

BALLOT ACCESS NEWS

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LANDMARK DEADLINE VICTORY

On October 30, 1990, the U.S. Court of Appeals, 4th circuit, declared unconstitutional a South Carolina law which required independent candidates to file a declaration of candidacy in March or April. This is the first time a U.S. Court of Appeals has struck down an early deadline for ballot access for non-presidential third party or independent candidates, since the U.S. Supreme Court decision *Anderson v Celebrezze* in 1983. *Cromer v State of South Carolina, et al*, 917 F 2d 819.

U.S. District Courts had struck down non-presidential early deadlines for third party and independent candidates, since 1983, in Alabama, Arkansas, Indiana, Maine, Nevada, Ohio, and Pennsylvania. State courts had struck them down in Alaska, Massachusetts and Texas. But U.S. Court of Appeals decisions have far more prestige and precedential value than these courts, and it had been frustrating that there had not been any post-1983 favorable precedent on this issue from any U.S. Court of Appeals.

U.S. Courts of Appeals had upheld early deadlines for non-presidential independent candidates in Illinois, and early deadlines for new political parties in North Dakota, West Virginia, and Oklahoma. The North Dakota and Oklahoma decisions had been based on the idea that since those states require all political parties to nominate their candidates by primary, the early deadlines are necessary so the state has time to set up that new party's primary. The West Virginia decision had been based on the idea that since West Virginia doesn't want people who sign petitions to then vote in primary elections, the early deadline is needed to enforce this restrictive practice.

When the U.S. Supreme Court ruled early deadlines unconstitutional for presidential third party and independent candidates in *Anderson v Celebrezze*, in 1983, they left unsettled the issue of whether early deadlines were also unconstitutional for non-presidential candidates. During the arguments on the case, South Carolina had acknowledged that the law was unconstitutional as applied to independent presidential candidates, but had tried to persuade the court that it was constitutional for other office.

South Carolina does not plan to ask the U.S. Supreme Court to reverse the decision. The vote was 2-1. Voting favorably were Judges Sam J. Ervin III and James D. Phillips, both Carter appointees from North Carolina. Voting to uphold the law was Reagan appointee James H. Wilkinson of Virginia. The plaintiff candidate, James L. M. Cromer, won the November 6 election (to the legislature) as an independent candidate. This is the second election in a row in which an independent candidate for a state legislature has won a lawsuit against an early deadline, enabling him to get on the ballot, and then went on to win the election. This same thing happened in Arkansas in 1988. In the 1990 election, Cromer defeated his only opponent, a Democrat, by a vote of 2,775 to 2,374. Cromer appeared on the ballot as James "Bubba" Cromer.

HAROLD WASHINGTON PARTY CASE

On January 10, the Harold Washington Party asked the U.S. Supreme Court to hear *Norman v Reed*, its ballot access case. It is very likely that the Court will accept the case for full review, since the Court already issued a dramatic order in the case on October 25, 1990, requiring Cook County, Illinois to reprint its ballots to include the party's candidates. If the Court were to refuse to hear the case, there would be no way for anyone to understand the basis for the Court's October 25 order.

The issues are: (1) how many signatures are required for a new party to get on the ballot in Cook County; (2) whether a new party can be kept off the ballot in one county simply because it is already a qualified party within one city inside that county. The Illinois Supreme Court had ruled that the party couldn't be on the ballot in Cook County because it didn't have as many as 50,000 valid signatures and that even if it had, it still couldn't be a party in Cook County because it was already a qualified party inside the city of Chicago! The Illinois Supreme Court issued no rationale for its positions and didn't even publish its own decision.

A decision from the U.S. Supreme Court would be important more for the broad principles about ballot access that would be set forth, than for what it would say about these two particular issues.

SUPREME COURT ACCEPTS GEARY CASE

On January 14, the U.S. Supreme Court announced that it will hear *Geary v Renne*, no. 90-769, the California case over whether a state may prohibit a political party from endorsing or opposing a candidate for non-partisan office. The lower courts held that such a law violates the Free Speech provisions of the U.S. Constitution.

NORTH CAROLINA INDEPENDENT WINS

On November 6, independent candidate Carolyn Russell was elected to the North Carolina legislature from Wayne County, a county in which 80% of the voters are registered Democrats. The county elects two representatives at-large. The vote was Carr (Democrat) 14,498; Woodard (Democrat) 9,572; Russell (Independent) 12,120 (there were no other candidates; Carr and Russell were elected). Russell is actually a registered Republican. She entered the race as an independent after the results of the May Democratic primary made it apparent that she would have a good chance of being elected. She is the first independent candidate to be elected to state office in North Carolina in the twentieth century.

