

Attorney for SEP candidate calls on Illinois election board to throw out Democrats' ballot challenge

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12 July 2006

On Tuesday, an attorney representing Joe Parnarauskis, the Socialist Equality Party's candidate for state Senate from Illinois' 52nd Legislative District, submitted a motion calling on the State Board of Elections to throw out the objection filed by the Democratic Party against the SEP candidate's nominating petitions.

Because the objection had no basis in fact, the attorney argued, the SEP should not be forced to go through the arduous and costly process of fighting the challenge, whose sole purpose was to disrupt the SEP campaign, tax its limited resources, and deprive Parnarauskis, who had fulfilled the requirements stipulated by state election laws, of ballot status in the November, 2006 election.

On July 3, John Dreher and Gregory Lietz, two Democratic Party precinct committeemen from Danville, filed an objection to the SEP petitions, claiming that more than half of the 4,991 signatures submitted by Parnarauskis were invalid. An initial examination conducted by the SEP, however, has revealed that the Democrats indiscriminately challenged the signatures of hundreds of legally registered voters from the 52nd Legislative District, which includes Champaign, Urbana and Danville in east central Illinois.

The Motion to Strike and Dismiss was filed by attorney Andrew Spiegel at a preliminary hearing of the election board held Tuesday morning in Chicago. The motion argued that the Democrats were committing election fraud and following the same pattern as in 2004, when leading figures in the Illinois Democratic Party attempted to bar SEP state legislature candidate Tom Mackaman from the ballot. Based on this record of illicit activity, Spiegel contended, the burden of proof should be placed on the Democrats to demonstrate that their claims were valid before the examination of SEP petitions proceeded.

The petition filed by the Democratic objectors, Spiegel wrote, "is a bad faith submission, replete with prohibited shotgun objections" and prepared "without any good faith examination of the voter registration records of voters in Champaign and Vermilion counties." The motion stated that the State Board of Elections' rules mandated that it not "tolerate objections filed in bad faith" and enabled the board to order an objector to show cause why the objection should not be dismissed if there was a pattern of frivolous challenges.

The motion then cited the evidence gathered by the SEP in a preliminary examination of less than one third of the 521 petition

sheets submitted by Parnarauskis. Of 142 sheets reviewed, the SEP found that 188 signatures challenged by the Democrats were those of properly registered voters, an average of more than one fraudulent objection per sheet.

A large number of objections based on the claim that "signers were not registered at address shown" were unwarranted, Spiegel noted. The voters were, in fact, properly registered at the addresses listed on the petitions, and there was not the slightest difference between the information on the voter registration rolls and that which appeared on the nominating petitions.

SEP petition checkers were in many cases able to match signatures simply by searching for the address of the signers in the registration database. It appeared that the objectors, the attorney said, challenged many signatures without even taking the time to check the addresses listed on the nominating petitions against voter registration records—repeating the practice carried out by Democratic Party objectors in their challenge to SEP candidate Tom Mackaman in 2004—a challenge which the Democrats eventually dropped.

The motion noted that the bulk of the objections were under the category "signers not registered at the address shown." Many of these, however, appeared to have been filed in a random manner, suggesting that the objectors were instructed to challenge signatures without any valid basis for doing so. On sheet #90, for example, there were seven such objections. Six of these were easily shown to be valid signatures of registered voters who resided at the address they had listed on the petition.

The motion listed the names and addresses of twelve voters whose signatures had been falsely challenged and whose information, as listed on the nominating petitions, perfectly matched the data in official registration rolls.

Spiegel also challenged the effort of the Democrats to disqualify signatures on the grounds that the signers had printed their names rather than writing them in cursive. He cited the State Board of Elections' rules, which stipulate: "There is no requirement that a signature be in cursive rather than printed form, and an objection solely on the ground that the signature is printed and not in cursive form, will be denied as failing to state grounds for an objection."

The motion noted that the SEP supporters had already spent over 40 hours checking the objections of the Democrats. A full records examination—in which every objection would have to be reviewed

sheet-by-sheet, line-by-line, should not be ordered, Spiegel wrote, until state election officials “determine whether there is even a good faith factual basis for the objections made by Lietz and Dreher.”

