

No. 20-1961

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

Libertarian Party of Illinois, et al.,

Plaintiffs-Appellees,

v.

William Cadigan, et al.,

Defendants-Appellants.

---

On Appeal from the United States District Court  
for the Northern District of Illinois  
Eastern Division  
Case No. 20-cv-2112

---

**PLAINTIFFS-APPELLEES' RESPONSE  
TO DEFENDANTS-APPELLEES'  
SUPPLEMENTAL MEMORANDUM**

On June 6, 2020, without first asking the District Court to stay its preliminary injunction pending appeal under Federal Rule of Civil Procedure 62, and after waiting for more than six weeks after the District Court entered an agreed-to order in the above-styled case, more than three weeks after the District Court had amended that order, and just two weeks before the close of the prior June 22, 2020 deadline for candidates that the District Court's agreed-to order replaced, Defendants-Appellants finally noticed an appeal in this case. *See* Notice of Appeal, R.38.

Defendants-Appellants now seek an emergency order from this Court immediately staying the District Court's order -- the very order Defendants-Appellants had agreed to -- and thus restoring the June 22, 2020 deadline that Defendants-Appellants know Plaintiffs-Appellees and their candidates can no longer satisfy. Defendants-Appellants feigned their prior agreement, deliberately waited, and now through their bait-and-switch seek to achieve a result they could not have won two months ago -- that is, totally preventing minor and independent candidates from even attempting to obtain access to Illinois's November 3, 2020 general election ballot.

This Court on June 17, 2020 directed Appellants to immediately correct a deficiency in their stay application by identifying and "explaining in detail and with precision, including with references to supporting evidence, what irreparable harm they believe will result if this court does not enter a stay." Sixth Circuit Order, Doc. No. 19, June 17, 2020. Defendants-Appellants' supplemental memorandum was due by 5 PM on June 18, 2020. *Id.* "Some averment of specific facts must be made from which the court can see that irreparable injury would be a natural and probable result," the Court explained. *Id.* (quoting *Indiana Mfg. Co. v. Koehne*, 188 U.S. 681, 690 (1903)). *See also Lipke v. Lederer*, 259 U.S. 557, 564 (1922) (Brandeis, J., dissenting) ("equity should not grant relief, because the bill fails to allege any fact showing that the legal remedy would not be adequate or that there is danger of irreparable injury.") (footnote omitted). The Court further directed Plaintiffs-Appellees to respond by 5 PM on June 19, 2020. This Supplemental Memorandum and accompanying Appendix are submitted pursuant to that Order.

### Argument

**I. Defendants-Appellants Were Not and Cannot Be Irreparably Harmed by an Order They Proposed and Agreed to.**

Defendants-Appellants did not and could not provide specific facts in their initial application for a stay demonstrating how they would be irreparably harmed by the stay's denial because none exist. As Defendants-Appellants recognized when they agreed to the order (and when they proudly announced it to the press as a solid compromise to assist Illinois's voters), the agreement benefits all of Illinois's voters and brings certainty to Illinois's elections in the midst of the COVID-19 crisis. Far from causing anyone irreparable harm, the District Court's order, as recognized for several weeks by Defendants-Appellants, is good for all (including Defendants-Appellants).

Defendants-Appellants, after all, never claimed in the District Court that they would be seriously burdened by the order they themselves proposed. Defendants-Appellants never challenged their proposed order as irreparably harming them. Quite to the contrary, Defendants-Appellants agreed that the minor-party and independent candidates were being irreparably harmed and that Illinois's election procedures needed to be modified. If they are now to be believed, Defendants-Appellants only became aware on the eve of the replaced

June 22, 2020 deadline that they were somehow being irreparably harmed. How convenient it is that this belated discovery coincided with the old deadline's passing. Reverting to the old deadline at this late date affords Defendants-Appellants an opportunity to not only bait-and-switch Plaintiffs-Appellees, but to completely exclude minor party and independent candidates – including those for President – from Illinois' 2020 general election ballot.

The proof of all of this is in the record. During the April 17, 2020 hearing, counsel for Defendants-Appellants conceded that Illinois needed to change its ballot access rules because of the COVID-19 crisis: "we certainly, as we showed in our proposal, would agree to some easing of the burden similar to what these other states have done given the current circumstances." Transcript of Telephonic Proceedings Before the Honorable Rebecca R. Pallmeyer, April 17, 2020, R. 22, at 16. The Court then asked counsel for Plaintiffs for a proposal, observing that the parties had agreed some kind of change was required: "I would need to know exactly what your proposal is, what your counterproposal is to the State because I think, first, you know, we're agreed that getting hard copy signatures on the street is not doable at this time." *Id.* at 20.

The Court then inquired whether the parties could "develop a proposal that includes, for example, you know, a prior ballot presence and maybe some other test in circumstances where you don't have a prior ballot presence? If you propose a test like that, I am all ears." *Id.* at 24. Counsel for Plaintiffs agreed this was a possible solution, *id.* ("we would be happy to work with the defendants to come up with a proposal like that to submit to the Court"), and the Court responded "I'm going to suggest that you do that." *Id.*

The parties did just that, and the result was Defendants' proposal being fully adopted verbatim by the Court. *See* Preliminary Injunction Order, R.27. Defendants' thus agreed during the hearing that changes were necessary, negotiated a plan with Plaintiffs-Appellees, disagreed with some of Plaintiffs-Appellees' suggestions, and then separately proposed their own plan to the District Court, one that included (1) an agreement to have Green and Libertarian Party candidates ballot-qualified in 2020 for races (like President) where those Parties had been ballot-qualified in the 2018 or 2016 general elections, (2) an agreement to modify how signatures are collected, (3) an agreement to reduce the

number of signatures to 10% of prior levels, and (4) an agreement to extend the filing deadline to August 7, 2020. *See id.*

Far from being irreparably harmed by any of this, Defendants proposed it! In support of implementing Defendants' proposal, the Chief Judge then specifically found that Illinois's "signature requirements present an obvious obstacle for candidates like Plaintiffs Libertarian Party of Illinois and Illinois Green Party as well as for independent candidates like Intervenor Kyle Kopitke ...." *Libertarian Party of Illinois v. Pritzker*, \_\_ F. Supp.3d \_\_, 2020 WL 1951687, \*2 (N.D. Ill., Apr. 23, 2020). She specifically found that "[d]espite this disruption and rapid spread of a contagious and dangerous respiratory illness, new party and independent candidates like Plaintiffs and Intervenor are, under current law, still required to obtain thousands of wet signatures and to file their completed petitions by June 22, 2020—when the state *could* still be subject to a stay-at-home order." *Id.* (emphasis original). Further, she found that "Illinois today confronts a public health emergency resulting from the spread of the novel coronavirus, COVID-19. *Id.* None of these findings are clearly erroneous. All fully support implementing the Defendants' proposal with the Plaintiffs-Appellees' agreement.

The Chief Judge further found as a factual matter that "[t]he combined effect of the restrictions on public gatherings imposed by Illinois' stay-at-home order and the usual in-person signature requirements in the Illinois Election Code is a nearly insurmountable hurdle for new party and independent candidates attempting to have their names placed on the general election ballot." *Id.* at \*4. The Court then added, following Defendants submission of their proposed order:

The court recognizes that the state will be burdened by extending the signature-gathering deadline, but finds this hardship outweighed by the significant difficulties that would be experienced by campaigns trying to implement a new signature-gathering process while complying with even the modified statutory requirements in such a short amount of time. In particular, the court notes that even after some restrictions are lifted, until a vaccine is available, voters are likely to continue practicing social distancing and avoiding any physical hand contact with other persons or objects.

