

West Virginia Supreme Court to weigh independent ballot access

Ruling to impact independent candidates statewide

Naomi Spencer - SEP candidate for West Virginia House District 16
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West Virginia independent candidates who petitioned to appear on the November 8 ballot are currently waiting to be notified of their eligibility due to a pending appeal in the state Supreme Court of Appeals in Charleston.

The appeal comes from former state Senator Erik Wells, who petitioned to run for Kanawha County Clerk, but was denied by the county's circuit court. The case is a microcosm of the undemocratic maneuvering that goes on in American politics, largely out of sight of the public.

Kanawha Circuit Judge Charles King ruled last week that Wells could not appear on the ballot as an independent or non-party affiliated candidate because he is registered as a Democrat. The ruling came in response to a complaint filed by county prosecutor Chuck Miller on behalf of Wells' would-be opponent in the county clerk election, Republican incumbent Vera McCormick. McCormick is currently running unopposed.

Wells is a well-known politician and former television news anchor, who is married to state Secretary of State Natalie Tennant. He served as Senator for District 8 from 2006 to 2014. On July 18, Wells submitted nominating petitions containing 1,019 signatures from Kanawha County voters—400 more than the legally required 1 percent of votes cast in the previous election for county clerk.

In testimony August 12, Wells said he did not decide to run for the county clerk's office until late June, well after the May primary elections. He stated that he petitioned in order to appear on the general election ballot as an independent, to run against McCormick after learning that hundreds of people in the county had

been voting in the wrong district for the past four years and that their votes had been thrown out.

In addition to being county clerk, McCormick is chair of the Kanawha County Ballot Commission, which certifies who is to appear on the county's ballot.

In his ruling August 18, Judge King declared that the petitioning process was not an option for people registered as Democrats or Republicans, because they could achieve ballot status through their parties' primary elections.

Whatever Wells' motivations for seeking office through the petitioning process, the lower court ruling is anti-democratic on its face. There is no law in West Virginia stipulating that only people registered as independent may run as independent candidates.

Opponents of Wells have also further insisted that only independent voters may sign petitions of an independent candidate—a demand that has no basis in law and would likewise have the impact of drastically curtailing the democratic rights of both candidates and voters.

On August 19, Wells' attorney Pat Maroney filed an appeal with the state Supreme Court. Maroney argues that Wells has a constitutional right to be on the ballot, and that the lower court ruling violated his First and 14th Amendment rights, as well as those of voters in the county and those who signed the candidate's petitions.

The case is very similar to one the state Supreme Court declined to hear in 2012, when a Republican politician in Pocahontas County petitioned the court to overturn the election of a registered Democrat who successfully mounted an independent run for county prosecuting attorney, defeating the unopposed

Democrat incumbent in the general election.

The case has put a hold on the announcement of candidates who are not in the recognized parties, or those who attempted to gain ballot status through petitioning rather than through the primary election process of the Democratic and Republican parties. According to Wells' legal team, as many as 10 other candidates are registered with a recognized party but petitioned independently.

As a registered independent who is seeking to run for House of Delegates in District 16 for the Socialist Equality Party, my own candidacy is among those yet to be announced by the Secretary of State's office during the appeals process. Speaking to me by phone August 25, an elections clerk explained that the SOS is waiting for the outcome of the Supreme Court appeal to announce full candidates lists, or begin preparing ballots and voting machines.

The process of "ballot access" in the United States expresses the structurally anti-democratic character of American politics. It is deliberately byzantine and difficult for candidates that have the least amount of financial or political power.

Ballot laws are primarily aimed at keeping "choice" limited to the candidates favored by big business and the military in the Democratic and Republican parties. It takes formidable effort, attention to detail and organization to gain the necessary signatures, meet deadlines and paperwork requirements. Candidates who are running on a shoestring budget as independents or in minor parties face a steep uphill battle for recognition.

The Socialist Equality Party has a long history of defending against petition challenges, bringing the principles of the socialist movement and the interests of the working class head-to-head with the corrupt and corporate nature of the ruling establishment. In Illinois, Oregon, Ohio and elsewhere, the SEP has gathered thousands of signatures for its candidates only to be challenged by the Democratic Party in the courts.

While the Democrats and Republicans wield monstrous financial and political power, they rest on an ever-narrowing social base. We have consistently based ourselves on the interests of the vast majority of the population, not only in the US but internationally, who are politically disenfranchised by the big business parties.

In every case, the SEP's campaigns revealed the anti-democratic essence of electoral politics; the criminality of the Democrats, the Republicans, the media and the courts; and, fundamentally, the incompatibility of the capitalist system with genuine democracy.

In the minds of many voters, including in West Virginia, the outcome of the campaign of Senator Bernie Sanders was seen as a manipulation of the election by powerful interests in the Democratic Party. It was one more demonstration that popular opposition to austerity, inequality, and war cannot make itself heard through official channels. As the SEP has explained, Sanders never intended to give voice to the aspirations of the millions of voters who supported him. Rather, he acted to channel these healthy sentiments into the Democratic Party and the campaign of Hillary Clinton.

During our petitioning efforts in West Virginia's House District 16, SEP campaigners found a vast desire for a political alternative to the parties of big business. The overwhelming sentiment was disgust at both the Democratic nominee Clinton and Republican Donald Trump. Even among registered Republicans and Democrats who said they did not agree with socialism, we found many willing to sign our petitions out of a respect for democratic rights.



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