

Pennsylvania's New Unconstitutional Law regarding Ballot Access

A politician representing the Democratic or Republican Party needs 2,000 signatures on his nominating petition for ballot access to his/her primary. Regarding the general election, each of the two parties are required exactly 0 signatures to place its candidate on the ballot for the general election. Every third party candidate, however, needs 67,070 signatures to appear on the ballot. This number represents 2% of the winner's votes from the previous election. Dimitri Vassilaros's column discussed this number, and concluded that reality has demonstrated the need for over 100,000 signatures, just to appear on the ballot with the Republicans and Democrats who have no such barrier!

Excerpt from "Access Denied, Again" by Dimitri Vassilaros

http://www.pittsburghlive.com/x/pittsburghtrib/opinion/columnists/vassilaros/s_467793.html

And since the gangs have a vested interest in challenging every signature (thereby costing outsiders that much more money to defend themselves), 100,000 signatures are almost mandatory.

To make the near-impossible closer to impossible, only registered voters may sign. Since most are Republican or Democrat, about the only hope for an outsider is to be at the right place at the right time, like the race between U.S. Sen. Rick Santorum and his challenger, state Treasurer Bob Casey.

dvassilaros@tribweb.com

While reading this, please keep in mind that the 67,070 number is a 2006 number, (it could go up or down from here) and also keep in mind that 200,000 Pennsylvanians actually signed their names so that people could be on the ballot. Their will was denied. Zero Republicans and zero Democrats actually signed any petition to have their candidate on the statewide ballot.

Pennsylvania judge upholds ballot access restrictions

http://www.paballotaccess.org/2006-04-05_lawsuit_decision.html

On April 5, U.S. District Judge John E. Jones III said Pennsylvania's ballot access law that requires minor parties to collect 67,070 signatures this year is constitutional.

The number is 2 percent of the highest vote-getter's total in the latest statewide election.

Note that his ruling states that only "minor" parties are required to collect the 67,070 signatures... Republicans and Democrats do not have this stipulation.

Furthermore, since it is within the rights of the other candidates to challenge these signatures, reality teaches that the requirement actually comes in over six figures. Republicans' and Democrats' requirements are exactly zero for the general election. The above excerpt came from the Pennsylvania Ballot Access Coalition. (link above)

From Judge Jones's Opinion

A judge is not "a super-legislature," Jones said. "We decline to supplant our wisdom in place of that of the Commonwealth's elected officials."

http://www.paballotaccess.org/ballot_access_decision.pdf

Judge Jones, no doubt a republican, or a democrat, suggests that the commonwealth's elected officials, (also republicans and democrats,) should not have any checks or balances by the Judicial System. Never mind that the evidence, which is overwhelming, points to the fact that this is most definitely unconstitutional, Judge Jones, with his ruling, suggests that the legislature can not do anything that is Un-Constitutional.

From the Libertarian Party

*"The evidence in front of him told him that there are only five qualified parties" in the state, Richard Winger of Ballot Access News noted, pointing to a **1968 Supreme Court opinion that having as many as eight parties on the ballot neither harms the voter nor results in ballot clutter.***

Jones did not mention that case in his opinion, and apparently didn't consider it.

- Published in the May 2006 issue of LP News -

http://www.lp.org/lpnews/article_963.shtml

Judge Jones Continues

*However, when the election law **only imposes "reasonable, nondiscriminatory restrictions"** upon the plaintiff's first and fourteenth amendment rights, "the state's regulatory interests are generally sufficient to justify the restrictions." Burdick, 504 U.S. at 434 (quoting Anderson, 430 U.S. at 788).*

In the US Senate, there was a discussion regarding term limits that also has some bearing.

Senate Report 104-158

2) *the 10th amendment to the Constitution **does not authorize States to add to the qualifications listed in the Constitution;***

3) *denying access to the ballot does not constitute a permissible exercise of State power under the elections clause of art. I, Sec. 4, cl. 1, to regulate the `Times, Places and Manner of holding Elections;`*

http://thomas.loc.gov/cgi-bin/cpquery/?&sid=cp104SBczk&refer=&r_n=sr158.104&db_id=104&item=&sel=TOC_10236&

The US Senate stated flatly, with the above statements, that it is NOT “reasonable” to impose qualifications on one candidate that other candidates do not have to meet.

Given that this is the state of Pennsylvania, it would follow that any judge would consider the state’s Constitution. However, in Judge Jones’s carefully worded ruling, Mention of Section 5, of the Pennsylvania Constitution, was left out.

Elections Section 5.

Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

http://sites.state.pa.us/PA_Constitution.html

The Pennsylvania Ballot Access Coalition wrote on April 6th, 2006:

The facts in the Pennsylvania current case are not the same, but the logic is the same. Pennsylvania already has a fairly stringent definition of “party,” and in the last 80 years, there has never been a time when there were more than 5 qualified parties in Pennsylvania (the state’s definition of “party” has been unchanged since 1893).

The Pennsylvania judge used “ballot clutter” to uphold the requirement that even the qualified minor parties must submit tens of thousands of signatures for their nominees. Yet the evidence in front of him told him that there are only 5 qualified parties (Democratic, Republican, Constitution, Green and Libertarian). Five parties does not make a “cluttered” ballot. A US Supreme Court concurring opinion in 1968 said that having 8 parties on the ballot does not harm the voter and does not result in ballot clutter. The Pennsylvania judge didn’t mention that case, either (Williams v Rhodes).

<http://www.ballot-access.org/2006/04/06/pennsylvania-ballot-access-opinion-is-flawed/>

Williams V Rhodes decision:

<http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=393&invol=23>

James Madison on the Right To Suffrage

Under every view of the subject, it seems indispensable that the Mass of Citizens should not be without a voice, in making the laws which they are to obey, & in chusing the Magistrates, who are to administer them, and if the only alternative be between an equal & universal right of suffrage for each branch of the Govt. and a confinement of the entire right to a part of the Citizens, it is better that those having the greater interest at stake namely that of property & persons both, should be deprived of half their share in the Govt.; than, that those having the lesser interest, that of personal rights only, should be deprived of the whole.

James Madison put it in his eloquent way, but his statement can be applied here.

Those with the largest power base, (Republican Party and Democrat Party,) should be denied half of their stake in government before those with a lesser power base, (200,000 people who signed petitions for Third Party Candidates) be denied ALL of their rights to voice how their government should be run.