*Id.*

The Chief Judge concluded: "the parties' agreed order balances the State's legitimate interests in 'preventing voter confusion, blocking frivolous candidates from the ballot, and otherwise protecting the integrity of' the upcoming election, while accommodating the significant restrictions on new party and independent candidates' ability to collect



signatures in light of the unprecedented limitations on public gatherings required to reduce the spread of COVID-19." *Id.* at \*5 (citation omitted and emphasis added). The Court's order makes clear that Defendants-Appellants never claimed that there would be irreparable harm caused by the changes, and makes clear that in fact there was not even any undue burden being caused Defendants-Appellants, let alone irreparable injury.

## **II. UOCAVA's Deadline Was Known to Defendants When They Proposed their Solution to the District Court and Otherwise Does Not Cause Them Irreparable Harm.**

Defendants-Appellants now claim their belated irreparable harm is tied to UOCAVA, which requires that federal overseas ballots be made available to overseas voters 45 days before an election. Of course, Defendants-Appellants were well aware of UOCAVA when they proposed the solution that the Court eventually adopted. Putting this to one side, the irreparable harm Defendants-Appellants now surmise -- far from satisfying this Court's direction to explain "in detail and with precision, including with references to supporting evidence" the irreparable harm they will experience -- is mere conjecture built on implausible possibilities. The fact of the matter is that most States comply with

UOCAVA under later filing deadlines for independent and minor-party candidates. Ohio, for example, does not require independent presidential candidates to qualify until August 5, 2020. *See* Ohio Rev. Code § 3513.257. Ohio, like Illinois, allows administrative challenges to the thousands of signatures required, and judicial review follows. Yet Ohio has never complained that this August deadline risks its violating UOCAVA.

According to Richard Winger, an expert on ballot access laws across the United States, at least 32 States have deadlines for presidential submission in August, and another 5 States have deadlines in September of the general election year for independent and minor-party candidates. *See* Declaration of Richard Winger (Attachment 1). *See also* BallotPedia, Independent Candidates (listing deadlines for independent and minor party presidential candidates required to petition and supply signatures).<sup>1</sup> Most, if not all, of these States have provisions allowing review, yet all of them routinely comply with UOCAVA. Defendants-Appellants have submitted no evidence to the contrary. Why Illinois

---

<sup>1</sup> [https://ballotpedia.org/Deadline\\_to\\_run\\_for\\_president](https://ballotpedia.org/Deadline_to_run_for_president).

would even in the remotest of possibilities suddenly be unable to comply and risk DOJ enforcement is for anyone to guess.

Perhaps for this reason, even Defendants-Appellants cannot bring themselves to suggest that the revised July 20, 2020 deadline in some way contradicts UOCAVA or makes it unreasonably difficult for them to comply. The best they can do is claim that the new July 20, 2020 deadline might cause them to miss the UOCAVA and this in turn might risk an enforcement action brought by the Department of Justice: "The Board seeks a stay of the District Court's Order because it strongly believes that the procedures the District Court established governing the upcoming election significantly increase the risk of another adverse action by the Justice Department." Defendants-Appellants' Supplemental Memorandum, Doc. No. 20, at Page 41.

In order to stack these "mights" and "maybes" into a plausible risk -- one that no other State apparently encounters notwithstanding later deadlines -- Defendants-Appellants work backward from the actual date UOCAVA ballots must be sent, which is 45 days (September 18, 2020) before the general election, *see, e.g.*, Chicago Board of Election Commissioners: Military Overseas Voters ("Starting Sept. 18, 2020, the

Chicago Election Board will provide military/overseas voters with emailed and mailed ballots and, on this web page, a link to an online ballot access and marking system."),<sup>2</sup> add several "mights" and "maybes," create a worst case scenario of a potential "five week" administrative delay (without evidence), build in delayed judicial review (without evidence), and then hope it all supports some kind of illusion of risk and panic. Notably, Defendants-Appellants include absolutely no evidence in the form of affidavits or testimony from elections officials supporting any of this; the Court is simply expected to take it on faith.

Of course, all of this is contradicted by the 37 States that have later deadlines. But on top of that, the only support Defendants-Appellants can offer is two enforcement actions that were filed against Illinois over the course of the last ten years and twenty federal election cycles. Defendants fail to fully explain, however, the cause behind the delays that necessitated these enforcement actions in the first place, let alone how they prove a July 20, 2020 deadline is subject to the same sort of risk. In fact, it appears that neither enforcement action was caused by

---

<sup>2</sup> <https://chicagoelections.gov/en/military-overseas-voters.html>.

any belated judicially-imposed deadlines or inclusions of candidates, but were delays that resulted under Illinois's established deadlines and procedures. The UOCAVA deadlines in those two instances were missed by Illinois elections officials not because of judicially altered deadlines, but because Illinois's officials simply missed the established deadlines in one primary and one general election. What these two enforcement actions prove, at most, is that Illinois has on rare occasions missed its own deadlines (for whatever reasons) under their own procedures. They say nothing about whether Illinois can reasonably comply with a July 20, 2020 deadline.

If that were not enough, when litigation does actually cause delay that results in a State's missing a UOCAVA deadline -- which is not true here -- UOCAVA is simply not violated. UOCAVA (and MOVE, which amended its predecessor) provide an express exemption for delay caused by a "legal contest." *See* 42 U.S.C. § 1973ff-1 (g)(2)(8). It is perhaps for that reason that Defendants-Appellants cannot point to single instance where Illinois (or any other State) was sued by the Department of Justice under UOCAVA/MOVE for missing deadlines imposed by Court orders.

### **III. Defendants Offer No Evidence that Ballots Will Be Cluttered and Voters Confused.**

Defendants-Appellants assert that Chief Judge Pallmeyer's order "may" cause an increase in the number of candidates and this "may cause widespread ballot confusion." Supplemental Memorandum, *supra*, at page 40. Again, however, they point to no evidence. In fact, their claim is not even remotely possible. In terms of candidates automatically placed on the ballot, these few races (like President) simply mirror the races and numbers of candidates included on ballots in the last two elections. There was never any problem in those elections with clutter and confusion. With the other races, the candidates still must gather signatures under very trying conditions. It is doubtful that even a few will succeed.

### **IV. Defendants Have a Clear Deadline.**

Defendants claim that the lack of a stay irreparably harms them by causing uncertainty: "the Board will not know until this Court rules on the appeal if the state statute or the District Court's order sets the filing deadline." Supplemental Memorandum, *supra*, at 41. This confusion, however, is belied by their own web page, which has reported for some time and continues to state to the public that independent and minor

party candidates have until July 20, 2020 to file their nominating papers. *See* Illinois State Board of Elections: Calendar of Events.<sup>3</sup> The only people who risk confusion are Illinois voters who wake up to find that the Illinois State Board of Elections misled them.

Further, if Defendants-Appellants are correct, Courts of Appeals will always be required to grant stays in election cases as soon as appeals are noticed to avoid this putative irreparable harm. Stays will be automatic, there will be no need for good cause, and no reason to even have to ask either the District Court or the Court of Appeals. The claim is specious and cannot be squared with the Federal Rules of Civil and Appellate Procedure.

Federal Rule of Civil Procedure 62(a) provides that a preliminary injunction that is not stayed remains the clear law of the case. Federal Rule of Appellate Procedure 8 dovetails with this and requires not only that stays pending appeal be first submitted to the District Court, but that good cause be established. This standard, as this Court stated,

---

<sup>3</sup>

<https://www.elections.il.gov/Main/CalendarEventsAll.aspx?T=637281572342970110>

requires that specific evidence of irreparable harm be proven. Nothing is automatic just because an applicant feels confused.

Defendants-Appellants are only confused because they want to be confused. Defendants have a clear deadline; it is the July 20, 2020 deadline fixed in the District Court's order. Defendants did not seek to change that deadline in the District Court or even seek a stay in the District Court. They have presented absolutely no evidence of harm of any kind. They can hardly complain now that they are confused by it all and try to parlay their feigned confusion into some kind of irreparable harm.

