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8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE EASTERN DISTRICT OF CALIFORNIA  
11

12  
13 **PEACE AND FREEDOM PARTY, PETA  
LINDSAY, and RICHARD BECKER,**

14 Plaintiffs,

15 v.

16  
17 **DEBRA BOWEN, in her official capacity as  
Secretary of State of the State of California,**

18 Defendant.  
19

2:12-cv-00853-GEB-EFB

**SECRETARY OF STATE DEBRA  
BOWEN'S OPPOSITION TO  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

Date: April 26, 2012

Time: 9:00 a.m.

Courtroom: 10

Judge: The Hon. Garland E. Burrell, Jr.

Action Filed: April 3, 2012  
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**INTRODUCTION**

1  
2 Plaintiffs seek a preliminary injunction to compel Secretary of State Debra Bowen (the  
3 “Secretary”) to place on the Peace and Freedom Party presidential primary ballot the name of a  
4 candidate, Peta Lindsay, whom Plaintiffs admit is twenty-seven years old and therefore ineligible  
5 under the United States Constitution to hold presidential office. Plaintiffs’ motion is both  
6 procedurally defective and substantively meritless and thus must fail. First, Plaintiffs’ motion is  
7 moot as there is no longer a controversy between these parties as to which effective relief can be  
8 granted. Pursuant to the California Elections Code, March 29, 2012, was the last day that the  
9 Secretary was able legally to add a name to the ballot. At present, having certified the list of  
10 names to appear on the ballot and distributed the list to the local election officials for printing and  
11 distribution nearly four weeks ago, even if Plaintiffs were entitled, and they are not, to an  
12 injunction, an injunction issued to the Secretary will not provide them the relief they seek.

13 Moreover, Plaintiffs have not demonstrated a likelihood of success on the merits of their  
14 claims and/or irreparable injury. It is “generally applicable,” “even-handed,” and simply a matter  
15 of federal constitutional law that a candidate must be 35 years of age to be President. There is no  
16 dispute that Peta Lindsay, who is 27-years old, is eight years shy of meeting the age requirement  
17 to hold Presidential office. The Secretary, the state’s chief elections officer, in order to ensure  
18 that the primary election is conducted legally, fairly and efficiently, did not place on the primary  
19 ballot the name of a candidate who indisputably is not old enough to be President. Plaintiffs have  
20 not, and cannot demonstrate that the Secretary’s decision violates their constitutional rights.

21 While Plaintiffs have not established any cognizable injury that they will suffer in the  
22 absence of injunctive relief, the hardship caused by Plaintiffs’ proposed alteration of the ballot  
23 would be severe. Local elections officials in 58 counties (whom Plaintiffs have not sued or  
24 served with this action) have begun printing, and distributing, primary ballots based upon the  
25 Secretary’s March 29 certified list. Even if due process concerns could be overcome, any attempt  
26 to force these officials to discard already printed ballots, reprint them to include the name of a  
27 candidate who cannot serve as President under the U.S. Constitution, and in the case of military  
28 and overseas voters, resend them would involve considerable and unjustified disruption and

1 expense. Accordingly, the law, the balance of equities, and the public interest all dictate that  
2 Plaintiffs' motion for a preliminary injunction be denied.

3 **RELEVANT LAW AND FACTS**

4 The California Secretary of State is the state's chief elections officer. Cal. Gov't Code §  
5 12172.5. She is responsible for ensuring that state elections are conducted efficiently and that the  
6 election laws are enforced. *Id.* Consistent with these obligations, the Secretary is required to  
7 provide local elections officials with a certified list of the names of candidates, generally  
8 recognized to be seeking the nomination of their respective parties, to appear on the June 5, 2012  
9 Presidential Primary Election ballot. Cal. Elec. Code §§ 6041, 6180, 6340, 6520, 6720, 6951,  
10 6954 & 8120. Prior to doing so, and no later than 150 days before the election, the Secretary is  
11 required to announce and publicize the list of those persons whom she intends to place on the  
12 primary election ballot. Cal. Elec. Code §§ 6340-6342, 6520-6522, 6720-6724. This year, the  
13 150th day was February 6, 2012.

14 Peta Lindsay, one of the plaintiffs in this action, is one of a number of candidates who is  
15 seeking the presidential nomination for the Peace and Freedom Party. Ms. Lindsay's website and  
16 other campaign materials indicate, and it is not disputed, that she is 27 years old. (Declaration of  
17 Alexandra Robert Gordon (Gordon Decl.), ¶ 7, Exhs. E & F.) On or around February 6, 2012, the  
18 Secretary posted a list of, among others, "generally recognized" Peace and Freedom Party  
19 candidates whom she intended to place on the primary election ballot. (*Id.*, ¶ 3, Exh. A.) That  
20 list contained the names of two Peace and Freedom Party candidates, Stewart Alexander and  
21 Rocky Anderson, but did not include the names of Peta Lindsay and another candidate, Stephen  
22 Durham. (*Id.*, ¶ 5, Exh. C.) The Peace and Freedom Party immediately issued a press release and  
23 began a petition drive demanding that Stephen Durham and Peta Lindsay be added to the list.  
24 (*Id.*, ¶¶ 5 & 6, Exhs. C & D.) On or around February 8, the Peta Lindsay for President Campaign  
25 contacted the Secretary's Office, and then wrote to the Secretary, "urging [her] to reconsider her  
26 decision regarding Ms. Lindsay. (*Id.*, ¶ 4, Exh. B.) During these communications, counsel to Ms.  
27 Lindsay's campaign "admit[ted] that Ms. Lindsay is 27-years-old." (*Id.*)

28 ///

1 On February 28, 2012, the Secretary published a revised list of “generally recognized”  
2 candidates whom she intended to place on the primary ballot that added Stephen Durham, but not  
3 Peta Lindsay. (*Id.*, ¶ 7, Exh. E.) On March 29, 2012, the Secretary distributed a certified list of  
4 all the presidential primary candidates to local elections officials. (*Id.*, ¶ 8, Exh. F.) These  
5 officials have begun printing the ballots based upon this list, *see* Cal. Elec. Code § 13000, and  
6 federal law requires them to send ballots to absent military service members and overseas voters  
7 no later than 45 days before the election, which is April 21, 2012. 42 U.S.C. § 1973ff.1. State  
8 law requires local elections officials to start the process even earlier, “[a]s soon as possible after  
9 the 60th day before the federal election.” Cal. Elec. Code § 3307(a). The vote-by-mail ballot  
10 application process for all other voters will begin on May 7, 2012. Cal. Elec. Code §§ 3001, 3003.

11 On April 3, 2012, Plaintiffs filed a Complaint seeking declaratory and injunctive relief  
12 against the Secretary, followed by the instant motion for a preliminary injunction on April 9,  
13 2012.

## 14 ARGUMENT

### 15 I. LEGAL STANDARD

16 In order to prevail on a motion for a preliminary injunction, “a plaintiff must show (1) a  
17 strong likelihood of success on the merits, (2) the possibility of irreparable injury to plaintiff if  
18 preliminary relief is not granted, (3) a balance of hardships favoring the plaintiff, and (4) that an  
19 injunction is in the public interest.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20  
20 (2008). “A preliminary injunction is an extraordinary remedy never awarded as a matter of right.  
21 In each case, courts must balance the competing claims of injury and must consider the effect on  
22 each party of the granting or withholding of the requested relief. In exercising their sound  
23 discretion, courts of equity should pay particular regard for the public consequences in employing  
24 the extraordinary remedy of injunction.” *Id.* at 24 (internal quotations and citations omitted); *see*  
25 *also DISH Network Corp. v. FCC*, 653 F.3d 771, 776-77 (9th Cir. 2011). Because a preliminary  
26 injunction is an extraordinary remedy, the moving party must establish the elements necessary to  
27 obtain injunctive relief by a “clear showing.” *Winter*, 555 U.S. at 22. In this case, Plaintiffs  
28 cannot meet their burden, and the motion for a preliminary injunction should be denied.



1 **II. PLAINTIFFS HAVE FAILED TO DEMONSTRATE A LIKELIHOOD OF SUCCESS ON THE**  
2 **MERITS**

3 **A. There Is No Justiciable Controversy as to Which Effective Relief Can Be**  
4 **Granted**

5 Even if there were a basis for the relief that Plaintiffs seek, which, as explained below, there  
6 is not, Plaintiffs' motion is moot as there is no present controversy as to which effective relief can  
7 be granted. *See U.S. v. Geophysical Corp. of Alaska*, 732 F.2d 693, 698 (9th Cir. 1984).

