Judge rejects ballot lawsuit of SEP congressional candidate in Ohio

The Editorial Board
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A federal judge in Cincinnati, Ohio has ruled against Socialist Equality Party candidate David Lawrence in his lawsuit against the discriminatory filing deadline imposed by the state of Ohio.

Judge Susan J. Dlott of the US District Court for the Southern District of Ohio, Western Division denied a motion for preliminary and permanent injunction to compel Ohio election officials to put Lawrence's name on the ballot for the US House of Representatives from Ohio's 1st Congressional District.

The lawsuit, in which the chief Ohio election official, Secretary of State Kenneth Blackwell, is the named defendant, was filed after officials of Hamilton County, which includes Cincinnati, refused to accept petitions signed by over 2,600 voters to place Lawrence's name on the ballot, because they were collected after the official filing deadline of March 1.

The SEP plans to appeal this antidemocratic decision to the US Fourth Circuit Court of Appeals. To sustain this appeal, which entails considerable costs for legal assistance, the SEP is calling for generous financial contributions from its supporters, and from all who oppose the antidemocratic political monopoly exercised by the two big business parties in the United States. [To donate to the SEP election campaign, please click here—donate online]

Lawrence and the SEP decided to run in the 1st CD, which includes most of the city of Cincinnati, in the weeks leading up to the March 13-14 conference in Ann Arbor, Michigan that launched the SEP campaign nationwide and ratified the program on which the party's presidential and vice-presidential candidates, Bill Van Auken and Jim Lawrence, are running.

David Lawrence filed a declaration of candidacy and filing fee March 1, but did not turn in the 1,695 signatures required at that time. His supporters circulated petitions in the spring and filed 2,660, well over the total required, on June 4.

The lawsuit, *Lawrence v. Blackwell*, filed June 14, challenges the state's filing deadline, one of the earliest in the country, on constitutional grounds. The arguments made by Lawrence, by his co-plaintiff Yifat Shilo, a 1st CD voter, and his attorney Robert Newman, rely heavily on the 1983 US Supreme Court decision in *Anderson v. Celebrezze*, which overturned Ohio's similarly early filing deadline for presidential candidates.

The state eliminated the early filing deadline for gubernatorial candidates, but it has continued to require early filing for congressional candidates. As a result, an independent candidate for president may file as late as August 19, 171 days later than the deadline for an independent candidate for US Congress.

Under current state law, candidates for the congressional nominations of the Democratic and Republican parties had a filing deadline of January 2, 2004, 60 days before the March 2 primary, while independent candidates had a filing deadline of March 1. However, the Democrats and Republicans are required to submit petitions bearing only 50 signatures, while independent candidates must collect more than 30 times as many. This is only one of the grossly discriminatory practices utilized to prevent third-party and independent candidates from challenging the two-party political monopoly.

In arguments before Judge Dlott on August 3, the attorneys representing Lawrence pointed out that requiring independent candidates to file the day before the Democratic and Republican primaries means that independent candidates must seek support among voters before it is known who the two major-party candidates will be in the general election. The filing deadline requires independent candidates to solicit support from the public more than eight months before the election, making it far more difficult to recruit volunteers, gain publicity, and collect contributions to finance their campaigns.

Attorney Newman said that any filing date so far in advance of the general election "closes the debate before an audience even arises." He said the "focus of the voters on the election has not jelled and independents are forced to get nominating petitions before events develop." Such concerns were at the heart of the Supreme Court decision in the

Anderson case, brought as a consequence of the independent presidential campaign of Congressman John Anderson in 1980.

Testifying in support of Lawrence's suit, ballot-access expert Richard Winger reviewed the history of Ohio's efforts to throw roadblocks in the path of third-party and independent candidates. In 1912, Ohio's filing deadline for the general election was 30 days before the November vote. In the course of a century, it has been moved back steadily, from October to March 1.

In other words, in the days of the Model T and the gramophone, 30 days was considered ample time to prepare and print ballots for the November election. Today, in the era of the Internet and the supercomputer, 500 percent more time is declared necessary.

The 12-page decision handed down by Dlott on Wednesday, August 18 is cynical and false. It evinces not the slightest interest in the central issues of democratic rights and political fairness that Lawrence and his attorneys argued before the court. Indeed, the ruling is so legally slipshod that it misstates the authorship of the *Anderson v. Celebrezze* decision, referring to it as a decision in which "the Ohio Supreme Court invalidated an Ohio election regulation," as though it were a local decision of only parochial significance.

In reality, *Anderson* was decided by the US Supreme Court, and is one of the most famous electoral law cases in US history, constantly cited in ballot access suits.

Judge Dlott turns reality upside down, presenting the lawsuit as a demand by Lawrence and the SEP for special privileges. She writes: "If Ohio adopted the scheme that Plaintiffs propose—that is, allowing alternative candidates to file after the results of the primaries in order to 'react' to those results, alternative candidates would have a substantial advantage over major party candidates."

Completely ignoring the disparity in signature requirements (50 for a Democrat or Republican vs. 1,695 for David Lawrence)—to say nothing of the huge disparity in financial resources and media attention—the judge claims that the success of the SEP petition drive in April and May demonstrates that an equally successful drive could have been conducted in January and February (months of subzero temperatures in Ohio). Lawrence's failure to meet the March 1 deadline was his own decision, the judge concludes, and no relief is warranted.

Dlott's arguments are incoherent and inconsistent. On the one hand, she cites the gathering of 2,600 signatures as proof that Lawrence could have easily met the deadline, i.e., that he would have been able to gain the necessary backing from voters by March 1. On the other, she claims that arbitrary requirements like the March 1 deadline are needed as part of a system that "weeds out candidates lacking sufficient support, ensuring the winner will represent the majority of the community and contributing to an understandable ballot."

Further on in the decision, the judge exhibits the prejudice against independent candidates—especially working class and socialist candidates—that pervades the US two-party political structure. She writes, "The Supreme Court has acknowledged a state's strong interest in maintaining the stability of its political system." She adds, "The Supreme Court has expressly approved a state's interest in limiting the number of candidates on the ballot."

It is, of course, true that the Supreme Court upholds the antidemocratic political monopoly of the Democratic and Republican parties. The same Supreme Court also declared George W. Bush president in 2000, suppressing the Florida recount, and one group of justices proclaimed that the American people do not have a constitutionally guaranteed right to vote for president of the United States (suggesting that state legislatures may, if they so choose, simply select presidential electors without a popular vote).

With utter cynicism, the judge ends her decision by declaring that Dave Lawrence suffers no irreparable harm—the legal standard to be met in seeking an emergency injunction—because he can still run as a write-in candidate and Yifat Shilo can still vote for him. Entirely absent from the judge's thinking is any conception that running for office and having candidates that represent diverse points of view are essential democratic rights that must be respected.

The SEP urges all supporters of democratic rights, in the United States and throughout the world, to condemn this antidemocratic ruling. Send letters and messages of protest to the WSWS at editor@wsws.org.

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