

Federal judge upholds decision to bar SEP candidates from Ohio ballot

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US District Court Judge Gregory Frost Friday morning denied a legal motion filed on behalf of Socialist Equality Party presidential and vice presidential candidates Bill Van Auken and Jim Lawrence for a temporary restraining order against Ohio Secretary of State Kenneth Blackwell. The Secretary of State's office has ruled that the SEP did not have a sufficient number of signatures to place Van Auken and Lawrence on the ballot in Ohio for the November 2 election. The suit filed by the SEP argued that Blackwell should be ordered to reverse his office's decision and place the party's candidates on the ballot.

In his ruling, Judge Frost, a recent Bush appointee, ignored the evidence of how the Secretary of State's office denied the SEP candidates any serious means to challenge the disallowance of nearly 4,200 of the 7,983 signatures on its nominating petitions. The motion filed by Robert F. Newman, the attorney representing the SEP, detailed the series of procedural obstacles that effectively prevented the SEP from carrying out a thorough review of the disqualified signatures, and thereby deprived its candidates of due process. These obstacles included an arbitrary and totally inadequate six-day deadline for the SEP to get voter registration rolls from the state's 40 counties and carry out a line-by-line check of the signatures that had been thrown out by state and local election authorities.

Despite these arbitrary and unfair hurdles, the SEP conducted a preliminary review of the challenged signatures, and submitted evidence to the Secretary of State's office prior to the September 15 deadline showing that at least 1,230 of the nearly 4,200 disqualified signatures were, in fact, the signatures of legally registered Ohio voters, bringing the party's signature total to more than 5,000—the legal requirement for third-party and independent candidates

to obtain ballot status. The SEP also faxed to the state office the legal declarations of several registered voters in Dayton, Ohio who had been unjustly disqualified.

The party's review documented that Ohio election officials used the most inconsequential technicalities to discard the signatures of hundreds of petition signers who were obviously registered to vote.

As of this writing, the Secretary of State's office has not informed the SEP of its decision on the party's challenge to its ruling barring Van Auken and Lawrence from the ballot.

The ruling by the secretary of state disqualifying the SEP candidates from the Ohio ballot was made on September 8. The SEP only learned of the ruling when a representative of the party telephoned state election authorities on September 9, and was informed that the SEP had until September 15—less than a week—to dispute the findings of the county election boards and challenge the state's ruling. Lawrence, a resident of Dayton, Ohio, only received notification that he was barred from the ballot in a letter that arrived the afternoon of September 15—one hour before the 5 p.m. deadline!

The Secretary of State's office also informed the SEP that it had no guidelines for an appeal of the rejection of the party's nomination petition, and was not legally obliged to even allow an appeal. The review of the SEP challenge is to be carried out behind closed doors.

In his court ruling, Judge Frost simply asserted that the secretary of state had afforded the SEP candidates a "meaningful opportunity to present their arguments regarding the validity of the submitted signatures." He defended the six-day deadline, saying the SEP candidates had failed to present any evidence that the "condensed time frame is unnecessary in an election case."

The judge noted without criticism that Ohio had no legal provisions affording candidates ruled off the ballot the right to appeal. “Even assuming that the courtesy review is inadequate,” he said, “plaintiffs have not proven that they are entitled to any such review.”

Finally, the judge suggested that the proper venue for the SEP candidates to seek relief was the state court system.

The SEP will file a motion Monday morning calling on Ohio’s 10th District Court of Appeals in Columbus to order the secretary of state to place the SEP candidates on the ballot.

In a press release issued Friday, Lawrence, a retired autoworker and Dayton, Ohio resident, denounced the ruling to keep him off the Ohio ballot.

He declared: “The ruling by Judge Frost, while deeply anti-democratic, was not unexpected. The Bush-appointed would accept no evidence as to the validity of the Socialist Equality Party’s charge that the State of Ohio denied our due process by arbitrarily striking the signatures of hundreds of legally registered voters from our petitions, and then giving us insufficient time or opportunity to demonstrate the falsity of its ruling.

“In the course of our petition campaign we gathered nearly 8,000 signatures throughout the state, far more than the 5,000 needed to attain ballot status. This threshold is a very high hurdle, many times more than the Democrats and Republicans must collect.

“When election officials reviewed these signatures, they did not proceed on the basis of an objective and impartial determination of whether the SEP candidates had sufficient support to be placed on the ballot—the ostensible purpose of the petitioning process and signature requirement in the first place. Instead, they set out to eliminate as many signatures as they possibly could, acting on the unstated premise that the presence on the ballot of any choice for voters outside the two major parties is a political evil that should be opposed. In the process, they disenfranchised hundreds of Ohio voters who signed our petitions precisely because they want to have a socialist and antiwar candidate on the ballot.

“Election officials disqualified over half of the names of those who signed—this in a state where the proportion of voting-age residents who are registered to vote is nearly 80 percent. On its face, the claim that more than half of those who signed our petitions, after being

asked if they were registered to vote, were not registered defies common sense and logic.

“Officials eliminated the signatures of elderly people who left off a digit on the date, the signatures of people who printed their name instead of using cursive writing, the signatures of others who could not fit their entire street name in a column. Montgomery County officials disqualified registered voters on my own street in Dayton, claiming their signatures were ‘not genuine.’

“Far from seeking to determine the intent of the voters and involve more people in the electoral process, the authorities are using trivial technicalities to exclude working class voters. The same anti-democratic outlook and aim lay behind the poll tax and literacy tests employed years ago in the South to deny black people the right to vote.

“This process is guided by the fear that working people—who are growing increasingly disillusioned with the two major parties because they openly serve the interests of a privileged elite and ignore the needs of ordinary people—might turn to a genuinely democratic and egalitarian alternative.

“Our campaign is far from over. We will continue to provide working people with a political alternative to oppose the war in Iraq and fight the growing social inequality in the US. At the same time, we will continue to expose the thoroughly undemocratic nature of the two-party monopoly.”

The SEP calls on all readers of the WSWs and all supporters of democratic rights to demand that the Ohio Secretary of State’s office place Bill Van Auken and Jim Lawrence on the statewide ballot. Send e-mail messages of protest to:

Kenneth Blackwell Ohio Secretary of State
Blackwell@sos.state.oh.us

Please send copies to editor@wsws.org



To contact the WSWs and the
Socialist Equality Party visit:

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