As election board remains deadlocked

Illinois Democrats fail to remove SEP candidate from ballot

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Democratic Party commissioners on the Illinois State Election Board failed to gain a majority vote Thursday morning to sustain their party's objections against the nominating petitions of Socialist Equality Party state Senate candidate Joe Parnarauskis. If the motion had passed, Parnarauskis's name would have been removed from the ballot for the November 7 elections. Under Illinois election law, however, if objectors fail to persuade the majority of the election board to sustain their challenge, it is presumed that the candidate has qualified and his or her name will be printed on the ballot.

The election board was deadlocked 4-4, with the four Democrats voting to sustain the objections and the four Republicans voting against the motion. The Democrats made a last-ditch effort to the throw out 44 of the 521 petition sheets submitted by the SEP, using a petty technicality about the appearance of these petitions, which contained the names of 292 valid voters. The board-appointed hearing examiner and legal counsel had already concluded the Democrats had not presented sufficient grounds to disqualify Parnarauskis, and had recommended that the SEP candidate be put on the ballot.

Having failed to get the state election board to uphold their bad-faith challenge, the Democrats are planning to head to circuit court to try to find a judge who is willing to overturn the rulings the State Board of Elections has made on the case and concoct a pseudo-legal argument to remove Parnarauskis from the ballot. The irony is that in order to go to court, the Democratic commissioners who have so adamantly opposed certifying the SEP candidate must reverse themselves and break the deadlock by voting to place Parnarauskis on the ballot. Only once the election board votes to certify a candidate can a circuit court judge reverse its decision, and then only on the grounds that the board misinterpreted evidence or violated some statute by certifying the SEP candidate.

The board of elections gave the Democratic attorneys until Friday at 2 p.m. to present a resolution to the impasse, which would mean accepting the certification of the SEP candidate. If no such proposal was made, the board will not reconvene and would remain deadlocked.

It is rare that the State Board of Elections both fails to sustain objections to a candidate and at the same time fails to certify a candidate, which it is required to do with all qualified candidates by September 1. However, the four Democratic Party commissioners have been intransigent in their opposition to certifying Parnarauskis and have gone to the most desperate lengths to block his candidacy. At a hearing on August 31 the Democrats were willing to hold up the certification of candidates throughout all of Illinois' 110 electoral jurisdictions in order to prevent the SEP from being certified. In order to allow the certification of the other candidates one Republican voted along with the Democrats to recess the election board last week and postpone any decision on Parnarauskis until the September 7 hearing.

After the State Board of Elections meeting in Chicago, Parnarauskis held a press conference on the grounds of the University of Illinois in Champaign-Urbana, in which he told local television, radio and print media reporters, "Once again, the Illinois Democrats have failed to remove my name from the ballot. This morning, the Democratic commissioners on the State Board of Elections failed to get a majority vote to uphold the bad-faith objections filed against my petitions. The Democrats today made a last-ditch effort to throw out the signatures of nearly 300 registered voters using the most petty technicality.

"As of now I am officially on the ballot for state Senator and I will take my campaign to the voters of this district.

"From the beginning, this has never been an effort to determine whether or not I am a qualified candidate with sufficient support to run for office. It has been an effort to thwart the will of thousands of District 52 voters who signed our petitions in order to place a political alternative on the ballot. This is not simply a matter of petty politics in the 52nd District. The Illinois Democratic Party has long been one of the most powerful political machines in the history of America. In the fight against my candidacy they have thrown tremendous resources against us, including high-level attorneys with close relations to state Senate President Emil Jones and state House Speaker Mike Madigan. Why have they resorted to such desperate measures?

"The Democrats are terrified of a socialist and antiwar candidate who will give voice to the mass opposition to the criminal war in Iraq, the attack on Democratic rights, and policies that have enriched a financial oligarchy at the expense of the working class people in the US. The reality is that the Democrats have worked hand in glove with the Bush administration and the Republicans to prosecute the so-called 'war on terror' and attacks on working class living standards. The Democrats fear the emergence of mass political opposition, not only in the 52nd District but throughout the country.

"The last two months have been an eye-opener for the voters about the state of democracy in America and the lengths the two parties are willing to go to suppress political opposition. The economic monopoly of the wealth elite is supplemented by a political monopoly of parties that serve its interests.

"The US has justified wars and the overthrow of governments on the basis that those governments have denied their citizens the same freedoms the Democrats are trying to deny the voters of the 52nd District. I demand a radical reform of the election laws and a repeal of all restrictions against third parties. It is time that Michael Frerichs and his bosses in Springfield and Chicago end this travesty of democracy and let the voters decide whom they support for state Senator."

The hearing began Thursday with the attorney for the Illinois Democrats arguing that the election code said that every petition sheet circulated by a

candidate had to be exactly the same, and that the SEP had violated this alleged provision because 44 sheets it had circulated described the office the SEP candidate was running for as "State Senator," while the remaining 477 said, "State Senate—52nd Legislative District." The election code, he said, says petitions must not be "substantially the same but the same."

