

SEP candidate files lawsuit to restore ballot status in West Virginia

Naomi Spencer—SEP candidate for West Virginia House District 16
20 September 2016

On Monday, September 19, I filed a lawsuit against the West Virginia Secretary of State, seeking to halt my removal from the ballot in the state House of Delegates race in District 16. The lawsuit, filed in the US District Court for the Southern District of West Virginia, Huntington Division, is coupled with a request for a temporary restraining order against the decision as absentee ballots are prepared this week.

Our campaign was informed by the Secretary of State's office late on Friday, September 16, that I was being "decertified" following a state Supreme Court ruling last week. The court ruled that Kanawha County Clerk candidate Erik Wells was ineligible to run as an independent because he was still a registered Democrat at the time of his filing.

Moreover, the court ruled that Wells was further disqualified because he did not file a "certificate of announcement" that he intended to run by the end of January—nearly 10 months before the election. In its majority opinion, the court extended this requirement—relevant to candidates contesting primary elections for the major parties—to all independent candidates. It was on this justification that my own candidacy was retroactively revoked.

This action was undertaken even though I had attained ballot status by meeting all the requirements for independent candidates outlined on the Secretary of State's own web site and had been certified to appear on the ballot as a candidate of the Socialist Equality Party.

My legal challenge is being filed jointly with Constitution Party presidential candidate Darrell Castle, who is one of 17 independent candidates removed from the ballot statewide. While the Socialist Equality Party has fundamental political differences with the Constitution Party, our case deals with the defense of

basic democratic rights.

The joint legal complaint states that the West Virginia Supreme Court Ruling and its interpretation by the Secretary of State violate the First and Fourteenth Amendments of the Constitution. The complaint explains that both the imposition of the January deadline on independent candidates and the retroactive nature of the application of the rule are "patently unconstitutional."

The complaint cites the information provided by the Secretary of State to independent, unaffiliated and minor party candidates about the process of becoming a candidate: "To become a no party candidate in the General Election, an individual must submit his or her petition signatures, certificate of announcement, and filing fee with the appropriate filing officer by August 1, 2016."

Since the Socialist Equality Party is not a "recognized party" in West Virginia, our campaign completed the necessary requirements for "no party" candidates, including turning in far more than the number of signatures required, along with certificates of announcement and filing fees to the Secretary of State before August 1.

The lawsuit asks the District Court in Huntington to immediately order the state to restore to the ballot all independent candidates who have been disqualified on the basis of the Supreme Court ruling.

The "decertification" of independent campaigns comes very late in the election season, as ballots and voting machines are being prepared. With September 20 as the deadline for candidates seeking write-in status, many of those removed from the ballot are being compelled to file new paperwork and update campaign materials in order to continue as write-in candidates. This is unjust and poses immense difficulties on

candidates who already have the least financial resources and political influence.

The decision to strike independent candidates from the ballots is a blatant attack on the rights of thousands of West Virginia voters who signed petitions, and the thousands more who are being denied a choice beyond the major parties on the ballot November 8.

Bill Friary, a supporter in Huntington, expressed indignation at my removal from the ballot. "I want to vote for you," he said. "I don't understand why you have been removed. We all ought to have more than two choices. It's very frustrating."

"I'm tired of the parties of war," he added. "I want alternative voices and viewpoints."

In campaigning in Cabell and Lincoln Counties over the past several months, I have spoken to thousands of residents about the need for a socialist alternative to the Democrats and Republicans. The response was registered in the fact that I collected more than double the number of required signatures and was placed on the ballot.

My campaign, like that of the SEP's presidential ticket, was based on three main demands: an end to war; for social equality; and a defense of democratic rights. It is no coincidence that the only socialist campaign in this state has become a spearhead for a defense of democratic rights, in the face of a concerted attack by the capitalist parties, their courts and institutions.

Supporters are urged to send messages of support for publication to the SEP at 2016@socialistequality.com or on Naomi Spencer's Facebook Page.



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