8 Pursuant to the Elections Code, the Secretary is required to, and did, distribute a certified list of  
9 candidates to local elections officials no later than March 29, 2012. *See Cal. Elec. Code § 6951*  
10 (certificate shall be delivered not less than 68 days before the presidential primary). Upon  
11 receiving the certified list of candidates, local elections officials are responsible for printing and  
12 distributing sample ballots and ballots to registered California voters. *Cal. Elec. Code § 13000*.  
13 Once the March 29, 2012 deadline has passed, the Secretary has no power to add or delete  
14 candidates from the certified list. *See Cal. Elec. Code §§ 6951; 13000*. After that, responsibility  
15 for what appears on the ballots in California's 58 counties lies with each county clerk. *Cal. Elec.*  
16 *Code § 13000*. Thus, even if the Court were to find that the Secretary erred by not placing Peta  
17 Lindsay's name on the primary ballot, the Secretary would not have the necessary legal capacity  
18 to remedy this error. Accordingly, Plaintiffs' action is moot. *U.S. v. Geophysical Corp. of*  
*Alaska*, 732 F.2d at 698.

19 **B. Plaintiffs Have Not Established a Violation of the First and Fourteenth**  
20 **Amendments**

21 While Plaintiffs' claims are not clearly articulated, they appear to contend that Secretary  
22 Bowen, by her own admission, does not have the authority to exclude the name of a candidate  
23 from the Presidential primary ballot for any reason other than being "not generally recognized,"  
24 and thus, that the exclusion of Peta Lindsay violates Plaintiffs' First and Fourteenth Amendment  
25 rights. (*See Plaintiffs' Motion*, pp. 5-12.) As an initial matter, Plaintiffs misconstrue both the  
26 scope of the Secretary's authority and the significance of her previous statements regarding her  
27 lack of duty to evaluate the qualifications of the political parties' presidential nominees.

28 ///

1 With respect to the Secretary's authority, Plaintiffs focus solely on the statute that governs  
2 the placement of recognized candidates on the presidential primary ballot. *See* Cal. Elec. Code §  
3 6720.<sup>1</sup> However, that provision must be read in conjunction with the entire Elections Code,  
4 which confers upon the Secretary broad authority with respect to the conduct of elections. *See*  
5 Cal. Elec. Code § 10; *see also* Cal. Gov't Code 12172.5. As the state's chief elections officer, the  
6 Secretary is obligated to ensure that elections are conducted efficiently, fairly, and in compliance  
7 with state law. Cal. Gov't Code § 12172.5. She is also sworn to uphold the United States  
8 Constitution. Cal. Const., art. XX, § 3; Cal. Gov't Code § 1360.

9 In previous lawsuits, involving various attempts to remove from the ballot presidential  
10 candidates whose qualifications were fiercely contested, the Secretary has stated, and the courts  
11 have concurred, that the Secretary's statutory and constitutional obligations do not include a legal  
12 duty to investigate and determine if a political party's nominee for President is qualified. *See,*  
13 *e.g., Keyes v. Bowen*, 189 Cal.App.4th 647, 659-61 (2011) (holding that the Secretary did not  
14 have a ministerial duty to verify that President Obama met the constitutional qualifications for  
15 office before certifying him for inclusion in the ballot). The Secretary and the Courts have  
16 acknowledged that pursuant to 3 U.S.C. section 15 and the Twelfth and Twentieth Amendments,  
17 the United States Congress must evaluate and resolve objections to presidential qualifications.  
18 *See Robinson v. Bowen*, 567 F.Supp.2d 1144, 1146-47 (N.D. Cal. 2008) (holding that plaintiff's  
19 challenge to Senator John McCain's citizenship was committed to Congress); *Keyes*, 189  
20 Cal.App.4th at 660-61.<sup>2</sup>

21 <sup>1</sup> Although Plaintiffs cite to Elections Code section 6041 as governing the placement of  
22 names of candidates on the presidential primary ballot, (Plaintiffs' Motion, p. 11), that section  
23 refers only to candidates from the Democratic Party. The placement of names on the ballot from  
24 the Peace and Freedom Party is governed by Elections Code section 6720. Specifically, section  
25 6720 of the Elections Code directs the Secretary to "place the name of a candidate upon the Peace  
and Freedom Party presidential preference ballot when the Secretary of State has determined that  
the candidate is generally advocated for or recognized throughout the United States or California  
as actively seeking the presidential nomination of the Peace and Freedom Party or the national  
party with which the Peace and Freedom Party is affiliated."

26 <sup>2</sup> Plaintiffs also rely on *Fuller v. Bowen*, 203 Cal.App.4th 1476 (2012) in support of their  
27 argument that the Secretary does not have the authority to exclude an admittedly unqualified  
28 candidate from the primary ballot. *Fuller*, which held that under the California State  
Constitution, the State Legislature has "exclusive jurisdiction" to judge the qualifications of its

(continued...)

1           The fact that the Secretary does not have a legal duty to investigate and/or the ability to  
2 resolve disputes regarding a candidate’s qualifications, however, does not mean that she lacks  
3 authority to exclude from the primary ballot a candidate who, by her own admission, is not  
4 qualified to be President. *See, e.g., Keyes*, 189 Cal.App.4th at 659-60 (distinguishing *Cleaver v*  
5 *Jordan*, 393 U.S. 810 (1968), a case where the Secretary of State would not permit the Peace and  
6 Freedom Party to place Leroy Eldridge Cleaver’s name on the ballot because he was only 34  
7 years old, stating: “the fact that former Secretary of State Jordan excluded a candidate, who  
8 indisputably did not meet the eligibility requirements, does not demonstrate that the Secretary of  
9 State has a clear and present ministerial duty to investigate and determine if candidates are  
10 qualified...”). In this case, there is no need for the Secretary to investigate or evaluate Peta  
11 Lindsay’s qualifications because, unlike in previous lawsuits such as *Robinson and Keyes*, there is  
12 no dispute that Lindsay is 27 years-old and therefore ineligible to be President under Article II,  
13 Section 1, Clause 5 of the U.S. Constitution. (*See* Gordon Decl., Exhs. B, G & H.) Where, as  
14 here, a candidate is manifestly and inarguably unqualified, the Secretary may, in her discretion,  
15 decide not to place that candidate on the primary ballot. *See* Cal. Gov’t Code §§ 1360, 12172.5;  
16 *cf. Keyes*, 189 Cal.App.4th at 659 (noting that Secretary has some discretion in determining  
17 whether to place a name on the primary ballot).

18           Indeed, the Supreme Court has recognized that states have wide-ranging authority to  
19 regulate the elections process: “Common sense, as well as constitutional law, compels the  
20 conclusion that government must play an active role in structuring elections; ‘as a practical  
21 matter, there must be a substantial regulation of elections if they are to be fair and honest and if  
22 some sort of order, rather than chaos, is to accompany the democratic processes.’” *Burdick v.*  
23 *Takushi*, 504 U.S. 428, 433 (1992) (quoting *Storer v. Brown*, 415 U.S. 724, 730 (1974)). “States  
24 may, and inevitably must, enact reasonable regulations of parties, elections, and ballots to reduce  
25 election- and campaign-related disorder.” *Timmons v. Twin Cities Area New Party*, 520 U.S. 351,  
26 358 (1997). Although state regulation of elections, including regulation of the selection and

27           \_\_\_\_\_ (…continued)  
28           members, is inapposite.

1 eligibility of candidates, “inevitably affects” an individual’s First and Fourteenth Amendment  
2 right to vote and to associate with others for political ends, where a state law imposes only  
3 reasonable, non-discriminatory restrictions on these rights, “the State’s important regulatory  
4 interests are generally sufficient to justify the restrictions.” *Anderson v. Celebrezze*, 460 U.S.  
5 780, 788 (1983). The Supreme Court has thus upheld “generally-applicable and even-handed  
6 restrictions that protect the integrity and reliability of the electoral process itself.” *Id.* at 788, fn.9;  
7 *see also Nader v. Cronin*, 620 F.3d 1214, 1217-18 (9th Cir. 2010); *Rubin v. City of Santa Monica*,  
8 308 F.3d 1008, 1014 (9th Cir. 2002).

9       When deciding whether a state election law violates the First and Fourteenth Amendments,  
10 courts must “weigh the character and magnitude of the burden the State’s rule imposes on those  
11 rights against the interests the State contends justify that burden, and consider the extent to which  
12 the State’s concerns make the burden necessary.” *Burdick*, 504 U.S. at 434 (quoting *Anderson*,  
13 460 U.S. at 788). “No bright line separates permissible election-related regulation from  
14 unconstitutional infringements on First Amendment freedoms.” *Timmons*, 520 U.S. at 359. But  
15 “[b]ecause ‘the State’s important regulatory interests are generally sufficient to justify reasonable,  
16 nondiscriminatory restrictions,’ . . . a party challenging such a regulation bears a ‘heavy  
17 constitutional burden.’” *Rubin*, 308 F.3d at 1017 (citation omitted). Plaintiffs have not, and  
18 cannot, meet this burden here.

