

Florida court rejects Democratic Party suit to keep Nader off the ballot

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In a 6-1 ruling handed down September 17, the Florida Supreme Court rejected a lawsuit filed by the Democratic Party and upheld by a lower-court judge to remove independent presidential candidate Ralph Nader from the ballot. The state's highest court said that it would not entertain any further appeals on the issue, and absentee ballots including Nader were shipped on the weekend to Florida voters living overseas, mainly in the military.

The court ruling was the culmination of a two-week legal battle in which the Florida Democratic Party sought to bar Nader from the ballot and disenfranchise tens of thousands of voters who might otherwise have voted for him. Nader won 97,000 votes in the state in 2000, about 2 percent of the total cast in a state that was decisive in putting Bush in the White House.

Six third-party candidates qualified for the ballot in Florida under provisions of a more democratic ballot access law approved by a referendum vote in 1998. While ballot status as an independent candidate still requires more than 90,000 signatures on petitions, a candidate receives ballot status automatically if nominated by any recognized "national party." Florida officials extended such recognition this year to the Greens, the Reform Party, the Libertarians, the Constitution Party, the Socialist Party and the Socialist Workers Party.

The Democrats challenged Nader's place on the ballot by claiming that the Reform Party no longer qualified as a national party. They did not challenge any of the other five third-party candidates, none of whom approaches Nader in public recognition or likely voter support on November 2.

The state's highest court found that the legal definition of what constitutes a national party was extremely vague. In that circumstance, the five-member majority argued, "We are guided by the overriding constitutional principle in favor of ballot access.... Any doubt as to the meaning of statutory terms should be resolved broadly in favor of ballot access."

The Florida Supreme Court ruling was entirely consistent with its decisions in 2000, when the court majority rejected the Republican Party's claim that a strict and literal application of statutory deadlines ruled out a recount, and held that the higher principle was to determine the intent of the voter and insure that every possible vote was counted.

In both decisions, the court held that the democratic rights of the voters should take precedence over procedural formalities. In each case, one of the two big-business parties—the Republicans in 2000, the Democrats this year—took the opposite position, seeking to suppress the rights of the voters for their own electoral advantage.

The Democrats denounced the court decision even as they

announced there would be no further legal challenge to it. Elizabeth Holtzman, a former Democratic congresswoman who is co-founder of the Ballot Project, which is coordinating the campaign to keep Nader off the ballot, tried to present her activities as an effort to protect voters, declaring, "Voters need to be able to rely on the law to protect them against sham candidates and sham parties."

Other Democratic Party representatives denounced the Nader campaign as a front for the Republicans, because officials of the Republican-controlled state government in Florida supported his right to the Reform Party line on the ballot. Scott Maddox, chairman of the Florida Democratic Party, said, "This case will serve to further illuminate the fact that Ralph Nader is a tool for the Republican Party." Referring to the Republican secretary of state and governor, Maddox continued, "Glenda Hood and Jeb Bush did everything in their power to get Ralph Nader on the ballot."

Democratic National Committee Chairman Terry McAuliffe issued a statement declaring, "In state after state, Nader has become an extension of the Republican Party and their corporate backers." McAuliffe, far from actually disdaining "corporate backers," has long had one of the most lucrative lobbying practices in Washington. He made millions when he represented Global Crossing, the telecommunications giant that went bankrupt after a corporate scandal.

No less noteworthy than the Democratic Party's undisguised contempt for democratic principles and its use of dirty tricks to keep alternative candidates off the ballot, is the attitude of the media, which has rubber-stamped the Democratic Party effort as a legitimate tactic of political "hardball." Under other circumstances—if, for example, Nader were an opposition candidate in a country on the outs with US foreign policy—such an open attack on democratic rights could become the occasion for a major US media campaign promoting military intervention. But since the target of the anti-democratic campaign is a candidate who, in however limited a fashion, is criticizing both the war in Iraq and the official two-party system, the media gives its blessing.

Particularly significant is the attitude of the *New York Times*. Its news article on the Florida court decision, published September 18, began with the following sentence: "The Florida Supreme Court bolstered President Bush's prospects in this swing state on Friday, ruling that Ralph Nader could appear on the November ballot as the Reform Party's presidential candidate." Thus, the decision was presented entirely within the framework of its effect on the two-party presidential race. The *Times* entirely dismissed the objective democratic content of the court ruling.

This article followed an editorial September 16 with the headline,

“The Return of Katherine Harris.” The *Times* strained to equate the decision to put Nader on the ballot with the suppression of vote counting in 2000, because both were actions taken by a Republican secretary of state and negatively affected the Democrats. There is no doubt that many other actions by Hood, Harris’s replacement, are reactionary and anti-democratic, most notably her attempt to remove 22,000 black residents from the voter rolls in the guise of purging felons. But in relation to Nader, it is the Democrats who are taking the more flagrantly anti-democratic position.

