

Appeals court upholds discriminatory filing deadline: Ohio SEP candidate to conduct write-in campaign

The Editorial Board
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On August 27, the United States Court of Appeals for the Sixth Circuit upheld a lower court ruling denying ballot status to David Lawrence, the Socialist Equality Party candidate for the US House of Representatives from the 1st Congressional District of Ohio, which includes most of Cincinnati. The decision by a three-judge panel was unanimous.

The two-page decision was a perfunctory reprise of the anti-democratic ruling handed down August 18 by Judge Susan Dlott in Cincinnati, against which Lawrence had filed an appeal on August 19. Both Dlott and the appeals court judges gave short shrift to the substantive issues of due process and First Amendment rights of free speech and political expression raised by the SEP candidate.

Lawrence had collected the signatures of 2,660 voters from Ohio's 1st CD on nominating petitions to place his name on the November ballot, far more than the 1,695 required under state election laws. However, he collected the signatures after the prohibitively early and arbitrary filing deadline of March 1 for independent congressional candidates. The Ohio deadline for independent congressional candidates is one of the earliest in the US.

Lawrence decided to run for Congress only in March, after the official deadline has passed, intending to challenge the discriminatory deadline for non-major party candidates in court.

The SEP's challenge to the Ohio filing deadline won considerable support among those opposed to anti-democratic election laws and those seeking an alternative to the policies of the Democratic and Republican parties. Following Judge Dlott's ruling denying Lawrence ballot status, many readers sent letters to the *World Socialist Web Site* protesting her decision and supporting Lawrence's appeal. [See "WSWS readers condemn denial of ballot status to SEP candidate in Ohio"]

The appeals court ruling is an attack not only on the right of Lawrence and the SEP to participate in the elections, but

also on the rights of the hundreds of voters who signed his petitions and, more broadly, the tens of millions of voters in Ohio and throughout the country who are effectively denied an alternative to the two corporate-controlled parties. The rulings in Lawrence's case uphold election laws whose transparent purpose is to maintain the political monopoly of the Democrats and Republicans and frustrate the development of an independent party opposed to their policies of war and social reaction.

The only legal recourse to the Sixth Circuit ruling is to appeal to the US Supreme Court, which would require an enormous expenditure of human and financial resources, with only the most remote likelihood of favorable action by the high court. As a result, Lawrence and the SEP have decided to forgo further legal action, and instead conduct a vigorous write-in campaign, using it to bring the SEP's socialist program to as wide an audience as possible. Lawrence plans to file the necessary papers with state election officials to ensure that his write-in votes are tabulated. He and the SEP call on all those who have supported his campaign thus far to join in this fight.

As with the earlier district court ruling, the decision of the Sixth Circuit Court of Appeals is fundamentally anti-democratic. The ruling evades the basic issues of democratic rights and political fairness argued by Lawrence and his attorneys in their lawsuit, and does not address the unnecessary and onerous burden placed on third-party candidates by the early filing deadline.

By upholding the deadline, the court has ruled that independent candidates must collect and submit signatures eight months before the general election. In practical terms, this means candidates and their supporters must collect hundreds of signatures during Ohio's frigid winter months.

Moreover, as Lawrence and his attorneys stressed, the existing filing deadline for independent congressional candidates falls one day before the March 2 Democratic and Republican primary elections. This means independents

must seek to convince voters to place them on the ballot *before* the candidates of the major parties have even been determined. This clearly places independent candidates at a distinct disadvantage.

In their brief appealing the August 18 federal district court ruling, Lawrence’s attorneys noted the anti-democratic implications of Judge Dlott’s ruling for voters, writing: “The most critical impact of having the filing deadline a day before the primary election for the major parties is that independent voters and voters who may become independent voters do not know who the major party candidates will be in the general election and are robbed of the opportunity to oppose these candidates once they are identified.”

David Lawrence and the SEP decided to run in the 1st CD in the days leading up to the March 13-14 SEP conference in Ann Arbor, Michigan which launched the SEP’s election campaign nationwide. At that conference, the SEP nominated Bill Van Auken and Jim Lawrence as the party’s presidential and vice-presidential candidates and ratified the campaign’s socialist program.

During March, April and May, David Lawrence gathered the signatures of 2,660 voters and attempted to submit them on June 4. The election authorities refused to accept Lawrence’s nominating petitions, on the grounds that the March 1 deadline had passed.

On June 14, Lawrence and Yifat Shilo, a 1st CD voter, filed a lawsuit challenging Ohio’s March 1 filing deadline for independent candidates on constitutional grounds. Lawrence’s attorneys relied heavily on the 1983 US Supreme Court decision in *Anderson v. Celebrezze*, which overturned a similarly early filing deadline in Ohio for independent presidential candidates. At that time, the deadline for independent presidential candidates was 75 days earlier than the major-party primary elections.

Following the *Anderson* ruling, Ohio changed the filing deadline for independent presidential candidates to August 19—nearly half a year later than the present March 1 deadline for independent congressional candidates. Ohio authorities have refused to make an adjustment in the deadline for independent congressional candidates similar to that which they were compelled to make for independent presidential candidates.

Instead, they have shifted the date of the major-party primaries to March 2, thereby bringing the deadline for independent congressional candidates to within a day of the Democratic and Republican primaries.

In her August 29 district court ruling, Judge Dlott upheld the March 1 deadline on two grounds. First, she argued that *Anderson v. Celebrezze* did not apply because it dealt with a presidential election, while the Lawrence case concerned a congressional race, which, she asserted, was largely a local

matter—this despite the fact that Congress is a national body.

She then argued that because the filing deadline for independent and major party candidates closely coincided, this constituted equal treatment, ignoring the vast advantage in financial and personnel resources and media coverage of the two big-business parties, and the fact that their candidates are required to collect only 50 signatures.

Rejecting the argument that coinciding filing deadlines for independents and major party candidates guarantees “equal treatment,” Lawrence’s lawsuit cited a New Jersey federal court ruling asserting that “the two types of candidates are unequal in a way which makes imposition upon them of equal burdens no equality of treatment.”

Judge Dlott also argued that pushing back the deadline in Ohio would impose an undue hardship on state election officials, while Lawrence would supposedly not be caused irreparable harm if he were denied ballot status because he could run as a write-in candidate.

In their August 27 ruling, Judges Martin, Cole and Gibbons of the Sixth Circuit Court of Appeals reiterated the sophistic arguments of the lower court. They dismissed the relevance of the *Anderson* case for independent congressional candidates in Ohio on the specious grounds that the filing deadline for John Anderson fell 75 days prior to the major party primaries, while that for Lawrence fell only one day prior to the primaries.

What neither court addressed was the intrinsically arbitrary and discriminatory character of a deadline for independents that falls eight months prior to the general election, and prior to the determination of the major party candidates.

On August 17, the Socialist Equality Party filed petitions bearing more than 7,900 signatures with the Ohio Secretary of State’s office to place its candidates for president and vice president, Bill Van Auken and Jim Lawrence, on the state’s presidential ballot.

David Lawrence will conduct an energetic statewide campaign alongside Van Auken and Jim Lawrence, his father, who is a retired autoworker and lifelong Ohio resident. We call on all our readers and supporters to actively support all of the SEP candidates and to donate generously to the campaign.



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