19       In this case, the Secretary, as the state’s chief elections officer, in order to ensure that the  
20 primary election is conducted legally, fairly and efficiently, did not place on the primary ballot  
21 the name of a candidate who admittedly and indisputably does not meet the federal constitutional  
22 requirements for presidential office. It is unclear how this action caused “injury” to or “burdens”  
23 Plaintiffs’ constitutional rights. Although Plaintiffs assert that they have been “denied their  
24 mutual right to select each other for their candidacy for the Presidency,” (Plaintiffs’ Motion, p.  
25 10), there is no fundamental right to run for office or to express one’s political views through  
26 candidacy. *Bullock v. Carter*, 405 U.S. 134, 143 (1972); *N.A.A.C.P., Los Angeles Branch v.*  
27 *Jones*, 131 F.3d 1317, 1324 (9th Cir.1997) (“[c]andidates do not have a fundamental right to run  
28 for public office”). Moreover, and contrary to Plaintiffs’ suggestions, not placing one manifestly

1 unqualified candidate on the primary ballot does not limit access to the ballot by Peace and  
2 Freedom Party candidates generally, nor does it “restrict the availability of political opportunity”  
3 to them. *Libertarian Party of Wash. v. Munro*, 31 F.3d 759, 762 (9th Cir. 1994). Indeed, there  
4 currently are three (out of a possible total of four) Peace and Freedom Party candidates whose  
5 names have been placed on the presidential primary ballot. (Gordon Decl., Exh. F at p.3.) It is  
6 entirely possible that one of these “eligible candidate[s] will adequately reflect the perspective of  
7 those who might have voted for a candidate who has been excluded.” *Anderson*, 460 U.S. at 793,  
8 fn.15 (internal quotations and citation omitted). Thus, the magnitude of Plaintiffs’ asserted injury  
9 is, at most, minimal. *See Burdick*, 504 U.S. at 434.<sup>3</sup>

10 Further, any burden on Plaintiffs’ associational, voting, or speech rights is “reasonable and  
11 nondiscriminatory.” *Id.* Although Plaintiffs argue that the Secretary’s decision not to place a 27-  
12 year-old candidate on the primary ballot discriminates against and “falls unequally” upon them,  
13 this is demonstrably false. The eligibility requirements for Presidential office set forth in Article  
14 II, Section 1, Clause 5 of the U.S. Constitution, on which the Secretary’s decision not to place  
15 Peta Lindsay on the primary ballot is based, apply to all candidates regardless of political party.  
16 It is “generally applicable,” “even-handed,” and simply a matter of federal constitutional law that  
17 a candidate must be 35 years of age to be President. U.S. Const. art. II, § 1, cl. 5. Although  
18 Plaintiffs accuse the Secretary of taking “contradictory positions” with respect to “major party  
19 male candidates” and “a minor party’s African-American female candidate,” as discussed above,  
20 any difference in treatment is the result of the fundamentally different contexts in which the  
21 treatment occurred. In the cases to which Plaintiffs refer, the personal qualifications of the  
22 various nominees were, fairly or not, in dispute. *See Robinson*, 567 F.Supp.2d 1144; *Keyes*, 189  
23 Cal.App.4th 647. Where there are challenges to a candidate’s eligibility, the Secretary has no

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24 <sup>3</sup> Plaintiffs rely upon a number of cases involving regulations that imposed “severe  
25 burdens” on First and Fourteenth Amendment freedoms, and thus were subject to “strict  
26 scrutiny.” *See, e.g., Nader v. Brewer*, 531 F.3d 1028, 1034-38 (9th Cir. 2008); *Duke v. Smith*, 13  
27 F.3d 388, 394 (11th Cir. 1994). Where, as here, a case involves restrictions that are not severe  
28 and are generally applicable, even-handed, politically neutral, and protect the reliability and  
integrity of the election process, the state need only show that the restriction is reasonable and  
justified by its regulatory interests. *See Timmons*, 520 U.S. at 364. Plaintiffs’ cases are thus  
inapposite.

1 duty to investigate and verify the personal qualifications of any political party's nominees. The  
2 resolution of such challenges is committed to the United States Congress. *Robinson*, 567  
3 F.Supp.2d at 1146-47. Here, by contrast, Plaintiffs admit and there is no dispute that Peta Lindsay  
4 is 27 years old, eight years shy of meeting the age requirement to hold Presidential office.  
5 (Gordon Decl., Exh. B.) Ms. Lindsay's admitted and incontrovertible lack of eligibility  
6 fundamentally differentiates her from the other presidential candidates discussed by Plaintiffs.<sup>4</sup>  
7 Because she is not "similarly situated" to these other candidates, the Secretary's decision not to  
8 place Peta Lindsay on the primary ballot does not constitute discrimination. *See Freeman v. City*  
9 *of Santa Ana*, 68 F.3d 1180, 1187 (9th Cir. 1995) ("Discrimination cannot exist in a vacuum; it  
10 can be found only in the unequal treatment of people in similar circumstances") (citation  
11 omitted).

12 The state's important interests in, among other things, protecting the integrity of the  
13 election process and avoiding voter confusion, justify any limitation on Plaintiffs' rights that the  
14 omission of a candidate who is admittedly ineligible to serve as President may impose. *See*  
15 *Burdick*, 504 U.S. at 434; *Timmons*, 520 U.S. at 364 ("[T]he State's asserted regulatory interests  
16 need only be sufficiently weighty to justify the limitation imposed on the party's rights.... Nor do  
17 we require elaborate, empirical verification of the weightiness of the State's asserted  
18 justifications"). The Supreme Court has emphasized the compelling nature of these state  
19 interests: "the State understandably and properly seeks to prevent the clogging of its election  
20 machinery, [and] avoid voter confusion . . . . Moreover, a State has an interest, if not a duty, to

---

21 <sup>4</sup> For this reason, to the extent that Plaintiffs allege a separate equal protection claim, it  
22 also fails. *See Rubin*, 308 F.3d at 1019 ("In election cases, free speech and equal protection  
23 analyses generally work in tandem."). To establish an equal protection claim, a plaintiff must  
24 "show that the defendants acted with an intent or purpose to discriminate against the plaintiff  
25 based upon membership in a protected class." *Thorton v. City of St. Helens*, 425 F.3d 1158, 1166  
26 (9th Cir. 2005) (citation omitted). To bring a "class of one" equal protection claim, a plaintiff  
27 must demonstrate that he or she "has been intentionally treated differently from others similarly  
28 situated and that there is no rational basis for the difference in treatment." *Id.* at 1167 (quoting  
*SeaRiver Mar. Fin. Holdings, Inc. v. Mineta*, 309 F.3d 662, 679 (9th Cir. 2002)). "[T]he rational  
basis prong of a 'class of one' claim turns on whether there is a rational basis for the distinction,  
rather than the underlying government action." *Gerhart v. Lake Cnty. Mont.*, 637 F.3d 1013,  
1023 (9th Cir. 2011). Here, and as shown above, because Ms. Lindsay is admittedly ineligible to  
be President, Plaintiffs are not similarly situated with the persons with whom they compare  
themselves and there is a rational basis for the Secretary's decision.

1 protect the integrity of its political processes from frivolous or fraudulent candidacies.” *Bullock*  
2 *v. Carter*, 405 U.S. at 145; *see also Lubin v. Panish*, 415 U.S. 709, 715, (1974) (“[T]he State’s  
3 interest in keeping its ballots within manageable, understandable limits is of the highest order.”).  
4 Accordingly, the Secretary’s generally-applicable, even-handed, and non-discriminatory decision  
5 not to place Peta Lindsay on the primary ballot does not violate the First and Fourteenth  
6 Amendments. *See Anderson*, 460 U.S. at 788; *Lemons v. Bradbury*, 538 F.3d 1098, 1103-05 (9th  
7 Cir. 2008).