**V. Defendants-Appellants' New Evidence Does Not Demonstrate that Collecting Signatures In-Person is Possible Let Alone Support Any Claim of Irreparable Harm.**

Defendants-Appellants' initially claimed in their application for a stay filed with this Court not that they were irreparably harmed by the order they agreed to, but that it was much easier for candidates to qualify by collecting signatures than the District Court found. They then repeated this charge in their recently filed Brief, *see* Doc. No. 13, at page 64, asserting that “twelve different candidates filed nominating petitions



with the Board” between May 29 and June 1 and supplied sufficient numbers of signatures in doing so.

Putting to one side that these were major-party candidates with significantly smaller signature requirements (acting under Illinois's “caucusing in” provision which allows major-party candidates to petition to fill ballot lines in general elections where major-party candidates failed to file in the primaries), Defendants-Appellants have failed to submit any evidence attesting to the numbers of signatures any of these candidates actually submitted. The unsupported claim thus proves nothing at all.

Under Illinois law, challenges are required in order to test the veracity of signatures supplied and the numbers of signatures actually provided. If no challenge is filed, even a lone signature will prove sufficient to qualify a candidate for the ballot. Candidates’ nomination petitions are “presumed” to have the requisite number of signatures unless such an objection is filed. *See* 10 ILCS 5/10-10. With the twelve candidates Defendants-Appellants now trumpet as proof of the ease of collecting signatures during COVID-19, no one can know based on what

Defendants-Appellants have submitted whether any of these twelve candidates submitted more than one signature each.

Of the 12 candidates listed, a perusal of the link Defendants-Appellants did supply shows that only two of the candidates face challenges, and those two challenges are still pending. There is no way of accessing the actual filings using the web page cited by Defendants-Appellants to determine how many ostensible (let alone actual) petition sheets and signatures were actually filed by any of these twelve candidates. As the applicant for a stay, it is Defendants-Appellants' burden to produce this evidence; they have not done so (potentially because it does not support their claim). Far from supporting any claim that they are experiencing irreparable harm, the fact that twelve major-party candidates have attempted to make use of Illinois's "caucusing in" provision and hope they are not challenged does not demonstrate that collecting in-person signatures was or is possible during COVID-19. All it proves is that twelve candidates submitted papers including at least one signature, and only two have been challenged.

**VI. Changing the Agreed-to Order Would Upset Settled Expectations and Violate Due Process.**

Allowing Defendants-Appellants to renege on their agreed-to order at this late date would so upset the settled expectations of the Green and Libertarian Parties and their candidates that it would itself threaten a violation of Fourteenth Amendment Due Process. The Green Party, the Libertarian Party, and their candidates have all relied upon what was until very recently the unchallenged and agreed-to order entered by Chief Judge Pallmeyer. Those candidates who were automatically placed on the general election ballot because of the two Parties' past presence in those races, including President, have not collected signatures in reliance on that agreed-to order. As explained by William Redpath, Chair of the Libertarian Party's Ballot Access Committee:

If that Order had not been issued, the Libertarian Party would have pursued, as vigorously as possible under the circumstances, a signature petition drive to place its presidential ticket and US Senate candidate on the ballot in Illinois this year. We have not done so, because we have not had to do so, due to the relief the district court granted us. Now, it is only three days from the original petition deadline of Monday, June 22, and if the order is vacated, the Libertarian Party presidential ticket and US Senate candidate will have no chance to be on the ballot in Illinois this year. The Libertarian Party's presidential ticket has been on the ballot in Illinois for every presidential election, starting in 1976.

Declaration of William Redpath, at 1 (Attachment 5). *See also* Declaration of David F. Black (Attachment 3); Declaration of Joshua

Hellman (Attachment 11); Declaration of Declaration of Steve Dasbach (Attachment 7).

Those candidates who must still gather signatures, in turn, have done so in the fashion required by the order, and in compliance with the order's revised July 20, 2020 deadline. *See* Declaration of Randy Auxier (Attachment 2); Declaration of Marcus Throneburg (Attachment 4); Declaration of William Redpath (Attachment 5); Declaration of Larry Redmond (Attachment 8); Declaration of Anna Schiefelbein (Attachment 9); Declaration of Alia Sarfrz (Attachment 10). Had they known that the deadline was going to be changed back to June 22, 2020 by Defendants-Appellants, they would have obviously redoubled and re-tripled their efforts to expedite collection and attempt to meet that deadline. They did not because they relied on the agreed-to order's July 20, 2020 deadline. Indeed, at this late date it would be impossible to comply with the deadline the Defendants-Appellants now belatedly demand. Defendants-Appellants thus want nothing less than to prohibit minor party and independent candidates from appearing on the ballot, by agreeing to grant them relief from Illinois' petitioning requirements due to the

COVID-19 pandemic, and then to rescind that agreement on the eve of the statutory filing deadline.

Were the order to be changed at this late date as Defendants-Appellants request, all of these candidates would be forever removed from the ballot. Federal courts have observed that late electoral changes that upset settled expectations of voters and candidates can themselves violate the Constitution, even though had they been timely announced they would not. In *Griffin v. Burns*, 570 F.2d 1065, 1076 (1st Cir. 1978), for example, candidates and voters in a local Rhode Island primary relied on a state statute authorizing the use of absentee and shut-in ballots in all local “elections.” The Secretary of State, reading the statute to include primary elections, had issued absentee ballots to primary voters, but the Rhode Island Supreme Court subsequently ruled that this was an incorrect interpretation of Rhode Island's law. Suit was then filed in federal court challenging the application of the Rhode Island Supreme Court's belated decision to the election at hand.

The federal District Court granted preliminarily relief prohibiting this late change, even though it was judicially imposed. The First Circuit affirmed:

[Plaintiffs] do not contend that Rhode Island was constitutionally required to provide for absentee or shut-in voting in party primaries.... Nor do they challenge the authority of the Rhode Island ... to preclude such voting. Their claim is simply that Rhode Island could not, constitutionally, invalidate the absentee and shut-in ballots that state officials had offered to the voters in this primary, where the effect of the state's action had been to induce the voters to vote by this means rather than in person. The state's action is said to amount—in result, if not in design—to a fraud upon the absent voters, effectively stripping them of their vote in the primary.

*Id.* at 1074 (citation omitted).

Likewise here. Defendants-Appellants induced the Green and Libertarian Parties and their candidates, as well as the independent candidates in this action, to rely on the agreed-to order. Defendants-Appellants bided their time for weeks on end while candidates followed the order. They now seek to belatedly "strip" them of their First Amendment rights. As in *Griffin*, this sort of "fraud upon the ... voters" and candidates cannot be tolerated.

Similar results were reached in *Nader 2000 Primary Committee, Inc. v. Hechler*, 112 F. Supp.2d 575, 577 (S.D.W.V. 2000), and *Libertarian Party of Ohio v. Husted*, 2014 WL 11515569 (S.D. Ohio 2014). In the

former, the *Hechler* Court preliminarily enjoined a West Virginia change in "the midst of the 2000 general election cycle." West Virginia increased the number of signatures required by independent candidates to qualify for the presidential ballot on July 11, 1999, fifteen months before the election. Because one candidate, however, had already qualified under the old, lower number, the court enjoined application of the larger requirement to other candidates. Forcing a second candidate (Nader) to qualify under a new, larger number late in the election, it reasoned, would be unfair.

In *Husted*, 2014 WL 11515569, at \*7, the Court ruled that late ballot access changes put in place by the Ohio General Assembly could not constitutionally and fairly be applied to those who had relied upon and acted upon the prior procedures:

the issue is not whether Plaintiffs have a specific constitutional right to appear on the primary ballot. Rather, it is whether due process fairness requires them to be placed on the 2014 primary ballot in these circumstances. The circumstances here include the Secretary's directives which indicated Plaintiffs could qualify for the primary ballot, Plaintiffs' expenditure of significant time and resources to qualify, and Plaintiffs' legitimate expectation that, having complied with the process that was (and remains) in place, they would have the opportunity to reap the political benefits of participating in the primary. The Ohio Legislature moved the proverbial goalpost in the midst of the game. Stripping Plaintiffs of

the opportunity to participate in the 2014 primary in these circumstances would be patently unfair.

