

**APPEAL BY THE NEVADA GREEN PARTY CONTESTING CLARK  
COUNTY'S VERIFICATION OF SIGNATURES IN SUPPORT OF THE GREEN  
PARTY'S BALLOT ACCESS PETITION**

**SUBMITTED TO THE SECRETARY OF STATE OF NEVADA:  
BARBARA K. CEGAVSKE**

**June 29, 2016**

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The Nevada Green Party (“NGP”), by and through its attorneys, hereby submits its appeal pursuant to Nevada Revised Statute (“NRS”) 293.12793 contesting the verification of signatures for its ballot access petition to the Secretary of State.

**I. Introduction**

On June 3, 2016, the Nevada Green Party submitted its complete ballot access petition to the Nevada Secretary of State. The petition for Clark County included 8,111 signatures, 3,693 of which were invalidated by the Clark County staff during the signature verification process. This verification process began on June 16, 2016 and continued through part of June 22, 2016. Several NGP members observed this verification process during which numerous errors were made by Clark County staff, thus causing valid signatures to be invalidated. On June 22, 2016, the Secretary of State notified the NGP that it did not have the required number of verified signatures to declare the ballot access petition sufficient.

The following appeal elaborates on these errors and inconsistencies, and provides grounds for the Secretary of State to order the Clark County clerk to recertify the petition, including as verified signatures all contested signatures which the Secretary of State determines are valid, or otherwise order the county clerk to reverify the signatures, pursuant to NRS 293.12975.

**II. Timeliness**

Pursuant to NRS 293.12793(1)(a), this appeal is timely because it has been submitted within 5 working days after June 22, 2016, when the NGP received notification of the Secretary of State’s determination that the number of valid signatures in support of the ballot access petition as verified by the Secretary of State did not constitute 100

percent of the 5,431 signatures of registered voters required by NRS 293.1715(2)(c) to declare its ballot access petition sufficient.

### **III. Reasons for Appeal**

#### **A. The NGP's Observers' Accounts Of Clark County's Verification Process Reveal an Unfair, Unreliable, and Arbitrary Process of Verifying Signatures**

The NGP's observers witnessed the review of signatures<sup>1</sup> by Clark County staff members, which raised major concerns calling into question the accuracy and reliability of the process used by Clark County staff members to verify signatures.

First, review of the signatures is tainted by human error. In Clark County, the staff verifies signatures by manually typing in the names associated with the signatures into a search function on a computer database of registered voters. If no file associated with the name is returned by the database, that signature is declared "not registered." When the Nevada Green Party asked the Clark County Registrar, Joe Gloria, for more information regarding the verification process, he was not willing to discuss the matter at length. He simply stated that declaring signatures as "not registered" could not be caused by human error because the staff compares the signatures to the County's electronic database. If no file is populated on the computer, then Clark County deems those signatories "not registered." However, the minimal information provided by Mr. Gloria shows that human error is very possible, as the staff is responsible for manually looking up the voters in the county's database themselves. Thus, if they misread the printed name, search for the wrong name, or misspell a name, those voters may not show up on the computer. Furthermore, signatures are usually in cursive writing and/or scribbled, and, as explained in more detail below, signatures often change over time. Therefore, a Clark County

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<sup>1</sup> Pursuant to NRS 293.1277(8).

reviewer being empowered to use his or her subjective judgment to determine whether a signature is a match makes this process highly susceptible to human error.

Second, the NGP's observers noted that at least one staff member rejected a signature on a petition even though the signature matched how the name had been printed on the original voter registration form; the staff member declined to accept that signature on the petition because it did not *exactly* match the signature on the original voter registration form. That type of arbitrary decision to reject a signature on the ground that there was a small discrepancy between the two signatures is unfair and even affects the NGP's constitutional rights as a political party. No one's signature ever looks exactly the same twice, so requiring an exact duplicate is unrealistic. Further, it is common knowledge that many people who sign these petitions do so while "on the go." Whether it is done on a school campus, in front of a grocery store, or simply at a public park, many people signing petitions do so in a hasty manner and thus their signatures on the petition may not always be as neat as their signatures on the original voter registration forms which they may have filled out in the comfort of their own homes. Small discrepancies in a comparison of the same person's signature should not be grounds to reject a signature for such an important petition permitting ballot access to a minor political party.