8 **III. PLAINTIFFS HAVE FAILED TO DEMONSTRATE (IRREPARABLE) INJURY, AND THE**  
9 **BALANCE OF HARDSHIPS AND PUBLIC INTEREST TIP IN FAVOR OF DENYING RELIEF**

10 “[W]hen a district court balances the hardships of the public interest against a private  
11 interest, the public interest should receive greater weight.” *Fed. Trade Comm’n v. Affordable*  
12 *Media, LLC*, 179 F.3d 1228, 1236 (9th Cir. 1999) (quoting *Fed. Trade Comm’n v. World Wide*  
13 *Factors, Ltd.*, 882 F.2d 344, 347 (9th Cir. 1989)). In the elections context, the Court should act  
14 with particular caution because “[c]ourt orders affecting elections, especially conflicting orders,  
15 can themselves result in voter confusion and consequent incentive to remain away from the  
16 polls.” *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006). For these reasons, the Supreme Court has  
17 counseled caution in granting injunctive relief in cases affecting elections:

18 In awarding or withholding immediate relief, a court is entitled to and should consider  
19 the proximity of a forthcoming election and the mechanics and complexities of state  
20 election laws, and should act and rely upon general equitable principles. With respect  
21 to the timing of relief, a court can reasonably endeavor to avoid a disruption of the  
election process, which might result from requiring precipitate changes that could  
make unreasonable or embarrassing demands on a State in adjusting to the  
requirements of the court’s decree.

22 *Reynolds v. Sims*, 377 U.S. 533, 585 (1964).

23 Here, the balance of hardships and the public interest dictate denying injunctive relief. As  
24 shown above, Plaintiffs have not established that they have suffered a cognizable injury, let alone  
25 one that is irreparable. In contrast to the minimal harm that the Secretary’s decision may have  
26 caused Plaintiffs, the harm caused by forcing elections officials to discard already printed ballots,  
27 reprint them to include the name of a candidate who cannot serve as President under the U.S.  
28 Constitution, and in the case of military and overseas voters, resend them, would be considerable.

1 As previously noted, pursuant to the Elections Code, on March 29, 2012, the Secretary distributed  
2 a certified list of candidates to (58 separate) local elections officials. *See* Cal. Elec. Code § 6951  
3 (certificate shall be delivered not less than 68 days before the presidential primary). These  
4 officials have begun printing the ballots based upon this list, *see* Cal. Elec. Code § 13000, and  
5 must send ballots to absent military service members and overseas voters no later than April 21,  
6 2012. *See* 42 U.S.C. § 1973ff.1; Cal. Elec. Code § 3307. Even assuming that the Secretary had  
7 the authority to add Peta Lindsay's name to the ballot at this time, which she does not, such an  
8 alteration would entail large and unjustified expenditures, would undermine the integrity of and  
9 disrupt the primary elections process, and thus would disserve the public interest. Accordingly,  
10 Plaintiffs' motion for a preliminary injunction should be denied. *See Reynolds v. Sims*, 377 U.S.  
11 585-86; *Southwest Voter Registration Educ. Project v. Shelley*, 344 F.3d 914, 919 (9th Cir. 2003).

12 **CONCLUSION**

13 For the foregoing reasons, the Secretary respectfully requests that the Court deny Plaintiffs'  
14 request for injunctive relief.

15  
16 Dated: April 18, 2012

Respectfully Submitted,

17 KAMALA D. HARRIS  
18 Attorney General of California  
19 TAMAR PACHTER  
Supervising Deputy Attorney General

20 */s/Alexandra Robert Gordon*

21 ALEXANDRA ROBERT GORDON  
22 Deputy Attorney General  
23 *Attorneys for Defendant*  
24 *Secretary of State Debra Bowen*



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6 E-mail: Alexandra.RobertGordon@doj.ca.gov  
*Attorneys for Defendant*  
7 *Secretary of State Debra Bowen*

8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE EASTERN DISTRICT OF CALIFORNIA  
11

12  
13 **PEACE AND FREEDOM PARTY, PETA  
LINDSAY, and RICHARD BECKER,**

14 Plaintiffs,

15 v.

16  
17 **DEBRA BOWEN, in her official capacity as  
Secretary of State of the State of California,**

18 Defendant.  
19

2:12-cv-00853-GEB-EFB

**DECLARATION OF ALEXANDRA  
ROBERT GORDON IN SUPPORT OF  
SECRETARY OF STATE DEBRA  
BOWEN'S OPPOSITION TO  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

Date: April 26, 2012

Time: 9:00 a.m.

Courtroom: 10

Judge: The Hon. Garland E. Burrell, Jr.

Action Filed: April 3, 2012

1 I, Alexandra Robert Gordon, declare as follows:

2 1. I am a Deputy Attorney General at the California Department of Justice and serve  
3 as counsel to Secretary of State Debra Bowen (the “Secretary) in the above-entitled matter.

4 2. Except as otherwise stated, I have personal knowledge of the facts set forth in this  
5 declaration, and if called upon as a witness I could testify competently as to those facts. I make  
6 this declaration in support of the Secretary’s Opposition to Plaintiffs’ Motion for a Preliminary  
7 Injunction.

8 3. A true and correct copy of a press release by the Secretary’s Office regarding the  
9 list of February 6, 2012 list of, among others, “generally recognized” Peace and Freedom Party  
10 candidates whom the Secretary intended to place on the primary election ballot is attached hereto  
11 as **Exhibit A**.

12 4. A true and correct copy of the February 13 letter to the Secretary from the Peta  
13 Lindsay for President Campaign is attached hereto as **Exhibit B**.

14 5. A true and correct copy of a press release posted on [www.peaceandfreedom.org](http://www.peaceandfreedom.org) on  
15 February 27, 2012, is attached hereto as **Exhibit C**.

16 6. A true and correct copy of a petition by the Peace and Freedom Party posted on  
17 SignOn.org is attached hereto as **Exhibit D**.

18 7. Attached hereto as **Exhibit E** is a true and correct copy of a February 28, 2012  
19 post on [www.peaceandfreedom.org](http://www.peaceandfreedom.org) regarding the February 28, 2012 revised list of “generally  
20 recognized” candidates whom the Secretary intended to place on the primary ballot.

21 8. A true and correct copy of the March 29, 2012 certified list of all the presidential  
22 primary candidates distributed to local elections officials is attached hereto as **Exhibit F**.

23 9. A true and correct copy of a page from the Party for Socialism and Liberation  
24 website entitled “Meet Peta Lindsay” is attached hereto as **Exhibit G**. A true and correct copy of  
25 a page from the Party for Socialism and Liberation website entitled “The Root: Who Is Peta  
26 Lindsay” is attached hereto as **Exhibit H**.

27

28

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
2 true and correct.

3 Executed on April 18, 2012, at San Francisco, California.

4  
5 */s/ Alexandra Robert Gordon*

6 ALEXANDRA ROBERT GORDON  
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**Exhibit A**

# DEBRA BOWEN

**CALIFORNIA SECRETARY OF STATE**

NEWS RELEASE

DB12:029

**FOR IMMEDIATE RELEASE**  
February 6, 2012

Contact: Shannan Velayas  
(916) 653-6575

## Secretary of State Releases List of Presidential Candidates for California Primary

**SACRAMENTO** – Secretary of State Debra Bowen today released the list of generally recognized candidates she intends to place on the June 5, 2012, Presidential Primary Election ballot in California.

Secretary Bowen can place additional candidate names on the list until March 29, when the list of presidential candidates is officially certified. She cannot remove any names from the list once they have been announced unless a candidate asks to be removed by filing an affidavit with the Secretary of State's office.

The last presidential primary, in February 2008, had 51 candidates on the generally recognized candidate list. This year, the candidate list has 24 names.

The complete listing of the generally recognized candidates and their contact information is available at [www.sos.ca.gov/elections/2012-elections/june-primary/pdf/generally-recognized-president-2012.pdf](http://www.sos.ca.gov/elections/2012-elections/june-primary/pdf/generally-recognized-president-2012.pdf) and will be updated regularly as new information becomes available.

Keep up with the latest California election news and trivia by following [@CASOSvote](https://twitter.com/CASOSvote) on Twitter. To sign up for ballot measure updates via email, RSS feed or Twitter, go to [www.sos.ca.gov/multimedia](http://www.sos.ca.gov/multimedia).

###

**Exhibit B**

# Peta Lindsay for President 2012 Campaign

Los Angeles Office: 137 N. Virgil Ave. #203, Los Angeles 90004  
la@vote-psl.org · 323-810-3380 · www.VotePSL.org

---

February 13, 2012

California Secretary of State  
1500 11th Street, 5th Floor  
Sacramento, California 95814

*Delivered by FAX, email and FedEx*

Dear Secretary of State Bowen:

As the attorney for the Peta Lindsay for President 2012 Campaign, I am writing to request that you immediately reverse your unprecedented decision to omit Ms. Lindsay from the Peace and Freedom Party's list of candidates on the June primary ballot. Ms. Lindsay is qualified to be on the ballot, and we believe your decision to keep her off is unlawful and arbitrary.

We are prepared to take whatever action is required to ensure that your office follows the California Elections Code and permits Ms. Lindsay to appear on the ballot.