"Mov[ing] the proverbial goalpost in the midst of the game" is simply not fair and cannot constitutionally be allowed when ballot access is at issue. As the District Court observed in *Husted*, the question is not whether the new rules would independently violate the First Amendment, the problem is their belated application. When parties have relied upon the old rules, as was true there and is clearly true here, the goalpost cannot be fairly moved to a more difficult location. And it certainly cannot be completely removed as Defendants-Appellants propose here.

The Seventh Circuit likewise has recognized the constitutional difficulty with late electoral changes. In *Briscoe v. Kusper*, 435 F.2d 1046 (7th Cir. 1970), nominating papers for city alderman elections were invalidated by the Chicago Board of Election Commissioners the day before a scheduled election. The commissioners applied a new, belatedly recognized, rule that prohibited duplicate signatures and middle initials. The Seventh Circuit ruled that the candidates had been unconstitutionally denied the right to fairly participate in the elections (within the meaning of the First Amendment) by the late change. *Id.* at 1058.



The same is necessarily true here; Defendants-Appellants' proposed change at this late date simply cannot be fairly applied to candidates who relied upon the prior agreed-to order to their detriment. Defendants-Appellants should not be allowed to pull their bait-and-switch. The only irreparable harm caused would be that experienced by the candidates.

### Conclusion

Not only have Defendants-Appellants failed to cite one iota of specific evidence demonstrating irreparable harm being caused them or the citizens of Illinois by the injunction and order they agreed to, they cannot deny the fact that vacating the stay will decimate the Green and Libertarian Parties in Illinois. Should the agreed-to deadline be changed at this late date, neither the Green nor Libertarian Parties in Illinois will be represented in the presidential election. Their down-ticket candidates will also be lost. Illinois voters will lose choices they have enjoyed for decades, all because of Defendants-Appellants' belated bait-and-switch tactics. Defendants-Appellants' belated motion to stay and expedite the appeal should accordingly be **DENIED**.

Respectfully submitted,

*/s/ Oliver B. Hall*

Oliver B. Hall  
CENTER FOR COMPETITIVE DEMOCRACY  
P.O. Box 21090  
Washington, D.C. 20009  
(202) 248-9294  
[oliverhall@competitivedemocracy.org](mailto:oliverhall@competitivedemocracy.org)

Mark R. Brown  
303 East Broad Street  
Columbus, OH 43215  
(614) 236-6590  
(614) 236-6956 (fax)  
[mbrown@law.capital.edu](mailto:mbrown@law.capital.edu)

*Counsel of Record*

*Attorneys for Plaintiffs-Appellees*

### **CERTIFICATE OF TYPE-SIZE AND WORD COUNT**

Plaintiffs-Appellees certify that they have prepared this document in 14-point Century font and that excluding the Caption, Signature Blocks and Certificates, the document includes 4672 words.

*s/ Oliver B. Hall*

### **CERTIFICATE OF SERVICE**

I certify that this Response was filed using the Court's electronic filing system and thereby will be served on all parties to this proceeding.

*s/ Oliver B. Hall*

No. 20-1961

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

**Libertarian Party of Illinois, et al.,**

Plaintiffs-Appellees,

**v. William Cadigan, et al.,**

Defendants-Appellants.

---

On Appeal from the United States District Court  
for the Northern District of Illinois  
Eastern Division  
Case No. 20-cv-2112

---

**PLAINTIFFS-APPELLEES' APPENDIX  
SUPPORTING SUPPLEMENTAL MEMORANDUM  
RESPONDING TO DEFENDANTS-APPELLANTS'  
SUPPLEMENTAL MEMORANDUM**

Oliver B. Hall  
CENTER FOR COMPETITIVE DEMOCRACY  
P.O. Box 21090  
Washington, D.C. 20009  
(202) 248-9294  
[oliverhall@competitivedemocracy.org](mailto:oliverhall@competitivedemocracy.org)  
*Counsel of Record*

Mark R. Brown  
303 East Broad Street  
Columbus, OH 43215  
(614) 236-6590  
(614) 236-6956 (fax)  
[mbrown@law.capital.edu](mailto:mbrown@law.capital.edu)

*Attorneys for Plaintiffs-Appellees*

**Table of Contents**

Declaration of Richard Winger	Attachment 1
Declaration of Randy Auxier	Attachment 2
Declaration of David F. Black	Attachment 3
Declaration of Marcus Throneburg	Attachment 4
Declaration of William Redpath	Attachment 5
Declaration of Steve Dasbach	Attachment 7
Declaration of Larry Redmond	Attachment 8
Declaration of Anna Schiefelbein	Attachment 9
Declaration of Alia Safraz	Attachment 10
Declaration of Joshua Hellman	Attachment 11
Declaration of Howie Hawkins	Attachment 12
Declaration of Christopher Kruger	Attachment 13

# Attachment 1

No. 20-1961

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

**Libertarian Party of Illinois, et al.,**

Plaintiffs-Appellees,

**v. William Cadigan, et al.,**

Defendants-Appellants.

---

On Appeal from the United States District Court  
for the Northern District of Illinois  
Eastern Division  
Case No. 20-cv-2112

---

**Declaration of Richard Winger  
(pursuant to 28 U.S.C. § 1746)**

I, Richard Winger, do hereby declare under penalty of perjury that the following is true and correct:

1. My name is Richard Winger, I have reached the age of majority, I am the editor of Ballot Access News, a 25-year-old print publication that surveys which parties and candidates are on the ballots of the fifty states, my curriculum vitae is attached, I have personal knowledge of the foregoing matters to which I attest.
2. My Curriculum Vitae is attached.

3. I have testified on ballot access requirements as an expert in numerous State and Federal Courts.
4. I prepared the attached Chart which reflects deadlines for independent and minor-party candidates who are required to submit petitions with supporting signatures and the Chart is current as of June 16, 2020.
5. The Chart reveals that 32 States have deadlines in August of the general election year and 5 have deadlines as late as September in the general election year.

I swear under penalty of perjury that to the best of my knowledge the following statements are true.

FURTHER DECLARANT SAYS NOT.

A handwritten signature in black ink that reads "Richard Winger". The signature is written in a cursive style and is positioned above a horizontal line.

