. Shemia Fagan*, (SC S069266)

On a petition for writ of mandamus. The petition for a peremptory or alternative writ of mandamus is denied. Notwithstanding ORAP 9.25(1), the State Court Administrator shall issue the appellate judgment on March 23, 2022, unless a petition for reconsideration is filed by March 22, 2022. Notwithstanding ORAP 9.25(2), if a petition for reconsideration is filed, a response to the petition may be filed by March 24, 2022. A timely petition for reconsideration shall stay issuance of the appellate judgment until the court acts on the petition. Opinion of the Court Per Curiam.

Today, the Oregon Supreme Court declined to exercise its original, discretionary mandamus jurisdiction and, accordingly, denied a petition for a peremptory or alternative writ of mandamus challenging the Secretary of State's rejection of three initiative petitions that had been submitted for the 2022 election cycle.

Relators are the chief petitioners of Initiative Petitions 43, 44, and 45 (2022), which concern campaign financing. The secretary rejected the petitions -- thereby disqualifying them from appearing on the November 2022 general election ballot -- because, in her view, they did not satisfy the full text requirement of Article IV, section 1(2)(d), of the Oregon Constitution, which provides, in part, that "[a]n initiative petition shall include the full text of the proposed law or amendment to the Constitution." Following that action, relators initiated this mandamus proceeding.

In a unanimous per curiam opinion, the Supreme Court explained that, generally, a petition for mandamus relief is not the accepted and proper way to obtain review of election law decisions made by the Secretary of State and that other statutory remedies are available to address such decisions. After considering a variety of factors, including the potential frustration of legislatively established remedies, the opportunity to pursue an issue in a future election, and the burden on the exercise of the initiative power

from last minute challenges, the Court declined to exercise its discretionary mandamus jurisdiction and denied relators' petition for a peremptory or alternative writ of mandamus.