In the case of Ms. Lindsay, the Secretary of State has refused to follow the letter of California law. Section 6720 of the Cal. Elections Code states:

The Secretary of State **shall** place the name of a candidate upon the Peace and Freedom Party presidential preference ballot when the Secretary of State has determined that the candidate is generally advocated for or recognized throughout the United States or California as actively seeking the presidential nomination of the Peace and Freedom Party or the national party with which the Peace and Freedom Party is affiliated.

Ms. Lindsay, one of the very few African-American women running for president, is "generally advocated for or recognized" both in California and the rest of the United States as actively seeking the presidential nomination of the Peace and Freedom Party. Lindsay is the 2012 presidential candidate of the Party for Socialism and Liberation (hereinafter "PSL"), an organization that achieved ballot status in 12 states during the 2008 presidential election. In addition, the PSL candidate won the Peace and Freedom Party nomination for California Governor in 2010, running a 24-year-old candidate. The Peace and Freedom Party recognizes Ms. Lindsay as a viable candidate for president and its Central Committee seeks to have her name included on the primary ballot.

Here is some additional evidence to support a finding that Ms. Lindsay is "generally advocated for or recognized" in California and beyond:

- A national website advertising her campaign, VotePSL.org, was set up in October 2011. The website includes information, campaign statements, photos of Ms. Lindsay and her running mate, Yari Osorio, information on how to volunteer, videos of the candidates speaking and more.
- The Peta Lindsay for President Campaign was announced at an October 2011 public conference attended by 200 people in San Francisco.
- In early November 2011, three California campaign offices for the Peta Lindsay for President Campaign were set up—in San Francisco, Los Angeles and San Diego. The campaign also has working offices in New York City, Chicago, South Florida, Albuquerque, N.M; Phoenix, A.Z.; Austin, Tex.; and elsewhere.
- Ms. Lindsay spoke as a candidate at a conference attended by hundreds in Chicago on Nov. 5-6, 2011.
- Subsequently, a video of Ms. Lindsay speaking has been viewed by many hundreds of people from California and many other states.
- Ms. Lindsay then spoke about her campaign to a conference of 200 people at Los Angeles City College on Nov. 19, 2011.
- Ms. Lindsay marched in the Los Angeles Martin Luther King Jr. Day Parade as a candidate for president, while volunteers passed out thousands of flyers promoting her campaign. Over 500,000 people watched the parade in person, with hundreds of thousands more viewing it on television.
- Ms. Lindsay has spoken at numerous marches and rallies as a presidential candidate, including an action of 500 people on Feb. 4 in Los Angeles.
- Volunteers have been regularly distributing campaign literature in San Francisco, Los Angeles, Long Beach, Orange County and San Diego.
- Ms. Lindsay has published articles and done numerous media interviews about her campaign, including with "The Root," the Washington Post's online African American news and culture magazine; Liberation Newspaper; and the Twin Cities Daily Planet. The campaign has been covered online on blogs and by news outlets.
- Ms. Lindsay has filed the Form 2 Statement of Candidacy with the Federal Elections Commission.

The above evidence is largely available online. It is more than adequate to meet California's statutory requirements to be listed as a candidate for president in the Peace and Freedom Party primary.

In fact, Ms. Lindsay's campaign has been more active than many "officially recognized candidates" who were included on the Secretary of State's ballot list. This includes Roseanne Barr, who the Secretary of State unilaterally added as a Green Party candidate, despite the fact that her name was not submitted by Green Party leaders to be considered for June's primary ballot. The Secretary of State made Ms. Barr an "officially recognized candidate" before she even began to get her campaign off the ground.

For the Secretary of State to take action on her own accord in favor of a potential candidate, while excluding actual candidates who have been campaigning for months is fundamentally unfair.



Page 3

We are giving you this information about Ms. Lindsay's campaign because we do not know exactly why the Secretary of State is excluding Ms. Lindsay from the primary ballot. Your office has been evasive and unable to answer the campaign's questions.

I contacted the Secretary of State's office on Wednesday, Feb. 8, 2012, to inquire about the reasons behind this omission. When I called, I spoke with your employee, Charlene Castaneda. Ms. Castaneda simply said that Ms. Lindsay did not meet the criteria to be listed. She would not give specific reasons, but intimated that Ms. Lindsay did not have a national campaign or offices in California, did not file with the FEC, and is under age 35, which Ms. Castaneda unequivocally stated was a requirement to be listed on the ballot.

I responded by admitting that Ms. Lindsay is 27-years-old, and stated that we could provide additional evidence that she meets the Calif. Elections Code requirements to be placed on the ballot.

I also told Ms. Castaneda that the U.S. Constitution requires a person to be at least 35-years-old to assume the office of president, not to be listed on the ballot as a candidate. It is not within the purview of the Secretary of State's office to usurp the wishes of the Peace and Freedom Party, a valid political party with ballot access in this state, or to substitute its discretion for that of the electors of the U.S. Electoral College.

After conferring with another person in the Secretary of State's office, Ms. Castaneda told me, "Our decision is final and we will not be revisiting it." She reiterated this position several more times.

When I asked again for specific reasons behind the Secretary of State's decision to omit Ms. Lindsay from the primary ballot, Ms. Castaneda would not tell me. She said she would have someone else from the Secretary of State's office call me. She said it could be several days before that happens. As of today, no one has contacted me.

This is an important issue to Ms. Lindsay's campaign and California voters. Your office's stated refusal to reconsider your selection goes against the spirit of the California Elections Code and smacks of discrimination against Ms. Lindsay's campaign and the Peace and Freedom Party.

We urge you to reverse your decision to exclude Ms. Lindsay, as well as your decision to exclude Stephen Durham, from the Peace and Freedom Party ballot for the June 2012 election. Section 6722 of the Code states that you can do this:

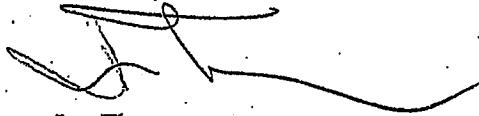
On or before the 120th day preceding a presidential primary election, the Secretary of State shall publicly announce and distribute to the news media for publication a list of the candidates she or he intends to place on the ballot at the following presidential primary election. **Following this announcement, the Secretary of State may add to her or his selection,** but she or he may not delete any candidate whose name appears on the announced list.

Page 4

Ms. Lindsay meets the legal criteria to be listed on the June 2012 primary ballot as a candidate seeking the Peace and Freedom Party nomination. She should have the opportunity to reach voters in this state with her message and ideas.

Please contact me if you would like to discuss this matter further: (310) 490-8595 or [idthomp@yahoo.com](mailto:idthomp@yahoo.com).

Sincerely,

A handwritten signature in black ink, appearing to be 'Ian Thompson', written over a horizontal line.

Ian Thompson  
Attorney for the Peta Lindsay for President 2012 Campaign

**Exhibit C**

# PEACE AND FREEDOM PARTY

California's Feminist Socialist Political Party

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Home

## Tell Bowen to List All the Candidates, February 29 in Sacramento

Share this

Posted on February 27, 2012 by the Website Workers Council

The Peace and Freedom Party will confront the Secretary of State here Wednesday for omitting two of the party's candidates from the presidential preference primary ballot. Supporters are expected to carpool to Sacramento from different parts of the state.

**When:** Wednesday, February 29, 2012, at 10:00am  
**Where:** Secretary of State Building, 1500 11th Street, Sacramento ([MAP](#))  
**What:** Press conference and rally  
**Sponsors:** Peace and Freedom Party, [Freedom Socialist Party](#), [Party for Socialism and Liberation](#)

At the press conference, The Freedom Socialist Party will announce plans to sue Secretary of State Debra Bowen to reinstate Stephen Durham to the Peace and Freedom Party presidential primary ballot. Speakers on behalf of the Peace and Freedom Party, Party for Socialism and Liberation, Freedom Socialist Party, National Lawyers Guild, Radical Women, the L.A. March 4th Committee to Defend Public Education and Social Services and others will also testify to growing public support for socialists on the ballot.

After a short rally, protestors will deliver petitions to Bowen's office that demand she immediately reinstate Stephan Durham and Pera Lindsay to the Peace and Freedom Party presidential ballot.

Last Updated on Tuesday, 28 February 2012 17:06

### UPCOMING EVENTS

- Apr 14 - Santa Cruz - Candidate Forum
- Apr 14-15 - Santa Cruz - State Central Committee
- Apr 16 - Sacramento - Meet and Greet the Candidates
- Apr 17 - San Francisco - President Candidate Forum
- Apr 22 - Los Angeles - Candidate Forum
- Ongoing - Solidarity with Occupy Wall St.