Richard Winger

## 2020 PETITION DEADLINES, PRESIDENT

State	Deadline	Election Code Citation	Formula for Determining Date
Ky	September 4	118.365	Friday after 1 <sup>st</sup> Tues. in Sept.
Miss	September 4	23-15-785(2)	60 days before general election
Az	September 4	16-341.G	60 days before general election
RI	September 4	17-14-11	60 days before general election
Fla	September 1	103.021(4)	date named in law
ND	August 31	16.1-12-04	64 days before general election
Id	August 30	34-708(A)	date named in law
Del	August 25	Title 15, §3001	21 days before primary election
Ore	August 25	249.722(1)	70 days before general election
Wy	August 25	22-5-307	70 days before general election
Va	August 21	24.2-543	74 days before general election
La	August 21	Title 18, sec. 1255	Friday after 3 <sup>rd</sup> Tuesday in August
Ala	August 20	17-14-31, amended 2020	75 days before general election
Tn	August 18	2-5-101	3 <sup>rd</sup> Tues. in 3 <sup>rd</sup> month before gen elec
Mn	August 18	204B.09	77 days before general election
Ut	August 17	20A-9-503(3)(b)(i)	date named in law
Ga	August 14	Executive order of March 20	date named in order
Iowa	August 14	44.4	81 days before general election
Mt	August 12	13-10-504	83 days before general election
Ca	August 7	Election code 8403(a)(1)	88 days before general election
Alas	August 5	15.30.026	90 days before general election
Colo	August 5	1-4-303(1)	90 days before general election
Ct	August 5	Chap. 153, sec. 9-453i	90 days before general election
Hi	August 5	Title 2, sec. 11-113(c)(2)	90 days before general election
NH	August 5	655:43, 655:41	34 days before primary election
Ohio	August 5	3513.257	90 days before general election
DC	August 5	1-1312(j)	90 days before general election
SD	August 4	12-7-7	First Tuesday in August
Wis	August 5	8.20(8)	First Tuesday in August
Ark	August 3	7-8-302	date named in law
Ks	August 3	25-305	day before primary day
Me	August 3	Title 21A, sec. 354.8	date named in law
Neb	August 3	32-620	date named in law
Pa	August 3	<i>Libt Pty v Davis</i> (1984)	date named in consent decree
Vt	August 3	Title 17, sec. 2402	date named in law
WV	August 3	3-5-24	date named in law
Md	August 3	Art. 33, sec. 5-703(f)	first Monday in August
Mass	July 28	Ch. 53: sec. 7,10	14 weeks before general election
Mo	July 27	115.329	15 <sup>th</sup> Monday before general election
NJ	July 27	19:13-9	99 days before general election
Wa	July 25	29A.56.610	fourth Saturday in July
Ill.	July 20	<i>Libt Party</i> ruling	date set by U.S. District Court
Mich	July 16	168.685	110 days before general election
S C	July 15	7-13-351	date named in law
Ok	July 15	10-101.1	date named in law
Nev	July 10	298.109	25 work days bef 2 <sup>nd</sup> Friday in Aug.

Chart prepared June 16, 2020. Deadlines shown are for completion of petitions. When the state has a different deadline for independent candidates and new parties, the later deadline is shown.



## 2020 PETITION DEADLINES, PRESIDENT

State	Deadline	Election Code Citation	Formula for Determining Date
Ind	June 30	3-8-6-10(b)	date named in law
N M	June 25	1-8-52.B	23 days after primary election
Tex	May 25	181.005(e), 181.061	75 days after primary election
N C	May 18	163A-950	15 days before June 1

Chart prepared June 16, 2020. Deadlines shown are for completion of petitions. When the state has a different deadline for independent candidates and new parties, the later deadline is shown.

Richard Winger Curriculae Vitae  
3201 Baker Street  
San Francisco, California 94123  
Updated Sep. 15, 2013

## EDUCATION

BA, Political Science, University of California, Berkeley, 1966  
Graduate study, Political Science, UCLA, 1966-67

## EMPLOYMENT

*Ballot Access News*, Editor 1985-Present

Editor of newsletter covering legal, legislative and political developments of interest to minor parties and independent candidates. Researcher of ballot access laws of all 50 states from years 1888-present; well versed in how ballot access laws of each state work historically and how they compare to each other. Responsible for reading all statutes, regulations, legal opinions, and state attorney general opinions on rights of political parties and the publications of minor parties.

On the Editorial Board of *Election Law Journal*, published by Mary Ann Liebert, Inc., Larchmont, N.Y., since 2001.

## PUBLICATIONS

Wrote a chapter or two in each of these books:

*America Votes! A Guide to Modern Election Law and Voting Rights*, 2<sup>nd</sup> edition, 2012, published by the American Bar Association's Section of State and Local Government Law, editor Benjamin E. Griffith.

*Others, Vol. 2, Third Parties During The Populist Period*, by Darcy G. Richardson (2007: iUniverse, Inc., New York). Wrote the book's Appendix, "Early Ballot Access Laws for New and Minor Parties."

*Democracy's Moment*

edited by Ronald Hayduk and Kevin Mattson (2002: Rowman & Littlefield, Lanham, Md.)

*The Encyclopedia of Third Parties in America*

edited by Immanuel Ness and James Ciment (2000: M.E. Sharpe, Inc., Armonk, N.Y.)

*Multiparty Politics in America*

edited by Paul S. Herrnson (1997: Rowman & Littlefield, Lanham, Md.)

*The New Populist Reader*

edited by Karl Trautman (1997: Praeger, Westport, Ct.)

Additional articles published in these periodicals:

*University of Arkansas Little Rock Law Review*

*Wall Street Journal*

*American Review of Politics*

*The Long Term View*  
*University of Mass. Law Review*  
*California Journal*  
*Election Law Journal* (two articles)  
*Cleveland State Law Review*  
*Chronicles Magazine*  
*Price Costco Connection*  
*Fordham Urban Law Journal*

Also, I have written "Election Law Decisions" in each issue of the newsletter of the American Political Science Association's Section on Representation and Electoral Systems, which appears twice a year, starting with the 2005 issues.

#### NATIONAL INTERVIEWS on Minor Parties, Independents, Ballots and Ballot Access

<i>NBC</i>	<i>National Public Radio</i>
<i>ABC</i>	<i>Pacifica Radio</i>
<i>CNN</i>	<i>MSNBC</i>

#### CASES: TESTIMONY or AFFIDAVITS (political party or candidate prevailing, or case pending)

**Alaska:** Libertarian Party v Coghill, state superior court, 3rd dist., 3AN-92-08181, 1992

Court issued injunction enjoining enforcement of petition deadline for minor parties

**Arizona** (3 cases): Campbell v Hull, 73 F Supp 2d 1081 (1999); Az. Libt. Party v Hull, superior ct., Maricopa Co. 96-13996, 1996. Nader v Brewer, 531 F 3d 1028 (9<sup>th</sup> cir., 2008)

**Arkansas** (3 cases): Citizens to Establish a Reform Party v Priest, 970 F Supp 690 (E.D. Ark. 1996); Green Party of Ark. v Priest, 159 F.Supp.2d (E.D. Ark. 2001); Green Party of Ark. v Daniels, U.S. District Court, 448 F.Supp 2d 1056 (E.D.Ark. 2006).

**California:** California Democratic Party v Jones, 530 US 567 (2000); California Justice Committee v Bowen, 2012 WL 5057625 (C.D.Cal.).

**Colorado:** Ptak v Meyer, 94-N-2250, U.S. Dist. Ct., 1994. Court ordered Secretary of State to place Libertarian legislative candidate on ballot.

**Florida** (2 cases): Libt. Party of Fla. v Mortham, 4:96cv258-RH, U.S. Dist. Ct., N.D., 1996. Court ordered Secretary of State to place Libertarian vice-presidential candidate on ballot. Reform Party v Black, 885 So.2d 303 (Fla. 2004).

**Georgia:** Bergland v Harris, 767 F 2d 1551 (11th cir., 1985). U.S. Court of Appeals remanded case back to U.S. District Court. Before U.S. District Court acted, legislature substantially eased law, so case became moot.

**Hawaii:** Libt. Party of Hi. v Waihee, cv 86-439, U.S. Dist. Ct., 1986. Court ordered Lieutenant Governor to extend petition deadline for new parties.

**Illinois:** (3 cases): Nader v Ill. State Bd. of Elections, 00-cv-4401, U.S. Dist. Ct., N.D., 2000. Court ordered State Board of Elections to place candidate on ballot. Lee v Ill. State Bd. of Elections, 463 F.3d 763 (7<sup>th</sup> cir. 2006). Jones v McGuffage, 921 F Supp 2d 888 (N.D.. Il, 2013).

**Iowa:** Oviatt v Baxter, 4:92-10513, U.S. Dist. Ct., 1992. Court ordered Secretary of State to put Grassroots Party candidate for Congress on ballot.

**Kansas:** Merritt v Graves, 87-4264-R, U.S. Dist. Ct., 1988. State did not defend three election laws and signed consent decree on independent petition deadline, requirement that independent petitions not be circulated outside of circulator's home precinct, and requirement that voters could only register in qualified parties. This case should

not be confused with another by the same name decided in December, 1988.