COMMUNIST ELECTED

Maurice Jackson, a leader of the Communist Party, was elected to the District of Columbia Advisory neighborhood Commission (a non-partisan office) on November 6. He ran unopposed and received 317 votes.

1992 PETITIONING

STATE	REQUIREMENTS		SIGNATURES COLLECTED				DEADLINES	
	FULL PARTY	CAND.	LIBT	NAP	GREEN	WKR WLD	PARTY	CAND.
Alabama	12,157	5,000	13,000	2,700	0	0	law void	Aug 31
Alaska	2,035	2,035	0	0	already on	0	Aug 5	Aug 5
Arizona	21,109	10,555	300	0	50	0	May 16	Sep 18
Arkansas	20,890	0	can't start	can't start	can't start	can't start	May 5?	Sep 1
California	(reg) 79,188	134,781	already on	0	9,515	0	Dec 31, 91	Aug 7
Colorado	no procedure	5,000	0	0	0	0	-	Aug 4
Connecticut	no procedure	14,620	can't start	can't start	can't start	can't start	-	Aug 7
Delaware	(reg.) 145	(es) 2,900	already on	(es) 130	0	0	Aug 22	Aug 15
D.C.	no procedure	(es) 2,600	can't start	can't start	can't start	can't start	-	Aug 18
Florida	180,935	60,312	can't start	can't start	can't start	can't start	Jul 14	Jul 15
Georgia	26,955	27,009	already on	can't start	can't start	can't start	Aug 4	Aug 4
Hawaii	4,534	4,177	already on	0	1,000	0	Apr 22	Sep 4
Idaho	8,180	4,090	already on	can't start	can't start	can't start	Aug 31	Aug 25
Illinois	no procedure	25,000	can't start	already on	can't start	can't start	-	Aug 3
Indiana	no procedure	29,890	0	0	0	0	-	Jul 15
Iowa	no procedure	1,000	0	0	0	0	-	Aug 14
Kansas	15,661	5,000	already on	0	0	0	Apr 11	Aug 4
Kentucky	no procedure	5,000	0	0	0	0	-	Aug 27
Louisiana	(reg) 110,000	0	approx 150	0	0	0	Jun 30	Sep 1
Maine	26,139	4,000	1,500	0	0	0	Dec 12,91	Jun 2
Maryland	10,000	(es) 70,000	valid 8,000	0	0	0	Aug 3	Aug 3
Massachsts.	no procedure	11,692	can't start	can't start	can't start	can't start	-	Jul 28
Michigan	25,646	25,646	already on	0	0	already on	Jul 16	Jul 16
Minnesota	92,156	2,000	can't start	can't start	can't start	can't start	ap. May 1	Sep 15
Mississippi	just be org.	1,000	already on	0	0	0	ap. Apr 1	Sep 4
Missouri	no procedure	20,860	0	0	0	0	-	Aug 3
Montana	9,531	9,531	0	0	0	0	Mar 12	Jul 29
Nebraska	5,834	2,500	100	0	0	0	Aug 1	Aug 25
Nevada	9,392	9,392	already on	0	0	0	Aug 11	Sep 1
New Hamp.	no procedure	3,000	already on	0	0	0	-	Aug 5
New Jersey	no procedure	800	0	0	0	0	-	Jul 27
New Mexico	2,069	20,681	already on	already on	0	already on	Jul 14	Sep 8
New York	no procedure	20,000	can't start	can't start	can't start	can't start	-	Aug 18
North Carolina	43,601	(es) 65,000	7,000	0	0	0	in doubt	Jun 26
North Dakota	7,000	4,000	can't start	can't start	can't start	can't start	Apr 10	Sep 4
Ohio	34,777	5,000	0	0	0	0	Jan 6	Aug 20
Oklahoma	45,566	35,132	0	0	0	0	Jun 1	July 15
Oregon	(es) 36,000	(att.) 1,000	already on	0	0	0	Aug 25	Aug 25
Penn.	no procedure	(es) 27,000	can't start	can't start	can't start	can't start	-	Aug 1
Rhode Isl.	no procedure	1,000	can't start	can't start	can't start	can't start	-	in doubt
South Carolina	10,000	10,000	already on	already on	0	0	May 2	Aug 1
South Dakota	6,419	2,568	0	0	0	0	Apr 7	Aug 4
Tennessee	19,759	25	0	0	0	0	ap. May 1	Sep 3
Texas	38,900	54,269	already on	can't start	can't start	can't start	May 25	May 11
Utah	500	300	already on	0	0	0	Mar 16	Sep 1
Vermont	just be org.	1,000	already on	already on	0	0	Sep 17	Sep 17
Virginia	no procedure	(es) 14,500	can't start	can't start	can't start	can't start	-	Aug 21
Washington	no procedure	200	can't start	can't start	can't start	can't start	-	Jul 25
West Va.	no procedure	6,534	0	0	0	0	-	Aug 1
Wisconsin	10,000	2,000	already on	can't start	can't start	can't start	Jun 1	Sep 1
Wyoming	8,000	7,903	can't start	can't start	can't start	can't start	May 1	Aug 25