The attorney, Courtney Nottage, and several Democratic Party commissioners seized on this threadbare argument to suggest that the SEP had misled voters about which district its candidate was running in, implying that the SEP was involved in some type of election fraud. Because Parnarauskis was publicly opposing the war in Iraq and had raised other issues of national concern in his campaign, Nottage and the others claimed, voters could have easily assumed he was running for the United States Senate, not the Illinois state Senate. This argument ignored two specific facts: first, the office cited on the petition specifically read "State Senator" not "US Senator" and, secondly, there is no US Senate seat up for reelection this year in Illinois!

In his reply, SEP attorney Andrew Speigel noted that the election code only required that the district the candidate was running in be indicated in the section above the signature portion of the petition, not specifically in the heading called "Office." He noted that the SEP has satisfied this provision because the preamble on the top of the petition read, "We, the undersigned, qualified voters of the 52nd State Senate Legislative District..."

Speigel noted that the hearing examiner had already cited several legal precedents, which established that "mandatory provisions can be satisfied by substantial compliance" and that the election board was required "under law to use the presumption of ballot access," not seek out minor technicalities to bar a candidate from the ballot.

Ignoring the fundamental constitutional issues raised by Speigel, Commissioner John Keith pressed on with the Democrats' obstructive line of argument, demanding to know, "Where does it say that you have any authority to say that each sheet cannot be the same? Where does it say that?"

In their line of questioning the Democrats also had no reply to the extensive legal brief prepared by Speigel, which demonstrated that far from concealing anything from the voters, the SEP had published an array of articles and campaign material about its campaign, expressed its positions in several interviews conducted in the city's daily newspaper, the student newspaper at the University of Illinois, and on local television and radio. In all of this publicity, it was absolutely clear that Parnarauskis was running as a socialist candidate for state Senate in the 52nd District." (See: "Brief in support of SEP ballot access in Illinois").

The hearing examiner, David Herman, said the petitions had complied with state laws and there was no proof presented by the objectors that the petitions had confused or misled any voters. He said the Illinois courts had ruled that the nominating petition process was meant to determine whether a "modicum of support" existed for candidates. Parnarauskis had demonstrated this by collecting 3,229 valid signatures—more than the required 2,985—and therefore should be placed on the ballot.

Such arguments had no effect on the Democratic commissioners, who were willing to go to any lengths to keep the SEP candidate off the ballot. McGuffage and commissioner Albert Porter insisted it didn't matter that there was no evidence of voters being misled. If the petition headings were not precisely the same, they claimed, the potential still existed for voters to be misled, and therefore all the petition sheets should be thrown out.

When he was challenged by a Republican commissioner McGuffage erupted, asking, "Have you ever gone to a shopping center and seen people signing petitions? They will sign anything. You put a petition before them and they will sign it." With these remarks the Democrat summed up his party's contempt and hostility towards the voters, particularly those who dare sign petitions in favor of placing third party candidates on the ballot.

The transparent effort of the Democrats to exclude anyone challenging the two-party system allowed the Republicans on the election board to posture as defenders of ballot access and voting rights. Smart responded to McGuffage's remarks by saying, "The League of Women Voters, the unions and civic groups are working hard on increasing political involvement and getting people involved in this process. I think if this motion [to sustain the objections against the SEP candidate] were to carry it would discourage such involvement. It would be like saying: 'If you are not part of one of our two parties, you have no place in the political system. We're just picking at flaws. If I'm going to err, I'm going to err on the side of people getting involved in the process."

At one point the debate subsided and a motion was made to vote on sustaining the objections against the SEP candidate. Like the previous vote on August 31, the election board was split four to four along party lines. Again the meaning of the vote provoked a sharp dispute, with Republican commissioner Smart saying that the failure to gain a majority vote to sustain the objections "must imply that it was overruled" and McGuffage saying that a majority was needed to carry out any action against the motion.

It was pointed out to the Democratic commissioner that he had made exactly the opposite argument the week before when he claimed the deadlocked vote over accepting the hearing examiner's recommendation meant the motion had been defeated and therefore Parnarauskis could not be placed on the ballot.

Smart insisted that since the motion to sustain the objections had failed, the candidate was officially on the ballot and the board was required by state law to certify him.

With it becoming unquestionably clear that the Democrats could not win a majority, their two attorneys asked for a recess to discuss a possible resolution. They returned to say that they had no proposal to make because they had failed to reach their client, a small-town Democratic Party committeeman who was put up by the leadership of the Illinois Democrats to challenge the SEP petitions.

This, of course, was only a pretext. During the break the two attorneys no doubt spoke with high-level Democratic Party officials and asked whether or not they should request that the board certify Parnarauskis so they could move to the next stage in seeking a circuit court decision overturning the certification by the board. With the clock ticking and the state scheduled to print the ballots with Parnarauskis's name on them, the Democrats are preparing their last desperate attempt to remove the SEP from the ballot.

It is not unprecedented for Illinois judges appointed by the Democrats and Republicans to rule to remove candidates, going so far as to order that their votes not be counted or that a sticker be placed over their names on the hundreds of thousands of ballots used in an election. In this case, however, the judge would have to overturn not only the hearing examiner and legal counsel's recommendation but the certification by the election board, including at least one of its Democratic members, and all of the factual and legal evidence that has been amassed in favor of the SEP candidate over the last two months of deliberations.