**Kentucky:** Libt. Pty. of Ky. v Ehrler, 776 F Supp 1200 (E.D. 1991)

**Maryland** (2 cases): Dixon v Md. State Adm. Bd. of Elec. Laws, 878 F 2d 776 (1989, 4th cir.); Green Party v Bd. of Elections, 832 A 2d 214 (Md. 2003).

**Montana:** Kelly v Johnson, U.S. Dist. Ct. 08-25 (2012).

**Nevada** (2 cases): Libt Pty. of Nev. v Swackhamer, 638 F Supp 565 (1986); Fulani v Lau, cv-N-92-535, U.S. Dist. Ct., 1992. Court ordered Secretary of State to put various minor parties on ballot.

**New Jersey** (2 cases): Council of Alternative Political Parties v Hooks, 999 F Supp 607 (1998); Council of Alternative Political Parties v State Div. of Elections, 781 A 2d 1041 (N.J.Super. A.D. 2001).

**New York** (3 cases): Molinari v Powers, 82 F Supp 57 (E.D.N.Y. 2000); Schulz w Williams, 44 F 3d 48 (2nd cir., 1994); Green Party of N.Y. v N.Y. State Bd. of Elections, 389 F.3d 411 (2<sup>nd</sup> cir., 2004).

**North Carolina:** Obie v N.C. Bd. of Elections, 762 F Supp 119 (E.D. 1991); DeLaney v Bartlett, 370 F.Supp.2d 373 (M.D. 2004).

**Ohio:** Libertarian Party of Ohio v Blackwell, 462 F.3d 579 (6<sup>th</sup> cir. 2006).

**Oklahoma:** Atherton v Ward, 22 F Supp 2d 1265 (W.D. Ok. 1998).

**Pennsylvania:** Patriot Party of Pa. v Mitchell, 826 F Supp 926 (E.D. 1993).

**South Dakota:** Nader v Hazeltine, 110 F Supp 2d 1201 (2000).

**Tennessee:** Libt Party v Thompson, U.S. Dist. Ct., 793 F Supp 1064 (M.D. 2010); Green Party of Tennessee v Hargett, 882 F Supp 2d 959 (M.D..Tn. 2012).

**Texas:** Pilcher v Rains, 853 F 2d 334 (5th cir., 1988).

**Virginia:** Libt. Pty of Va. v Quinn, 3:01-cv-468, U.S. Dist. Ct., E.D. (2001). Court ordered State Board of Elections to print "Libertarian" party label on ballot next to name of Libertarian candidates.

**Washington:** Washington State Democratic Central Committee v Washington State Grange, pending in U.S. Supreme Court, 11-1263.

**West Virginia** (3 cases): State ex rel Browne v Hechler, 476 SE 2d 559 (Supreme Court 1996); Nader v Hechler, 112 F.Supp.2d 575 (S.D.W.V., 2000); McClure v Manchin, 301 F Supp 2d 564 (2003).

CASES: TESTIMONY or AFFIDAVITS (political party or candidate not prevailing)

**Alabama:** Swanson v Bennett, 490 F.3d 894 (11<sup>th</sup> cit. 2007).

**Arizona:** (2 cases) Indp. Amer. Party v Hull, civ 96-1240, U.S. Dist. Ct., 1996; Browne v Bayless, 46 P 3d 416 (2002).

**Arkansas** (2 cases): Langguth v McKuen, LR-C-92-466, U.S. Dist. Ct., E.D., 1992; Christian Populist Party v Sec. of State, 650 F Supp 1205 (E.D. 1987).

**California:** Socialist Workers Party v Eu, 591 F 2d 1252 (9th cir., 1978).

**Florida** (2 cases): Fulani v Smith, 92-4629, Leon Co. Circuit Court, 1992; Libertarian Party of Fla. v State of Fla., 710 F 2d 790 (11th cir., 1983).

**Georgia** (2 cases): Libertarian Party of Ga. v Cleland, 1:94-cv-1503-CC, U.S. Dist. Ct., N.D. (1994); Esco v Secretary of State, E-53493, Fulton Co. Superior Court, 1998.

**Idaho:** Nader v Cenarrusa, cv 00-503, U.S. Dist. Ct., 2000.

**Illinois:** Libt Party v Rednour, 108 F 3d 768 (7th cir., 1997).

**Kansas:** Hagelin for President Committee v Graves, 804 F Supp 1377 (1992).

**Maine** (2 cases): *Maine Green Party v Diamond*, 95-318, U.S. Dist. Ct., 1995; *Maine Green Party v Secretary of State*, 96-cv-261, U.S. Dist. Ct., 1996.

**Maryland** (2 cases): *Ahmad v Raynor*, R-88-869, U.S. Dist. Ct., 1988; *Creager v State Adm. Bd. of Election Laws*, AW-96-2612, U.S. Dist. Ct., 1996.

**Missouri**: *Manifold v Blunt*, 863 F 2d 1368 (8th cir. 1988).

**New Hampshire**: *Werme v Gov. of N.H.*, 84 F 3d 479 (1st cir., 1996).

**North Carolina**: *Nader v Bartlett*, 00-2040, 4th cir., 2000.

**Ohio**: *Schrader v Blackwell*, 241 F 2d 783 (6th cir., 2001).

**Oklahoma** (3 cases): *Rainbow Coalition v Okla. State Elec. Bd.*, 844 F 2d 740 (1988); *Nader v Ward*, 00-1340, U.S. Dist. Ct., 1996; *Clingman v Beaver*, \_\_US\_\_ (May 2005).

**Oregon**: *Libt Party v Roberts*, 737 P 2d 137 (Ore. Ct. of Appeals, 1987).

**Texas** (2 cases): *Texas Indp. Party v Kirk*, 84 F 3d 178 (5th cir., 1996); *Nat. Comm. of U.S. Taxpayers Party v Garza*, 924 F Supp 71 (W.D. 1996).

**Virginia**: *Wood v Meadows*, 207 F 3d 708 (4th cir., 2000).

**West Virginia**: *Fishbeck v Hechler*, 85 F 3d 162 (4th cir., 1996).

**Wyoming**: *Spiegel v State of Wyoming*, 96-cv-1028, U.S. Dist. Ct., 1996.

#### QUALIFIED EXPERT WITNESS

**Fishbeck v Hechler**, 85 F 3d 162 (4th cir. 1996, West Virginia case)

**Council of Alternative Political Parties v Hooks**, 999 F Supp 607 (1998, N.J.)

**Citizens to Establish Reform Party v Priest**, 970 F Supp 690 (E.D. Ark, 1996)

**Atherton v Ward**, 22 F Supp 2d 1265 (W.D.Ok. 1998)

**Calif. Democratic Party v Jones**, 530 US 567 (2000)

**Swanson v Bennett**, not reported, U.S. Dist. Ct., m.d.Ala. (02-T-644-N)

**Beaver v Clingman**, 363 F 3d 1048 (10<sup>th</sup> cir., 2004, Okla. case)

**Green Pty v N.Y. Bd. Elec.**, 267 F Supp 2d 342 (EDNY 2003), 389 F.3d 411 (2<sup>nd</sup> 2004)

**Lawrence v Blackwell**, 430 F.3d 368 (6<sup>th</sup> cir. 2005)

In all cases in which I was presented as an expert, the opposition accepted that designation, except in the Green Party of New York case. The U.S. District Court ruled that I qualify as an expert. See headnote #1 at page 342, and footnote nine on page 350. The 2<sup>nd</sup> circuit agreed, 389 F.3d 411 (2004), at 421.

#### SPEAKING ENGAGEMENTS: Colleges and Scholarly Meetings

Panel of New York City Bar Association, 1994. Ballot access.

Amer. Political Science Assn., nat. conventions of August 1995 and August 1996. Papers.

Capital University School, law school class, Columbus, Ohio, 1996. Guest lecturer.