This chart shows petitioning for 1992. LIBT is Libertarian; NAP is New Alliance; WKR WLD is Workers World. Other qualified nationally-organized parties are American in South Carolina, Prohibition in New Mexico, and Socialist Workers in New Mexico. "FULL PARTY REQUIREMENT" means a procedure by which a new party can qualify itself before it knows who its candidates are. Not every state has such a procedure. "CANDIDATE REQUIREMENT" means a procedure whereby a petition names a particular presidential candidate (some of these procedures permit a party label, others only the label "Independent").

THIRD PARTY 1990 PERCENTAGE FOR GOVERNOR & U.S.SENATOR

<u>U. S. SENATE</u>				<u>GOVERNORS</u>				
<u>STATE</u>	<u>LIBT</u>	<u>SWP</u>	<u>OTHER</u>	<u>INDP</u>	<u>LIBT</u>	<u>SWP</u>	<u>NAP</u>	<u>OTHER</u>
Alabama	*	*	0	0	*	*	0	0
Alaska	0	0	0	.48	0	0	0	42.32
Arizona	----	----	----	*	0	*	0	0
Arkansas	0	0	0	0	0	0	0	0
California	----	----	----	0	1.89	*	1.26	1.81
Colorado	0	0	1.15	0	1.96	0	0	.70
Connecticut	----	----	----	1.41	0	*	0	40.36
Delaware	1.49	0	0	----	----	----	----	----
Florida	----	----	----	0	0	*	0	0
Georgia	0	*	0	*	2.58	*	0	0
Hawaii	1.37	0	0	.72	.85	0	0	0
Idaho	0	0	0	0	0	0	0	0
Illinois	*	*	0	0	*	0	1.08	0
Indiana	*	0	0	----	----	----	----	----
Iowa	0	*	0	0	0	.59	0	0
Kansas	0	0	0	8.81	0	0	0	0
Kentucky	0	0	0	----	----	----	----	----
Louisiana	0	0	0	----	----	----	----	----
Maine	0	0	0	9.25	0	0	0	0
Maryland	----	----	----	0	*	*	0	0
Massachusetts	0	*	0	0	0	*	0	2.68
Michigan	0	*	1.28	0	0	*	0	1.10
Minnesota	0	*	1.65	1.19	0	.38	0	.97
Mississippi	0	0	0	----	----	----	----	----
Missouri	----	----	----	----	----	----	----	----
Montana	2.49	0	0	----	----	----	----	----
Nebraska	0	*	0	*	0	*	0	----
Nevada	----	----	----	0	2.59	0	0	0
New Hampshire	3.34	----	----	*	4.87	0	0	*
New Jersey	.72	.40	1.03	----	----	----	----	----
New Mexico	0	0	0	0	*	0	0	0
New York	----	----	----	0	.61	.31	.77	25.55
North Carolina	0	*	0	----	----	----	----	----
North Dakota	----	----	----	----	----	----	----	----
Ohio	----	----	----	*	0	*	0	0
Oklahoma	0	0	0	9.93	0	0	0	0
Oregon	0	0	0	12.95	1.31	0	0	0
Pennsylvania	----	----	----	0	0	*	0	0
Rhode Island	0	0	0	0	0	0	0	0
South Carolina	1.84	0	1.37	*	0	0	0	2.28
South Dakota	0	0	2.54	0	0	0	0	0
Tennessee	0	0	2.45	2.54	0	0	0	0
Texas	2.35	*	*	*	3.32	*	0	0
Utah	----	----	----	----	----	----	----	----
Vermont	----	----	----	0	1.31	0	0	.66
Virginia	*	0	18.33	----	----	----	----	----
Washington	----	----	----	----	----	----	----	----
West Virginia	0	*	0	----	----	----	----	----
Wisconsin	----	----	----	0	0	0	0	0
Wyoming	0	0	0	0	0	0	0	0

LIBT is Libertarian, SWP is Socialist Workers, NAP is New Alliance. See note at top of page six for more about this chart.