Third, the NGP's observers witnessed that different staff members employed inconsistent methods to verify the signatures on the petition. To illustrate, one staff member compared petition signatures against only one other signature for that voter, while a different staff member sometimes looked at multiple signature records for a person, such as a voter registration form and a signature on a DMV record. Why are not all Clark County staff members required to check multiple signatures to verify, rather

than allowing each staff member to employ their own verification techniques? Common sense and experience tells us that people may not sign the same way every time, and that people's signatures may change over time. Thus, quick checks against only voter registration records do not seem to take that natural variability into account.

Last, the NGP's observers witnessed at least three signatures being rejected because the Clark County staff member arbitrarily decided that all three signatures were written by the same person, despite being the signatures of different names. This begs the question: how many other similar instances took place when observers were not present? Are these staff members handwriting experts trained to detect that signatures of different people are signed by the same person? If so, what are their qualifications and who were they trained by? No information has been provided by the Secretary of State to answer these questions.

Standing alone, these four disturbing concerns raised by the NGP's observers warrant review of all the signatures that were rejected, as this arbitrary process witnessed by the observers should not and cannot be the barrier to ballot access for the NGP. Still, to add more problematic observations, the NGP's observers stated that there were staff members who were new to the verification process and who, on many occasions, did not accept otherwise valid signatures, which caused those signatures to be sent through the secondary review process, thus cluttering the reviewers' (also known as "researchers") workload. With nearly 3,700 supposedly "problematic" signatures to review and verify after receiving them from the initial reviewers, every extra signature affects efficiency and accuracy. These secondary reviewers or researchers had only six days to go through the nearly 3,700 invalidated signatures, while working out of a single office. The Clark

County Registrar's unreliable, rushed, and faulty process in verifying and determining these signatures as invalid implicates credible constitutional concerns that merit judicial review.

**B. The NGP's Observers Witnessed Multiple Errors During the Verification Process, Causing Valid Signatures to be Rejected**

During the verification process, the NGP's observers noticed a problematic sorting process in Clark County used to separate valid signatures from invalid ones. When a Clark County staff member went through the process of verifying signatures, each page of the petition had a "problem signature" card attached to it. After making a determination about a signature flagged for review by one of these "problem signature" cards, the staff member is supposed to mark the card as "accept," "reject," or "still questionable" before sorting it into one of these three respective piles. The observers witnessed numerous sorting errors occur, usually where an "accept" card was placed in the "reject" pile. On one of the days, a staff member even went as far as to allow an observer to review and correct his sorting after the staff member realized he had made sorting errors. However, it is not the observer's duty to undertake such a task; rather, the Clark County Registrar's office has a legal duty to effectively and accurately verify the signatures.

Furthermore, another critical error being made by the Clark County staff was also observed. Some staff members failed or forgot to circle on the card whether the signature was determined to be an "accept" or "reject" as it was placed in the "accept" pile. One staff member's method of verifying and sorting through signatures was to write a voter's unique ID number only on cards with signatures he deemed accepted, while cards he

rejected had no such number added with his notes. This method was not consistently used by all staff members.

Neither the NGP nor the Secretary of State can fairly and confidently assume that the Clark County staff member responsible for recording the final tally of accepted and rejected signatures always accepted the signatures in the “accept” pile even without the "accept" notation being circled, or where the card did not have a unique ID number. The NGP has no guarantee that other Clark County staff members were not making similar marking and sorting mistakes due to haste or inattentiveness. Finally, neither the NGP nor the Secretary of State can assume that the final reviewing staff member always caught and corrected the sorting mistakes made by other Clark County staff members.

**C. The Clark County Registrar’s Office’s Self-Proclaimed Rush to Finish Signature Verification Did Not Afford the NGP a Reasonable Opportunity to Observe the Verification Process**

Given the inefficiencies and questionable practices of the Clark County Registrar’s Office, it is unsurprising that the signature reviewers had to work overtime to finish the signature verification process in the allotted time, further abrogating the NGP’s right to observe the verification process. By the end of the signature verification process, reviewers began work as early as 6:30 a.m., worked on weekends, and worked on some holidays. Even though the Clark County Registrar’s Office’s staff would notify the NGP the day before reviewers would work on a weekend or begin work at 6:30 a.m., these unusual hours placed an undue burden on the NGP and reduced the effectiveness of any observation during those unusual hours. Additionally, the door to the Clark County Registrar’s Office would be locked on the weekends, and an NGP observer could not

enter the office without first calling a staff member and being let inside. Pursuant to NRS 293.1277(8), a person who submits a petition must be allowed to witness the verification of the signatures. These unreasonable demands and limitations placed on the NGP observers had the effect of denying the NGP a reasonable opportunity to observe the verification process.