### WE SUPPORT ...



### PREAMBLE TO OUR BY-LAWS

The Peace and Freedom Party is an open, multi-tendency, movement-oriented socialist party. We are united in our common commitment to socialism, democracy, feminism and unionism and our common opposition to capitalism, imperialism, racism, sexism and elitism.

These by-laws do not define socialism, nor do they identify the strategies and tactics of how to achieve socialism. We agree that socialism is necessary and that it will open up a democratic decision-making process for appropriate use



Join the Peace and Freedom Party's fund-raising campaign! Click [here](#) to drop \$20.12 on us in 2012.

### SEE IT NOW!

#### WATCH THESE LIVE FEEDS

- Occupy Fresno
- Occupy Los Angeles
- Occupy Wall Street
- October 2011 Coalition (Washington)

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**Exhibit D**



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**Sign this petition**

Name\*:

Email\*:

Country\*:

Address:

City:

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ZIP code\*:

Comment:

**Sign!**

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Note: MoveOn.org Political Action sponsors SignOn.org Election Edition. By signing, you agree to receive email messages from MoveOn.org Civic Action and MoveOn.org Political Action. (You may unsubscribe at any time.)

# Bowen: List All Candidates for Peace and Freedom Primary

[Flag petition as inappropriate](#)

By Schuyler Kempton ([Contact](#))

To be delivered to: Debra Bowen, California Secretary of State

List all declared candidates for the Peace and Freedom Party presidential nomination--Stephen Durham, Stewart Alexander, Peta Lindsay, and Rocky Anderson--on their primary ballot.

Update: On February 28th, Debra Bowen listed Stephen Durham on the Peace and Freedom Party's presidential primary ballot. However, Peta Lindsay is still excluded

For 36 years, the California Secretary of State has listed the majority of candidates on the ballots for minor party primaries. However, in this presidential election, Debra Bowen, California Secretary of State, has excluded one of the candidates. We call on Debra Bowen to list all four of the declared presidential candidates--Stephen Durham, Stewart Alexander, Peta Lindsay, and Rocky Anderson--on the primary ballot.

**NEW goal - We need 750 signatures**  
There are currently **535** signatures



**Previous petition signers:**

|      | Signer  | Date         | Place                |
|------|---|--------------|----------------------|
| 535. | Ariana Milan  | Apr 16, 2012 | Hyde Park, NY        |
| 534. | Charles K. Alexander II   | Apr 8, 2012  | Albany, NY           |
| 533. | Kabiruddin Ali  | Apr 7, 2012  | Rancho Cucamonga, CA |
| 532. | barack hussein obama  | Mar 12, 2012 | DC, United States    |
|      | long live the revolution, long live fidel castro  |              |                      |
| 531. | James E Vann  | Mar 11, 2012 | Oakland, CA          |
|      | Secretary Bowen: Though only a small Party, P&F is legally established. Accordingly, I plead that you please treat P&F Party and its candidates fairly. |              |                      |
| 530. | Cheryl McMillen   | Mar 9, 2012  | West Seattle, WA     |

## Case 2:12-cv-00853-GEB-EFB Document 10-2 Filed 04/18/12 Page 12 of 23

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|      |                                      |             |               |
|------|--------------------------------------|-------------|---------------|
| 529. | anthony baldwin                      | Mar 8, 2012 | New Haven, CT |
| 528. | Sue Moser                            | Mar 6, 2012 | Seattle, WA   |
| 527. | Mohammad Basir-ul Haq<br>Sinha       | Mar 6, 2012 | Bangladesh    |
|      | Resist vote rigging in US elections. |             |               |
| 526. | Miriam Lloyd                         | Mar 5, 2012 | Oakland, CA   |

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**Exhibit E**



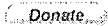
of resources and distribution of labor.

how solidly it appears to be etched in stone. Nothing of this kind is ever etched in stone. It can just as easily be reversed.

[READ MORE...](#)

## DONATE

Support our work to build an alternative party! Make an online donation to the Peace and Freedom Party now!



Or mail your check made out to "Peace and Freedom Party" to PO Box 24764, Oakland, CA, 94623. Thank you.

## WHO'S ONLINE

We have 61 guests online

## Durham Added to the Ballot, Lindsay Still Excluded

Posted on February 28, 2012 by the Website Workers Council

On February 28, Secretary of State Debra Bowen added Stephen Durham to the list of generally recognized candidates in the June 5 presidential primary. Now Peta Lindsay is the only candidate still excluded from the Peace and Freedom Party ballot.

Referring to the joint [press conference](#) and rally scheduled for February 29, Peace and Freedom Party State Chair C. T. Weber wrote:

... the Secretary of State added Stephen Durham to the list of generally recognized candidates. He was sent a letter today announcing Debra Bowen's ruling. That will change the focus of the demonstration to putting Peta Lindsay on the ballot. I still think that we need to move forward with the media alert. FSP [Freedom Socialist Party] can claim victory but won't be satisfied until Peta Lindsay is placed on the ballot. I think PSL [Party for Socialism and Liberation] must pursue a writ of mandate or other legal actions as possibly the only way to force Debra Bowen to put Peta Lindsay on the ballot.

Earlier in the afternoon a staff member in the Secretary of State's office gave this explanation in an email to a reporter:

Since the list of generally recognized candidates was released on February 6, Stephen Durham mailed a Statement of Candidacy to the Federal Elections Commission (FEC) postmarked on February 6, which was received by the FEC on February 10. Therefore, his name has been added to the list of generally recognized candidates: [generally-recognized-president-2012.pdf](#).

Last Updated on Tuesday, 28 February 2012 17:37

## Statement for June 5, 2012, Presidential Primary Election Voter Information Guide

Posted on February 17, 2012 by the Website Workers Council

*The following statement was submitted to Secretary of State on February 16 for inclusion in the statewide Voter Guide, mailed to every registered voter before the June 5 election.*

The Peace and Freedom Party is a working-class party in a country run by and for the wealthy and their corporations. We should not have to sacrifice our health, our livelihoods and our planet for our bosses' profits. We can tax the rich, whose wealth is entirely created by workers, to pay for the people's needs. We favor:

- Decent jobs and full labor rights for all.
- Free education for all from preschool through the university.
- Free health care for everyone.
- Good services for disabled people.
- Bringing all troops home now.
- Ending all discrimination.
- Full rights for immigrants.
- Real democracy and fair political representation.
- Restoring and protecting the environment.

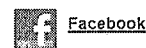
As long as our system puts the wealthy first, we will suffer war, police brutality, low wages, unsafe workplaces and pollution. We advocate socialism, which we see as the ownership and democratic control of the economy by working people. If we join together to take back our industries and natural resources, we can work together democratically and cooperatively for the common good, rather than being slaves to the rich and their corporations.

Vote for those who will fight for what you need, the candidates of the Peace and Freedom Party.

Peace and Freedom Party of California  
P.O. Box 24764, Oakland, CA 94623

## SOCIAL NETWORKS

Visit us on these networking and media sites.



[Facebook](#)



[Twitter](#)



[MySpace](#)



[YouTube](#)



[Photobucket](#)

**Exhibit F**

**Generally Recognized Presidential Candidates  
June 5, 2012, Presidential Primary Election  
(Revised February 28, 2012)**

Barack Obama  
Obama for America  
PO Box 803638  
Chicago, IL 60680  
Phone: (312) 698-3670  
Website: [www.barackobama.com](http://www.barackobama.com) Democratic

Newt Gingrich  
Newt 2012  
PO Box 550769  
Atlanta, GA 30355  
Phone: (678) 973-2306  
Website: [www.newt.org](http://www.newt.org) Republican

Fred Karger  
Fred Karger for President  
2745 Woodstock Rd  
Los Angeles, CA 90046  
Phone: (202) 365-2321  
Website: [www.fredkarger.com](http://www.fredkarger.com) Republican

Ron Paul  
Ron Paul 2012 Presidential Campaign Committee  
8000 Forbes Pl, Ste 200  
Springfield, VA 22151  
Phone: (703) 563-6620  
Website: [www.ronpaul2012.com](http://www.ronpaul2012.com) Republican

Charles E. "Buddy" Roemer, III  
Buddy Roemer for President  
PO Box 84877  
Baton Rouge, LA 70884  
Phone: (603) 782-4812  
Website: [www.buddyroemer.com](http://www.buddyroemer.com) Republican

Mitt Romney  
Mitt Romney for President  
PO Box 149756  
Boston, MA 02114-9756  
Phone: (857) 288-3500  
Website: [www.mittromney.com](http://www.mittromney.com) Republican

Rick Santorum  
Rick Santorum for President  
PO Box 37  
Verona, PA 15147  
Phone: (888) 321-6675  
Website: [www.ricksantorum.com](http://www.ricksantorum.com) Republican