The Democrats have sought to conceal this reality in Florida by recalling the events of 2000.

The attorney arguing the Democratic side of the case before the Florida Supreme Court was Harvard law professor Laurence Tribe, who represented the Gore campaign during the 2000 Florida election crisis, and repeatedly cited those events in the course of his arguments. He raised the specter of an even more complicated ballot than in 2000, although there are only 8 presidential candidates on the ballot in Florida this year, compared to 12 four years ago.

Tribe argued that Nader should have been compelled to run as an independent in Florida, rather than accepting the nomination of the Reform Party, which would have required his campaign to collect the 90,000 signatures—and face systematic challenges by the Democrats, as with Nader petitions in many other states.

Underscoring the cynicism and hypocrisy of their case, the Democrats are making precisely the opposite argument against Nader in Pennsylvania, where they have challenged his petition, with 40,000-plus signatures, on the grounds that Nader is running as a Reform candidate in several other states and therefore cannot be considered, under Pennsylvania law, an independent.

The Pennsylvania case is one of nearly a dozen challenges to Nader’s ballot status in various states. In a decision September 1 by the Commonwealth Court, a three-judge panel accepted the Democratic argument that Nader violated state law by running as a Reform Party candidate elsewhere, and ordered his petition suppressed. Because of restrictive ballot access laws in most US states, third-party candidates in the US often run under multiple labels, as independents in some states, under their party name in others.

Nader has now achieved ballot status in more than 30 states, according to the tally on his own web site. There are other states where petitions have been filed and are still under review. Litigation is ongoing in many states, including several where Nader was certified for ballot status weeks ago. In a total of eight states, including California, Arizona, Missouri and Virginia, the Nader campaign either did not file for ballot status or failed to overturn Democratic Party challenges.

On the same day as the Florida decision, a state judge in New Mexico ruled Nader off the ballot, while a Colorado judge ruled the same day that Nader had qualified for ballot status. New Mexico Governor Bill Richardson, a Democrat, hailed the court decision against Nader during a national television interview Sunday. He cited the exclusion of Nader from the ballot as an important victory, offsetting Kerry’s falling poll numbers in New Mexico and other states.

Besides Florida, the most important court ruling came in Nevada earlier last week, when the state Supreme Court upheld a lower-court decision rejecting a Democratic challenge to Nader’s petitions. The Nader campaign filed petitions with 11,888 signatures, more than double the 5,015 required under state law. The Democratic Party contested 11,571 signatures, contending, in effect, that Nader obtained

only 317 valid signatures in a state where he received a significant vote in 2000.

The Nevada court held that state election laws had to be interpreted as favoring a broader choice of candidates where the voters indicated that was their desire. “Here, a significant number of registered voters signed the petition to place Ralph Nader on the November ballot, and their interest in having the choice to vote for him should not be negated,” the court wrote.

In West Virginia, another state classified as a “battleground”—i.e., closely contested between the Democrats and Republicans—the Nader campaign submitted 23,000 signatures to meet a requirement of 13,000. The West Virginia secretary of state validated 15,000 signatures, indicating Nader had qualified, but the state attorney general intervened, claiming Nader petition collectors had not been properly credentialed, and the secretary of state then reversed himself. Both officeholders are Democrats.

On September 14, the State Board of Elections in Virginia denied Nader a ballot slot, ruling that he had failed to meet the requirement of 10,000 signatures of registered voters. Nader campaigners submitted just over 13,000 signatures, but Jean Jensen, secretary of the Board of Elections, said only 7,342 were verified as those of registered voters.

Jensen is a former executive director of the state Democratic Party who initially refused even to accept the filing of Nader’s petitions, using a flimsy technicality: Nader’s supporters had failed to separate the petition sheets by congressional district when they filed them. The state’s attorney general, Republican Jerry Kilgore, chairman of the statewide Bush reelection campaign, overruled Jensen and the Board of Elections was then compelled to review the Nader petition.

The Democratic Party challenge to Nader had the active assistance of the *Washington Post*, which deployed its reporters to review hundreds of pages of Nader petitions in order to identify those circulated by out-of-state residents. The newspaper published an account alleging that 18 Nader petition circulators had used Virginia hotels or motels as their home addresses for the purposes of the petition drive.

In an extraordinary attempt to intimidate Nader supporters, the *Post* suggested that these circulators might be violating a state statute and committing “a felony punishable by as much as 10 years in prison and a fine of as much as \$2,500.” The Nader campaign replied by noting that the law requires only that petition circulators be “potential voters” who demonstrated “intent” to live in the state. Each out-of-state circulator signed an affidavit of this intent before he was allowed to collect signatures.



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