Cal. State U., course in political science, Hayward, 1993 and 1996. Guest lecturer.

San Francisco City College, course in political science, 1996 and 1997. Guest lecturer.

Providence College, R.I., Oct. 1997, seminar on ballot access.

Harvard U., JFK School of Gov't, Oct. 18, 1995, guest lecturer, ballot access.

Voting Integrity Project national conference, Apr. 1, 2000, speaker on ballot access.

Center for Voting & Democracy nat. conference, Nov. 30, 2003, speaker on ballot access.

Robert Dole Institute of Politics, U. of Kansas, one of 5 panel members, Oct. 25, 2007.



# Attachment 2

## DECLARATION OF RANDY AUXIER

1. My name is Randy Auxier.
2. I am a Green Party candidate for State Representative in the Illinois General Assembly, District 115, in the November 3, 2020 General Election in Illinois. I have been duly nominated and endorsed as a candidate by the Illinois Green Party.
3. I did not attempt to circulate any petitions to Illinois voters to secure placement on the ballot in this election cycle, as would normally be required for “new party” candidates under the Illinois Election Code, until after the Preliminary Injunction Order was entered by the Honorable Rebecca R. Pallmeyer in *Libertarian Party of Illinois, et al. v. J.B. Pritzker, et al.*, (N.D. Ill. No. 20-cv-2112), on April 23, 2020, and as subsequently amended.
4. I did not do so, because, under normal circumstances, I would have been required to obtain 2,128 “hard copy” or “wet” petition signatures from registered Illinois voters during the period between March 24, 2020 and the filing deadline of June 22, 2020. This would not have been possible, due to the risks of exposure to the COVID-19 virus, to myself, circulators and prospective signers, the emergency restrictions on public gatherings, and for the other reasons set forth in Judge Pallmeyer’s Memorandum Opinion and Order.
5. Under the Preliminary Injunction Order, as amended, I still have to collect 213 valid petition signatures, either “wet” (on hard copy petition sheets), or electronically signed, from registered Illinois voters in my district, by July 20, 2020. I am in the process of attempting to do so. This is still difficult to achieve under current public-health related restrictions on public gatherings and given voters’ reasonable apprehensions about close personal contact during the pandemic – but it is possible.



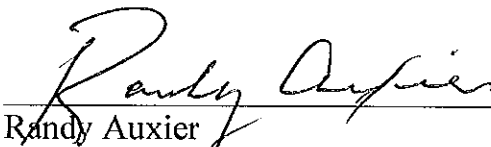
6. Accordingly, I have reasonably relied upon the Preliminary Injunction Order in my campaign planning and in my efforts to get my name placed on the November 3, 2020 General Election ballot as a candidate. Since the Order was entered, I have tailored my campaign's petitioning efforts to comply with the requirements set forth therein.

7. If Judge Pallmeyer's Preliminary Injunction Order were to be vacated or substantially amended by moving the filing deadline to a date significantly earlier than the current deadline of July 20, this would surely result in my exclusion from the General Election ballot for the reasons stated herein, and for the additional reason that I would not have adequate notice and a reasonable opportunity to comply with any newly revised signature requirements and/or filing deadlines, as requested by the defendants on appeal.

VERIFICATION (pursuant to 28 U.S.C. § 1746)

I, Randy Auxier, verify under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on: 6/19/20

  
\_\_\_\_\_  
Randy Auxier

# Attachment 3

## DECLARATION OF DAVID F. BLACK


1. My name is David F. Black.
2. I am a Green Party candidate for U.S. Senate in the November 3, 2020 General Election in Illinois. I have been duly nominated and endorsed as a candidate by the Illinois Green Party.
3. I have not attempted to circulate any petitions to Illinois voters to secure placement on the ballot in this election cycle, as would normally be required for “new party” candidates under the Illinois Election Code. I have not done so because I have reasonably relied upon the Preliminary Injunction Order entered by the Honorable Rebecca R. Pallmeyer in *Libertarian Party of Illinois, et al. v. J.B. Pritzker, et al.*, (N.D. Ill. No. 20-cv-2112), on April 23, 2020, and as subsequently amended.
4. I qualify for placement on the November 3, 2020 General Election ballot under paragraph 5 of Judge Pallmeyer’s Preliminary Injunction Order, because the Illinois Green Party successfully petitioned to place a candidate for U.S. Senate on the 2016 General Election ballot. That candidate, Scott Summers, received 117,619 votes from Illinois voters.
5. I have not attempted to circulate any petitions to Illinois voters in this election cycle for the additional reason that I do not wish to subject myself or anyone else to any unnecessary risks of exposure to the COVID-19 virus.

VERIFICATION (pursuant to 28 U.S.C. § 1746)

I, David F. Black, verify under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on: \_\_\_\_\_

6/18/2020



David F. Black

# Attachment 4

## DECLARATION OF MARCUS THRONEBURG

1. My name is Marcus Throneburg
2. I am an Independent candidate for State Senator in the Illinois General Assembly, District 37, in the November 3, 2020 General Election in Illinois.
3. I did not attempt to circulate any petitions to Illinois voters to secure placement on the ballot in this election cycle, as would normally be required for “independent” candidates under the Illinois Election Code, until after the Preliminary Injunction Order was entered by the Honorable Rebecca R. Pallmeyer in *Libertarian Party of Illinois, et al. v. J.B. Pritzker, et al.*, (N.D. Ill. No. 20-cv-2112), on April 23, 2020, and as subsequently amended.
4. I did not do so, because, under normal circumstances, I would have been required to obtain 4,633 “hard copy” or “wet” petition signatures from registered Illinois voters during the period between March 24, 2020 and the filing deadline of June 22, 2020. This would not have been possible, due to the risks of exposure to the COVID-19 virus, to myself, circulators and prospective signers, the emergency restrictions on public gatherings, and for the other reasons set forth in Judge Pallmeyer’s Memorandum Opinion and Order.
5. Under the Preliminary Injunction Order, as amended, I still have to collect 463 valid petition signatures, either “wet” (on hard copy petition sheets), or electronically signed, from registered Illinois voters in my district, by July 20, 2020. I am in the process of attempting to do so. This is still a challenge under current public-health related restrictions on public gatherings and given voters’ reasonable apprehensions about close personal contact during the pandemic – but it is possible.
6. Accordingly, I have reasonably relied upon the Preliminary Injunction Order in my campaign planning and in my efforts to get my name placed on the November 3, 2020 General

Election ballot as a candidate. Since the Order was entered, I have tailored my campaign's petitioning efforts to comply with the requirements set forth therein.

7. If Judge Pallmeyer's Preliminary Injunction Order were to be vacated or substantially amended by moving the filing deadline to a date significantly earlier than the current deadline of July 20, this would surely result in my exclusion from the General Election ballot for the reasons stated herein, and for the additional reason that I would not have adequate notice and a reasonable opportunity to comply with any newly revised signature requirements and/or filing deadlines, as requested by the defendants on appeal.

VERIFICATION (pursuant to 28 U.S.C. § 1746)

I, Marcus Throneburg, verify under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on: June 18, 2020



\_\_\_\_\_  
Marcus Throneburg

# Attachment 5

**UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

<b>LIBERTARIAN PARTY OF ILLINOIS, et al.,</b>	)	
	)	
<b>Plaintiff-Appellees,</b>	)	
	)	
<b>v.</b>	)	No. 20-cv-2112
	)	
<b>WILLIAM CADIGAN, et al.,</b>	)	
	)	
<b>Defendant-Appellants.</b>	)	

**DECLARATION OF WILLIAM REDPATH**

**(pursuant to 28 U.S.C. § 1746)**

1. My name is William Redpath. I am over the age of 18 and have personal knowledge of the matters stated herein. I am competent to testify to such matters if called upon to do so.

