

Oregon Supreme Court denies Nader ballot access

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In a unanimous decision the Oregon Supreme Court voted September 22 to require a lower court to remove Ralph Nader from the Oregon ballot.

Rejecting the lower court ruling that the Democratic Secretary of State, Bill Bradbury, had exceeded his authority in using unwritten rules to disqualify whole sheets of voters' signatures, the court stated "the review procedures were not, as the trial court's comments appear to suggest, yet another layer of unannounced legal barriers. They were, instead, the methodology by which the Secretary of State enforced existing legal standards."

Nader's campaign announced that it would immediately appeal the ruling to the US Supreme Court.

In the 2000 election, Nader, then running as the candidate for the Pacific Green Party, obtained 5 percent of the 1.5 million votes cast in Oregon. Democrat Al Gore won Oregon by a narrow 6,765 votes in that contest. A recent Zogby International poll shows Kerry maintaining a large lead in Oregon with 53 percent of voters to Bush's 43 percent.

The Nader campaign had twice attempted to obtain ballot status for 2004 through holding a convention with 1,000 electors (registered voters) in one meeting willing to sign a petition. Both times the Democratic Party in Oregon sabotaged the effort by packing the hall with its supporters, who then refused to sign. In the second effort the Nader campaign failed by 50 signatures.

In the recent see-saw battle for ballot listing, Nader had initially been disqualified September 2 by the Secretary of State for having failed to obtain sufficient signatures.

Nader's campaign had originally submitted over 28,000 signatures to the various county election offices,

almost double the required 15,306, in order to guarantee enough valid signatures. Of these, 18,186 signatures were verified as valid by the Oregon County Board of Elections.

Instead of accepting the verification of the Election Board and placing Nader on the candidate list, however, the Secretary of State initiated a review within his office of the 18,186 signatures. Citing irregularities in the numbering of petition sheets and in the signatures of petition gatherers, the Election Division excluded over 3,000 names, with whole pages of otherwise valid signatures tossed out. Nader's supporters were notified on September 2 that they were 218 signatures short.

The Nader campaign filed a lawsuit in Marion County Circuit Court challenging the secretary of state's refusal to count the excluded signatures. Contesting the legality of Bradbury's action, they stated that "there was nothing in the said internal directives that authorized the Secretary of State to remove the 3,000 signatures in question after the counties had all already completed their work." The lawsuit also contested that the directives on the Nader campaign sent out by Bradbury to the county clerks were unwritten or "not supported by the written administrative rules as set forth in the Manual."

Addressing two narrow technical violations and ignoring the wider democratic issues involved, Circuit Court Judge Paul Lipscomb ruled on September 9 that the secretary of state's disqualification of petition sheets did not have "statutory or administrative rule authority for that novel action" and ordered that Nader be placed on the ballot.

The secretary of state subsequently sought a court order, known as a writ of mandamus, from the Oregon Supreme Court to require that the Circuit Court reverse

its decision. According the *Statesman Journal* of September 10, the state's request "bypasses the Court of Appeals, and the high court rarely grants such requests."

In upholding the secretary of state's writ, the Supreme Court's decision makes a mockery of the defense of basic democratic rights. Nothing in its 35-page decision could be construed to indicate that the subject of its determinations involved the fundamental right to vote.

The ruling contains language such as: "It is true that the review procedures that [election director] Lindback described were not themselves written, but that does not render them unlawful." Commenting on the secretary of state's directives singling out the Nader campaign by name, the justices wrote: "We assume that the written instructions are applicable generally to all the elections procedures to which the Secretary of State has addressed them, not just to a single candidate or campaign."

The Oregon Supreme Court's ruling is in sharp contrast to the recent Florida Supreme Court decision that placed Ralph Nader on the ballot in that state. In that case, the justices ruled that "it follows that when the State imposes a burden upon access to the ballot, the burden must be clearly delineated. Thus, any doubt as to the meaning of statutory terms should be resolved broadly in favor of ballot access."

Regressive ballot laws, court action, unlawful disenfranchisement and bullying have been employed wholesale against opponents of the two-party system in the current elections. Many of these tactics have been directed at the Socialist Equality Party where it has sought ballot status for its candidates. The Oregon Supreme Court decision is in line with the efforts of the political establishment to exclude parties and candidates that in any way oppose the policies of the Democrats and Republicans.



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