

# US Supreme Court rules ballot access petitioning must proceed during coronavirus pandemic

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On Tuesday, the US Supreme Court overturned a lower court decision in Oregon that had reduced the required number and extended the deadline for collecting signatures to place a referendum on the state ballot, in consideration of the restrictions on public intercourse during the coronavirus pandemic

The order states: “The application for stay presented to Justice Kagan and by her referred to the Court is granted.” It says the lower court ruling will be “stayed pending disposition of the appeal...”

The order was approved by seven of the nine justices, including Chief Justice John Roberts, while Justices Ruth Bader Ginsburg and Sonia Sotomayor “would deny” the state’s application for a stay.

The temporary order—which was unsigned and included no legal justification for the decision—blocked an injunction issued by US District Judge Michael McShane in Eugene on July 10 that modified ballot access requirements in Oregon during the pandemic. The result of the blatantly political Supreme Court order is that a referendum to change the manner in which electoral districts are drawn in Oregon will be kept off the November ballot.

In the case, Oregon Democratic Party officials objected to the intervention of Judge McShane easing petitioning requirements for an organization called People Not Politicians. The group wanted to put a measure on the ballot that would eliminate partisan gerrymandering and take redistricting decisions out of the hands of legislators. It would create an independent commission to consider redistricting instead of leaving the matter in the hands of legislators.

According to a report in the *Washington Post*, a representative of People Not Politicians said the organization was “well on the way to getting the needed

signatures when Oregon’s pandemic-related restrictions made petition drives virtually impossible.” Judge McShane agreed, the *Post* reported, “it was because of the restrictions that the group fell short and ordered the state to reduce the number of signatures needed to place the measure on the ballot.”

In a brief to the US Supreme Court on behalf the Oregon Democratic Party, Attorney General Ellen F. Rosenblum wrote, “Despite the changes to our daily lives related to the pandemic, the signature and deadline requirements have not changed.”

Openly attacking the democratic rights of the public, Rosenblum added, “It might mean that getting an initiative on the ballot in a particular year is extraordinarily challenging, owing to a pandemic or other natural disaster. But that does not violate the First Amendment, because there is no right to legislate by initiative in the first place.”

In its arguments to the Supreme Court, the People Not Politicians group explained that overturning Judge McShane’s ruling would deny Oregon voters “a once-in-a-decade opportunity to decide whether to reform their state’s redistricting process.” Redistricting usually occurs every 10 years after the decennial census is taken.

Oregon’s constitution stipulates that placing initiatives on the ballot requires that signatures of registered voters equal to 8 percent of ballots cast in the most recent governor’s race. The signatures are to be collected and submitted by four months before the upcoming election. This meant that People Not Politicians needed to collect approximately 150,000 signatures by July 2.

Representatives of the campaign, which had the support of Common Cause, the League of Women Voters and the NAACP, say they had collected approximately 64,000 unverified signatures by the deadline. The groups then

sued Oregon Secretary of State Beverly Clarno demanding accommodations due to the pandemic.

In his ruling imposing an injunction, Judge McShane gave state officials two choices: either put the redistricting measure on the ballot or reduce the number of signatures required to 59,000 and extend the deadline.

Asserting the precise opposite of Oregon's attorney general, Judge McShane wrote in his ruling: "Because the right to petition the government is at the core of First Amendment protections, which includes the right of initiative, the current signature requirements in Oregon law are unconstitutional as applied to these specific plaintiffs seeking to engage in direct democracy under these most unusual of times."

Initially, the secretary of state had consented to Judge McShane's ruling, but she ultimately deferred to the attorney general following the intervention of the state's Democratic Party leadership.

A three-judge panel from the US Court of Appeals for the Ninth Circuit in San Francisco refused to overturn Judge McShane's ruling in a two-to-one vote. Rosenblum stepped in at this point and requested the intervention of the US Supreme Court, dismissing any concerns about the pandemic and writing in her initial brief: "The district court plucked a new number of signatures and date out of little more than thin air and substituted them for the Oregon Constitution's signature and deadline requirements."

Tuesday's Supreme Court order continues and deepens the position of the highest court in the US, which has stayed challenges to state election officials calling for special provisions during the pandemic. The Supreme Court has rendered similar decisions in cases in Alabama, Idaho, Texas and Wisconsin this year, blocking the expansion of voting by mail ballots and absentee ballots and preventing the use of online signatures on petitions.

In all of these cases, concerns about the threat to the health and lives of the voting public have been trumped by the politically motivated and thoroughly false legal argument that First Amendment rights are being protected by not making any electoral accommodations for the pandemic.

The Supreme Court decision in the Oregon case *Clarno, Or Sec. Of State v. People Not Politicians, Et Al* corresponds to the lower court rulings against the Socialist Equality Party's candidates' lawsuits, which challenged the signature-gathering requirements as impossible to satisfy safely during the ongoing pandemic.

The SEP campaign of Joseph Kishore for US president

and Norissa Santa Cruz for US vice president sued the states and demanded court injunctions blocking the onerous and impossible physical signature gathering requirements.

In California, a three-judge panel of the Ninth Circuit Court of Appeals effectively rejected the SEP candidates' appeal on July 27 by refusing to expedite the case, meaning that a decision would not be reached until after the ballots are already printed without the SEP candidates' names on them. On August 5, without giving any reasons, the panel denied the SEP candidates' motion to reconsider that ruling.

In Michigan, the SEP is awaiting a ruling by the Sixth Circuit Court of Appeals on Kishore and Santa Cruz's appeal of the decision of US Judge Sean Cox in Detroit denying the party's lawsuit against the Democratic administration of Governor Gretchen Whitmer.

In both of these lawsuits, the defendants and courts have consistently argued that SEP members and supporters should have been collecting physical signatures on petitions throughout and during the height of the pandemic, in defiance of state of emergency stay-at-home orders and in violation of their own political principles.

Behind the bipartisan gang-up of political officials and judges against the democratic rights of the public and the SEP in the 2020 elections is fear of the expanding struggles of the working class against the catastrophic economic and social crisis caused by the pandemic. Above all, the capitalist political establishment fears the growing popular support for socialism and, as the legal cases have shown, it is prepared to dispense with democracy entirely in order to keep the SEP from getting on the ballot.



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