**Generally Recognized Presidential Candidates  
June 5, 2012, Presidential Primary Election  
(Revised February 28, 2012)**

Edward C. Noonan  
1713 11<sup>th</sup> Ave  
Olivehurst, CA 95961  
American Independent

Mad Max Riekse  
PO Box 82  
Fruitport, MI 49415  
American Independent

Laurie Roth  
2903 Maple St  
Longview, WA 98632  
American Independent

Roseanne Barr  
Roseanne for President 2012  
214 Main St #293  
El Segundo, CA 90245  
Phone: (646) 423-8383  
Website: [www.roseanneforpresident.com](http://www.roseanneforpresident.com)  
Green

Kent Mesplay  
Mesplay for President  
5173 Waring Rd #204  
San Diego, CA 92120  
Email: [info@mesplay.org](mailto:info@mesplay.org)  
Website: [www.mesplay.org](http://www.mesplay.org)  
Green

Jill Stein  
Jill Stein for President  
PO Box 260217  
Madison, WI 53726-0217  
Email: [hq@jillstein.org](mailto:hq@jillstein.org)  
Website: [www.jillstein.org](http://www.jillstein.org)  
Green

Roger Gary  
1119 W Ashby Pl  
San Antonio, TX 78201  
Libertarian

R. J. Harris  
3334 W Main St Box 402  
Norman, OK 73072  
Libertarian

Gary Johnson  
280 S 400 W Ste 220  
Salt Lake City, UT 84101  
Libertarian

**Generally Recognized Presidential Candidates  
June 5, 2012, Presidential Primary Election  
(Revised February 28, 2012)**

Scott Keller  
8754 Handel Loop  
Land O Lakes, FL 34637  
Libertarian

James Ogle  
715 9<sup>th</sup> St  
Pacific Grove, CA 93950  
Libertarian

Carl Person  
325 W 45<sup>th</sup> St Ste 201  
New York, NY 10036-3803  
Libertarian

Bill Still  
44564 Blue Ridge Meadows Dr  
Ashburn, VA 20147  
Libertarian

Barbara Joy Waymire  
2710 County Rd 202  
Tulelake, CA 96134-9286  
Libertarian

Lee Wrights  
109 Latigo Dr  
Burnet, TX 78611  
Libertarian

Stewart Alexander  
40485 Murrieta Hot Springs Rd #149  
Murrieta, CA 92563  
Phone: (909) 223-2067  
Email: [stewartalexander4paf@ca.rr.com](mailto:stewartalexander4paf@ca.rr.com)  
Peace and Freedom

Ross C. "Rocky" Anderson  
314 W 300 S Ste 225  
Salt Lake City, UT 84101  
Phone: (801) 990-5300  
Phone: (801) 557-9007  
Email: [rockyanderson.justice@gmail.com](mailto:rockyanderson.justice@gmail.com)  
Peace and Freedom

Stephen Durham\*  
762 Riverside Dr., #3A  
New York, NY 10031  
Phone: (206) 985-4621  
Email: [yotesocialism@gmail.com](mailto:yotesocialism@gmail.com)  
Website: [www.socialism.com](http://www.socialism.com)  
Peace and Freedom

\* Added February 28, 2012; to the list of Generally Recognized Presidential Candidates

**Exhibit G**

# **The Party for Socialism and Liberation is running candidates in the 2012 Presidential Elections**



**Peta Lindsay**  
PSL Candidate for President

**Yari Osorio**  
PSL Candidate for Vice President

The Party for Socialism and Liberation is proud to announce that our party is fielding a slate of candidates for the office of president and vice president of the United States in the 2012 elections.

PSL member and Howard University graduate Peta Lindsay is the PSL's presidential candidate. PSL member Yari Osorio, an immigrant from Colombia now living in New York City, is the vice-presidential candidate. The party also will run candidates in various cities across the country. To learn more about the PSL's participation in the 2012 elections, visit [www.VotePSL.org](http://www.VotePSL.org).

## **Meet Peta Lindsay**

Lindsay, 27, is a founding member of the PSL and a member of the PSL's Central Committee. For over a decade, she has helped lead countless demonstrations across the country against imperialist wars, racism, budget cuts, tuition hikes, police brutality, anti-LGBT bigotry, and in support of immigrant rights, women's rights and the Palestinian people's right to self-determination, and has been a tireless advocate for the rights of working people and for socialism.

## **Meet Yari Osorio**

Osorio, 26, has helped to lead dozens of anti-war and anti-racist demonstrations in New York City and Washington, D.C. As a student at John Jay CUNY, he co-founded Justice in Action, a social justice club on campus, and helped organize for students' rights across CUNY campuses. He helped lead the PSL's campaign to stop the New York Police Department's racist "stop and frisk" policy targeting Black and Latino working-class communities.

**[www.VotePSL.org](http://www.VotePSL.org)**

**Chicago: 773-920-7590 Washington, D.C.: 202-234-2828 New York: 212-694-8762  
Los Angeles: 323-810-3380 San Francisco: 415-821-6171**

**Exhibit H**



SIGN UP FOR E-UPDATES [Email] [ZIP Code] Sign up!

(http://www.pslweb.org/voteps/2012/)

- Home (<http://www.pslweb.org/voteps/2012/>)
- About Us ( )
  - Presidential Campaign
  - Peta Lindsay (<http://www.pslweb.org/voteps/2012/candidates/lindsay.html>)
  - Yari Osorio (<http://www.pslweb.org/voteps/2012/candidates/osorio.html>)
  - Where We Stand
  - Seize the Banks! (<http://www.pslweb.org/voteps/2012/statements/seize-the-banks.html>)
  - Our 10-point Program (<http://www.pslweb.org/voteps/2012/statements/10-point-program-lindsay-osorio-2012.html>)
  - Yes we can—fight for socialism! (<http://www.pslweb.org/voteps/2012/statements/yes-we-can-fight-for-socialism.html>)
  - Why the PSL is running in the presidential elections (<http://www.pslweb.org/voteps/2012/why-we-are-running.html>)
- Volunteer ([http://www2.pslweb.org/site/Survey?SURVEY\\_ID=3360&ACTION\\_REQUIRED=URI\\_ACTION\\_USER\\_REQUESTS](http://www2.pslweb.org/site/Survey?SURVEY_ID=3360&ACTION_REQUIRED=URI_ACTION_USER_REQUESTS))
- Press ([http://www2.pslweb.org/site/Survey?SURVEY\\_ID=1900&ACTION\\_REQUIRED=URI\\_ACTION\\_USER\\_REQUESTS](http://www2.pslweb.org/site/Survey?SURVEY_ID=1900&ACTION_REQUIRED=URI_ACTION_USER_REQUESTS))
- Contact Us (<http://www.pslweb.org/voteps/contact>)
- Donate (<http://www.pslweb.org/voteps/donate>)
- Special Issue of Liberation (<http://www.pslweb.org/voteps/2012/pages/special-issue-of-liberation-elections-2012.html>)

Tweet (<http://twitter.com/share>) (#) (#)

(#)

(<http://www.addthis.com/bookmark.php?v=250&winname=addthis&pub=pslwebeditor&source=tbx-250&lng=en-US&s=myspace&url=http%3A%2F%2Fwww.pslweb.org%2Fvoteps>)

(<http://www.addthis.com/bookmark.php?v=250&winname=addthis&pub=pslwebeditor&source=tbx-250&lng=en-US&s=stumbleupon&url=http%3A%2F%2Fwww.pslweb.org%2Fvoteps>)

(<http://www.addthis.com/bookmark.php?v=250&winname=addthis&pub=pslwebeditor&source=tbx-250&lng=en-US&s=yahookbm&url=http%3A%2F%2Fwww.pslweb.org%2Fvoteps>)

(<http://www.addthis.com/bookmark.php?v=250&winname=addthis&pub=pslwebeditor&source=tbx-250&lng=en-US&s=google&url=http%3A%2F%2Fwww.pslweb.org%2Fvoteps>)

(<http://www.addthis.com/bookmark.php?v=250&winname=addthis&pub=pslwebeditor&source=tbx-250&lng=en-US&s=blogger&url=http%3A%2F%2Fwww.pslweb.org%2Fvoteps>)

(#) (#) (#)

## The Root: Who Is Peta Lindsay?

### Meet Black woman running for president on platform of socialist revolution.

By Cynthia Gordy for TheRoot.com  
February 15, 2012

*All revolutions are impossible until they happen; then they become inevitable.*  
—Albie Sachs, South African activist and judge (1990)

With a knowing chuckle, Peta Lindsay (<http://www.pslweb.org/voteps/2012/candidates/lindsay.html>) recalls this quote when I ask whether our country could feasibly adopt socialism. Then the 27-year-old, who is running for president of the United States on the Party for Socialism and Liberation ticket, explains why she thinks we can.

