



IN THE  
**COURT OF APPEALS**  
STATE OF ARIZONA  
DIVISION ONE

DIVISION ONE  
FILED: 06/18/2026  
MATTHEW J. MARTIN,  
CLERK  
BY: MVW

JUSTIN HEAP, )  
 ) Court of Appeals  
 ) Division One  
Plaintiff/Appellee, ) No. 1 CA-CV 26-0446  
 )  
 v. ) Maricopa County  
 ) Superior Court  
THOMAS GALVIN, et al., ) No. CV 2025-020621  
 )  
Defendants/Appellants. )  
 )

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**ORDER GRANTING EMERGENCY MOTION FOR A STAY PENDING APPEAL**

The Court, Presiding Judge Andrew M. Jacobs, Judge Brian Y. Furuya, and Judge James B. Morse Jr., has reviewed and considered Appellants' Emergency Motion for a Stay Pending Appeal, Appellee's response, and the reply. The Court has also considered the Brief of Amicus Curiae Helen Purcell in Support of the Maricopa County Board of Supervisors, the Brief of Amici Curiae President Petersen and Speaker Montenegro in Opposition to Appellants' Emergency Motion for Stay Pending Appeal, and the Brief of Amicus Curiae State of Arizona in Support of Appellants' Motion to Stay and the responses to those briefs.

Appellants, members of the Maricopa County Board of Supervisors (collectively, "the Board"), appeal from a superior court injunction requiring the Board, among other things, to return to appellee Maricopa County Recorder Justin Heap, "direct custody

and/or control the IT staff, servers, databases, software, websites, and equipment that were in the Recorder's custody and/or control prior to October of 2024 . . . or immediately fund the replacement of these personnel and items so that the Recorder may properly carry out his statutory responsibilities." The injunction also makes a number of changes to processes surrounding the 2026 election, as this order discusses below. The Board asks the court to stay enforcement of that ruling pending resolution of the appeal.

A party seeking a stay must establish (1) a strong likelihood of success on the merits, (2) irreparable harm if the stay is not granted, (3) the harm to the appellants outweighs the harm to appellee, and (4) public policy favors granting a stay. *Smith v. Ariz. Citizens Clean Elections*, 212 Ariz. 407, 410, ¶¶ 9-10 (2006). It is a sliding scale, so "the moving party may establish either 1) probable success on the merits and the possibility of irreparable injury or 2) the presence of serious questions and [that] 'the balance of hardships tip[s] sharply'" in favor of the moving party." *Id.* at 411 ¶ 10 (citations omitted).

We focus our analysis on one argument advanced by the Board and amicus Helen Purcell, the former Maricopa County Recorder: that the injunction's changes to Maricopa County election administration and management violate the principle set forth in *Purcell v. Gonzalez*, 549 U.S. 1 (2006). That principle is that courts are reluctant to order last-minute changes in election rules

and procedures because they can burden election workers and complicate and create confusion in the voting experience. See *Fontes v. Lewis*, CV-24-0251-T/AP, 2024 WL 4625950, at \*2 (Ariz. Oct. 25, 2024) (affirming denial of injunctive relief, concluding it would be “impracticable, if not imprudent” to grant relief affecting voting process).

We see merit in the Board’s and Purcell’s argument and conclude that the injunction is very likely to be vacated on *Purcell* grounds. Any defense of the injunction as not implicating *Purcell* (because it represents some non-public-facing, intragovernmental dispute over powers) is refuted by the face of the injunction. Paragraph 28 of the injunction justifies its mandates by claiming to avoid “concrete operational harms.” Injunction at 11 ¶ 28. So both the injunction and its opponents agree that the conflict before us has concrete, operational impacts on the public’s voting experience.

The Board sets out in its Reply a number of impactful changes the injunction imposes: (1) where previously “the Board authorized locations for ballot drop-boxes” under the 2025 Elections Procedures Manual, the Recorder now contends “the Board and its staff” commit “felonies if they authorize drop-box locations”; (2) where previously “[t]he Elections Director oversaw Board-appointed poll workers,” now “[o]nly the Recorder or his ‘designee’” may “control all ballot replacement site operations”; (3) where previously the Board managed everything at “Election Day

voting locations [through its] Elections Director" as an "officer in charge," now "[o]nly the Recorder or his 'designee' can commandeer space within the Board's polling places" and "operate a parallel and independent on-site tabulation program at Election Day voting locations" under A.R.S. §§ 16-579.01 and 16-579.02; (4) where "[t]he Board maintained chain of custody for all Election Day ballots and all early ballots" for which signatures were verified, now "[o]nly the Recorder or his 'designee' can maintain chain of custody for ballots during . . . early voting . . . through . . . post-election tabulation of provisional ballots"; and (5) where formerly there was one tabulation and canvass of votes, now there will be two, because now "[o]nly the Recorder or his 'designee' can tabulate and canvass early ballots cast on-site on Election Day, see A.R.S. § 16-579.01(B)(3)." Board Reply at 11.

The practical impacts of these changes, and even the injunction's claim to mitigate practical harms for the voter, all demonstrate that this is no mere backroom dispute over accounting principles or organizational charts. It is, by everyone's assessment, a live conflict hurtling toward real-world consequences in elections about to begin. The *Purcell* principle applies here and persuades us that the Board is very likely to succeed on the merits.

The *Purcell* principle also speaks to the remaining three components of the injunction standard. *Smith v. Ariz. Citizens*



A copy of the foregoing  
was sent to:

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