He cited the fact that Mark Shelden, the Champaign County Clerk who oversaw the review of the Democrats’ objections to SEP candidate Tom Mackaman in 2004, recently wrote on an Internet blog: “If you were involved at all in the Mackaman case two years ago, you would have seen that the challenge was purely a harassment challenge. Fewer than half the signatures challenged by Democratic Party Chairman Gerrie Parr were actually tossed. Those of us who reviewed them would have awarded attorney’s fees to Mackaman if there had been a legal provision to do so.”

In his motion, Spiegel argued that the election board should allow the target of a bad-faith challenge to recover attorney fees and other costs. He wrote: “This is the only way this Board can hope to stop the recurring practice of victimizing and harassing those voters who want change and choice in this state.”

He went on to note that Democratic petition checkers in 2004 had been given written instructions to uphold every objection, even after the county clerk’s office presented evidence that voters’ signatures were valid. “The limited and precious resources of both the candidate and the State Officers of the Election Board must not be wasted on yet another exercise in futility until a preliminary determination has been made that there is a good faith factual basis for the objector’s petition,” he argued.

Raising the basic democratic issue involved in the Democrats’ actions, the motion declared: “Clearly, access to the ballot is a substantial right that should not be lightly denied. Yet the Objectors ask this Board to violate this fundamental constitutional principle by filing an Objector’s Petition that is so lacking in merit as to warrant the imposition of extraordinary sanctions pursuant to Supreme Court Rule 137, in addition to outright dismissal of that petition.” Rule 137 allows victims of groundless, obstructive legal actions to collect compensation from the perpetrators of such actions.

The SEP attorney concluded by calling on the election board to halt any further proceedings until the objectors could show a good-faith, factual basis for their challenge. If the board could find no such basis, it should issue an order for the objector to show why the board should not dismiss the challenge as a frivolous and bad-faith objection. Moreover the Board should award Rule 137 sanctions to the candidate and compel the objectors to pay all costs, expenses and attorney’s fees incurred by the candidate.

Finally, the motion called on the election board to declare “that the name of Joseph Parnaruskis shall be printed on the ballot for the November 7, 2006 General Election as the Socialist Equality Party candidate in the 52nd Legislative District.”

Spiegel presented his Motion to Strike and Dismiss, along with a separate statement by Joe Parnaruskis (see: “SEP Illinois candidate denounces Democrats’ bogus challenge to third party candidates”) to David Herman, a hearing officer appointed by the State Board of Elections, who will oversee the objection review. Herman said he would review Spiegel’s motion.

However, he appeared inclined to disregard the substance of the motion and allow the record examination to proceed. Ignoring

Spiegel’s argument that such a process would impose an undue burden on the SEP, Herman said he believed “it will all come back to the binder check,” i.e., the matter would not be resolved without going through the laborious and protracted procedure of checking each of the Democrats’ objections. Herman admitted that this process, which could involve subpoenaing witnesses, taking depositions and admitting documents and other evidence, could take until the end of August!

Herman gave the Democrats’ attorney until July 25 to respond to Spiegel’s Motion to Strike and Dismiss. The SEP’s attorney then has seven days to issue his reply. The record examination or binder check would begin shortly afterwards.

Further complicating the matter, Herman admitted, was the fact that the registration rolls in Champaign County, where the bulk of the petitions were gathered, have not been updated since 2003. The SEP gathered signatures from voters during the months of May and June 2006. This means that large numbers of voters, including those who registered during these months, would not be included in the voter registration lists. Herman said the county was updating the lists but could not say when this process would be completed.

The State Election Board—which is made up of four Democrats and four Republicans—may very well accept the Democrats’ objection on face value and pay no heed to the evidence of fraud in the current challenge and the past record of illicit objections by the Democratic Party. The issues raised by Spiegel’s Motion to Strike and Dismiss threaten to expose the two major parties, which have long used such illicit methods to bar third party candidates from the ballot.

Also presenting evidence to the State Board of Elections were representatives of the Illinois Green Party, whose entire statewide slate of candidates, including gubernatorial candidate Rich Whitney, is being challenged by the Democratic Party. The Greens submitted 39,000 signatures, well above the requirement of 25,000, to run for governor and other statewide executive petitions. The objections to their nominating petitions were apparently prepared by Democratic Governor Blagojevich’s attorneys. The Green Party, which also filed a motion to dismiss Tuesday, presented evidence that their nominating petitions were the target of hundreds, if not thousands, of fraudulent objections.



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