"With the explosive growth of the Occupy Wall Street movement, people are already struggling against the exploitation of the capitalist system," she told *The Root* from her Los Angeles home. "People are in motion."

For Lindsay, her campaign serves as another front in that movement. Along with her running mate, 26-year-old Colombian native Yari Osorio, and volunteers from PSL branches in 25 states and Washington, D.C., the bubbly African-American activist has been speaking at campuses, handing out flyers at community meetings and planning demonstrations about economic change through the socialist transformation of society.

"We're highly organized, and we're used to doing a whole lot with very little resources," she said of the grassroots operation. "But it's really the strength of our ideas that will get people out for this campaign."

While this is Lindsay's first leap into the electoral arena, it's her party's second presidential attempt. In 2008 it ran Gloria La Riva for president. She pulled 6,818 votes across the nation. Lindsay, who was named the 2012 candidate last November and filed with the Federal Election Commission in February, expects to build on La Riva's numbers — if not actually get elected. For one thing, at 27 she doesn't meet the constitutional age requirement to hold the office, it's a technicality to which she pays little mind.

"I think it's a very undemocratic rule, considering that there are so many people in this country whose lives are affected by the decisions made in our government, yet are not eligible to run for government," said Lindsay, who expects to be on the ballot in at least 12 states, based on her party's 2008 effort. "But I think the people who will take us seriously are people who are going to respond to our message, and not so much to the particularities of me myself."

#### If She Were President

A self-described (<http://www.pslweb.org/party/who-we-are>) "revolutionary Marxist party based on the working class," the Party for Socialism and Liberation was formed in 2004 after its founders split from another socialist organization, the Workers World Party. Its membership has since drawn a diverse mix of ages and backgrounds. "We're actively involved in many working-class issues and struggles, from the anti-war campaign to anti-racist to pro LGBT and women," La Riva told *The Root*. "All our members work day and night organizing actions. That's what makes us stand out."



**Case 2:12-cv-00853-GEB-EFB Document 10-2 Filed 04/18/12 Page 23 of 23**

Lindsay, then 20, was one of the founders. "We believed then, as we believe now, that the U.S. capitalist system, and indeed the world system, was about to enter a period of profound crisis," she said, citing deepening unemployment and poverty as results of a system driven by profits regardless of social cost.

As president, Lindsay's number one priority would be to declare a moratorium on all foreclosures, cancel all student-loan debt and establish a robust job-creation program. "As socialists, we believe that the wealth that is created collectively by society belongs to society," she said. "We want to seize the profits of the biggest banks and corporations and use that money to create jobs, and have housing and health care for everyone."

Other key issues on her platform are ending the \$300 million-a-day war in Afghanistan and establishing full legalization for all immigrants. "I think what's important about the campaign this year is Peta's youth, and that of the vice presidential candidate Yari Osorio," said La Riva, 57. "There are so many young people coming into political activism from the 2008 election after the excitement, and then disappointment, about Obama. And despite Peta's age, she has the rich experience of being involved in many struggles over the past 11 years."

Lindsay agrees that her youth may be an asset to her campaign, given the enthusiastic response she says she has received through online social networks. "I get a lot of Facebook messages, sometimes from people in places like North Dakota and Oklahoma, where we don't have a branch, but they're following the campaign," she said. "Everybody's for housing, health care and education. They just want somebody to say, in very plain language, 'This is how we should do it.'"

**The Evolution of an Activist**

Lindsay came to be that somebody after more than a decade of activism. The Virginia native, whose mother taught African-American studies at Howard University and whose grandfather was a union-organizing coal miner in West Virginia, grew up in a politically conscious family. But it was the Sept. 11 attacks that fully triggered her participation. As a senior at Washington, D.C.'s School Without Walls, then the closest high school to the White House, she found herself at the center of much of the panic that followed.

"I was immediately impacted by how much of the understandable sadness and fear that people were feeling was being used to fuel a war drive," she said. "There was so much racism against Muslim and Arab people that I was seeing in the media, and on the street, and I became so disgusted that I really wanted to do something about it."

She began volunteering with the ANSWER Coalition (<http://www.answercoalition.org/national/index.html>) (Act Now to Stop War and End Racism) and co-chaired the organization's first national anti-war rally in 2001. She continued to organize with the group while studying history and African-American studies at Howard, chairing and speaking at all of its anti-war rallies and representing ANSWER in global anti-war forums in France and Switzerland.

Lindsay's belief in socialism was cemented during a 2002 trip to Cuba with Pastors for Peace, where she marveled at the free education, housing and health care. During a tour of a bioengineering plant, she was struck by the scientists explaining their country's food production — all Afro-Cuban women. "Could you imagine in the United States walking into a building and seeing all black women scientists?" she said. "It's not something that happens here, and it shows how far Cuba has come in educating all of their public."

**Rating the Obama Presidency**

As Lindsay fights for socialism by day — and attends the University of Southern California by night, where she is pursuing a master's degree in teaching — she laughs at the idea espoused by some on the political right that President Obama is a socialist. "Obama presided over the largest transfer of wealth to the banking sector in our country's history," she deadpanned. "That's not something that a socialist would do. Giving the public's money to private capitalists is the *opposite* of socialism."

She's equally dismissive of criticism from some on the left that her candidacy would take votes away from the president and serve only to help the Republican nominee. "Neither candidate is good for working people," she said plainly. "The elections are a forum for the extremely wealthy to maintain their rule of society. It gives the *appearance* of choice, but it doesn't actually give people a choice."

As Lindsay sees it, Obama is beholden to the same corporate and financial interests as any other candidate, pointing out that Goldman Sachs, JPMorgan Chase, Microsoft, Google and Citigroup were among the [top contributors](http://www.opensecrets.org/pres08/contrib.php?cycle=2008&cid=N00009638) to his 2008 campaign. Her campaign is funded through donations from individuals, she says.

"Think about when Obama first won, and thousands of people were in the streets excited about it. Democrats were controlling both houses of Congress. Obama could have done anything," she said. "He could have passed [a universal] health care bill. He could have withdrawn the troops. People would have supported him, but he didn't do it. That's not because the people didn't want that. He didn't do it because he has a responsibility that's not to the people, but in fact to greater profits for the big banks and corporations."

Despite the financial sector's role in politics, Lindsay remains optimistic about a socialist revolution. "The United States has a long, rich history of struggle," she said. "From the 1930s, there was a strong labor movement, and in the '50s and '60s, there was a movement for civil rights. I feel like this is just a next phase of the movement in the U.S."

*Cynthia Gordy is The Root's Washington reporter.*

*This article originally appeared on [TheRoot.com](http://www.theroot.com) (<http://www.theroot.com/views/who-peta-lindsay?page=0.0>), a daily online magazine owned by the Washington Post that provides commentary and news from various Black perspectives.*

**The Lindsay / Osorio Presidential Campaign will be organizing around the country in the coming months to bring the message of socialism into the electoral arena and provide an alternative to the corporate dominated two-party system in 2012. Be a part of this effort by making an urgently needed donation!**

[http://www2.pslweb.org/site/Donation2?idb=\[\[S76:ldb\]\]&df id=1680&1680.donation=root&autologin=true&s\\_src=VotePSL&s\\_subsrc=Lindsay%20%2F%20Osorio?](http://www2.pslweb.org/site/Donation2?idb=[[S76:ldb]]&df id=1680&1680.donation=root&autologin=true&s_src=VotePSL&s_subsrc=Lindsay%20%2F%20Osorio?)

**DONATE**

[http://www2.pslweb.org/site/Donation2?idb=\[\[S76:ldb\]\]&df id=1680&1680.donation=root&autologin=true&s\\_src=VotePSL&s\\_subsrc=Lindsay%20%2F%20Osorio?](http://www2.pslweb.org/site/Donation2?idb=[[S76:ldb]]&df id=1680&1680.donation=root&autologin=true&s_src=VotePSL&s_subsrc=Lindsay%20%2F%20Osorio?)

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nonprofit software (<http://www.convio.com>)

**CERTIFICATE OF SERVICE**

Case Name: Peace and Freedom Party, et al. v. Bowen No. 12-00853-GEB-EFB

I hereby certify that on April 18, 2012, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**SECRETARY OF STATE DEBRA BOWEN'S OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION; DECLARATION OF ALEXANDRA ROBERT GORDON IN SUPPORT OF SECRETARY OF STATE DEBRA BOWEN'S OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 18, 2012, at San Francisco, California.

E. McDonald

Declarant

/s/E. McDonald

Signature