**D. The Process of Declaring Voters as “Not Registered” is Inconsistent Between Clark County and Other Counties**

The NGP has evidence suggesting that Clark County may be “purging” or un-registering registered voters if those voters have not voted in two rounds of voting, further showing the unreliability and inconsistency of Clark County’s signature verification process. It is unclear what, if any, steps are taken to contact voters before purging of less active registered voters occurs. In contrast, Washoe County Registrar, Luanne Cutler, indicated that there are a number of steps followed in Washoe County to prevent this problem, and that even if voters are considered "inactive," they may still be eligible to sign petitions because they are still technically registered, even if "inactive." This likely explains the extreme discrepancy between the NGP’s high verification rate in Washoe County (91%) and low verification rate in Clark County (54.5%). Additionally, the NGP is aware of the Elko County Registrar’s office contacting at least one voter in Elko County to confirm the voter’s signature. There is no evidence of Clark County using that same procedure.

The inconsistency of the processes between the two counties and the large discrepancy between the signature verification rate in Washoe County and Clark County shows a direct correlation between the effectiveness of each respective county’s



procedure and the verification rate. More importantly, it creates a strong inference that many voters' signatures were invalidated by Clark County on faulty grounds.

**E. Clark County's Designation of Registered Voters for the Nevada Green Party is Inconsistent with Other Counties**

Clark County previously purged the Green Party's party identification from registered voters' registration information. This makes it difficult for voters to verify they are in the Green Party, which further greatly and negatively impacts the NGP's ability to carry out its business as a political party. Furthermore, this unfair removal of the Green Party label from voters likely has an impact on the total number of registered NGP voters in the State of Nevada in general.

After each regularly scheduled general election, in order to maintain ballot access, the NGP is required to have at least one percent of voters vote for a NGP candidate or have at least one percent of the voters registered with the NGP pursuant to NRS 293.1715. To register with the NGP, voters need to click "other" and fill in "Green Party" on Clark County's voter registration webpage. When Clark County Green Party members check the online form, it states "Non-Partisan." By contrast, if a voter is registered with the NGP in Washoe County, their online form confirms that the voter is registered with the NGP. Thus, Clark County's voter identification purge and ambiguous online database could arbitrarily cause the NGP to lose ballot access even though it maintained 1% voter registration.

The NGP contacted the Secretary of State's Program Officer, Ms. Siemon-Martin, via phone for help in accessing the online database, but she stated that it was not her responsibility to assist the NGP. This situation prejudices the NGP in its ballot access

signature gathering because voters cannot verify they are NGP members and thus are able to sign the petition for ballot access, only to later get their signatures invalidated.

**IV. Statement of the Number of Invalidated Signatures**

The Nevada Green Party submitted its petition with 8,111 signatures, of which 3,693 (45.5%) were declared invalid. Of those 3,693 invalidated signatures:

- 2,202 were declared “Not Registered”
- 347 were declared “Voter Cancelled”
- 181 were declared “Voter Status is Void”
- 247 were declared “Valid duplicate on petition”
- 46 were declared “Signing date before Reg. date”
- 4 were declared “Voter status NR”
- 30 were declared “Signer lives Out of County”
- 116 were declared “Illegible”
- 8 were declared “Address rejected”
- 511 were declared “Signature Rejected”
- 1 was declared “Signed in Pencil”

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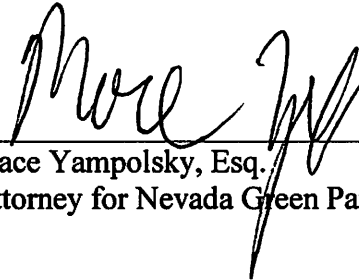
**V. Conclusion**

In conclusion, and pursuant to NRS 293.12795, the Nevada Green Party respectfully requests the Secretary of State to order the Clark County clerk to recertify the petition, including as verified signatures all contested signatures which the Secretary of State determines are valid. Alternatively, the Nevada Green Party requests the Secretary of State to order the Clark County clerk to re-verify the signatures.

DATED: June 29, 2016

Respectfully submitted,

MACE YAMPOLSKY & ASSOCIATES

A handwritten signature in black ink, appearing to read "Mace Yampolsky", written over a horizontal line. The signature is stylized and cursive.

Mace Yampolsky, Esq.  
Attorney for Nevada Green Party