2. I reside in West Dundee, Illinois. I am Chairman of the Libertarian Party Ballot Access Committee, which is a subcommittee to the Libertarian National Committee, and I am leading the effort this year to place the Libertarian Party presidential ticket on the ballot in all 50 states and the District of Columbia, and to place as many down ticket candidates of the Libertarian Party on ballots across the nation as possible.

3. Since the district court issued its order granting plaintiffs a preliminary injunction in this matter on April 23, 2020, the Libertarian Party has been relying on that order to plan its ballot access and campaign strategies for the 2020 general election. In particular, the order placed our presidential ticket and its US Senate candidate on the ballot in Illinois for the November 3, 2020 General Election. If that Order had not been issued, the Libertarian Party would have



pursued, as vigorously as possible under the circumstances, a signature petition drive to place its presidential ticket and US Senate candidate on the ballot in Illinois this year.

4. We have not done so, because we have not had to do so, due to the relief the district court granted us. Now, it is only three days from the original petition deadline of Monday, June 22, and if the order is vacated, the Libertarian Party presidential ticket and US Senate candidate will have no chance to be on the ballot in Illinois this year.

5. The Libertarian Party's presidential ticket has been on the ballot in Illinois for every presidential election, starting in 1976. I have very little doubt that we would have succeeded again in placing our presidential ticket on the ballot this year, if it had not been for the conditions this year regarding the COVID-19 pandemic and the Governor's Shelter-in-Place Order that covered the vast majority of what would have been our petitioning period.

I, William Redpath, verify under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on: June 19, 2020



---

William Redpath

# Attachment 7

UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

---

LIBERTARIAN PARTY OF ILLINOIS, et al., )  
 )  
 Plaintiff-Appellees, )  
 )  
 v. )  
 )  
 WILLIAM CADIGAN, et al., )  
 )  
 Defendant-Appellants. )

---

No. 20-cv-2112

DECLARATION OF STEPHEN L. DASBACH

(pursuant to 28 U.S.C. § 1746)

1. My name is Stephen L. Dasbach. I am over the age of 18 and have personal knowledge of the matters stated herein. I am competent to testify to such matters if called upon to do so.

2. I am the Campaign Manager of Jo Jorgensen for President (the “Jorgensen Campaign”), the Libertarian Party’s presidential campaign for the November 3, 2020 general election. As such, I am responsible for all matters relating to the Jorgensen Campaign, including securing ballot access in all 50 states and the District of Columbia.

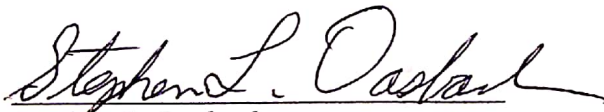
3. On or about April 23, 2020, I received notice that the federal district court for the northern district of Illinois had entered an order providing that the Libertarian Party’s presidential ticket qualified for placement on Illinois’ 2020 general election ballot based on the Libertarian Party’s success in qualifying its presidential ticket for Illinois’ 2016 general election ballot. In reliance upon that order, the Jorgensen Campaign has not made any effort to qualify for Illinois’ 2020 general election ballot since the order was entered.

4. If the district court's April 23, 2020 order is vacated, the Jorgensen Campaign will be unable to qualify for Illinois' 2020 general election ballot, because we will not have time to obtain the statutorily required number of voter signatures on nomination petitions prior to the filing deadline of June 22, 2020.

5. It is my belief that the Jorgensen Campaign could have and would have qualified for Illinois' 2020 general election ballot under the laws of Illinois but for the emergency circumstances arising from the COVID-19 pandemic and the subsequent executive orders issued by Governor Pritzker, which made it effectively impossible to gather petition signatures in Illinois.

I, Stephen L. Dasbach, verify under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on: June 19, 2020

  
Stephen L. Dasbach

# Attachment 8

## DECLARATION OF LARRY REDMOND

1. My name is Larry Redmond.

2. I am a Green Party candidate for U.S. Representative in Congress for the 1<sup>st</sup> Congressional District of Illinois in the November 3, 2020 General Election in Illinois. I have been duly nominated and endorsed as a candidate by the Illinois Green Party.

3. I did not attempt to circulate any petitions to Illinois voters to secure placement on the ballot in this election cycle, as would normally be required for “new party” candidates under the Illinois Election Code, until after the Preliminary Injunction Order was entered by the Honorable Rebecca R. Pallmeyer in *Libertarian Party of Illinois, et al. v. J.B. Pritzker, et al.*, (N.D. Ill. No. 20-cv-2112), on April 23, 2020, and as subsequently amended.

4. I did not do so, because, under normal circumstances, I would have been required to obtain 13,276 “hard copy” or “wet” petition signatures from registered Illinois voters during the period between March 24, 2020 and the filing deadline of June 22, 2020. This would not have been possible, due to the risks of exposure to the COVID-19 virus, to myself, circulators and prospective signers, the emergency restrictions on public gatherings, and for the other reasons set forth in Judge Pallmeyer’s Memorandum Opinion and Order.

5. Under the Preliminary Injunction Order, as amended, I still have to collect 1,328 valid petition signatures, either “wet” (on hard copy petition sheets), or electronically signed, from registered Illinois voters in my district, by

July 20, 2020. I am in the process of attempting to do so. This is still difficult to achieve under current public-health related restrictions on public gatherings and given voters' reasonable apprehensions about close personal contact during the pandemic – but it is possible.

6. Accordingly, I have reasonably relied upon the Preliminary Injunction Order in my campaign planning and in my efforts to get my name placed on the November 3, 2020 General Election ballot as a candidate. Since the Order was entered, I have tailored my campaign's petitioning efforts to comply with the requirements set forth therein.

7. If Judge Pallmeyer's Preliminary Injunction Order were to be vacated or substantially amended by moving the filing deadline to a date significantly earlier than the current deadline of July 20, this would surely result in my exclusion from the General Election ballot for the reasons stated herein, and for the additional reason that I would not have adequate notice and a reasonable opportunity to comply with any newly revised signature requirements and/or filing deadlines, as requested by the defendants on appeal.

VERIFICATION (pursuant to 28 U.S.C. § 1746)

I, Larry Redmond, verify under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

06/19/2020

Executed on: \_\_\_\_\_

*L. Redmond*

\_\_\_\_\_  
Larry Redmond

# Attachment 9



Second Declaration of Anna Schiefelbein

1. My name is Anna Schiefelbein.
2. I was hired as an independent contractor by contract with the title “Organizer” by the Illinois Green Party (“ILGP”) to help coordinate campaign volunteer efforts and assist with organizational duties of the party.
3. The e-petition process was a priority in our ballot access efforts, following Judge Pallmeyer’s Preliminary Injunction Order.
4. I developed an e-petition process that is unique to the situation. To the best of my knowledge, ILGP has never previously obtained ballot petition signatures electronically, and as a result, ILGP had to spend time and money to develop a process.
5. I recommended to ILGP to enter into a contract with SignNow, an e-signature company, to accommodate the e-petition process.
6. ILGP did enter into a contract with SignNow based on my recommendation.
7. Campaign volunteer efforts have been expended on the e-petitioning process. Research, testing, developing, and marketing were all part of campaign volunteer efforts that could have been used elsewhere if not for the reliance on Judge Pallmeyer’s Preliminary Injunction Order.
8. Website and social media efforts have been expended on the e-petitioning process. Due to the inherent nature of the e-petitioning process, website and social media strategies have had to be reviewed and adjusted. Along with an adjustment to the strategy, testing and implementation of the

website and social media efforts were made in reliance on Judge Pallmeyer's Preliminary Injunction Order.

9. The ILGP ballot access team adjusted the deadline schedule from the original August 7, 2020 deadline date set forth in Judge Pallmeyer's Preliminary Injunction Order to July 20, 2020, based on the May 15, 2020 amendment to the Order.

10. Accordingly, I have reasonably relied upon the Preliminary Injunction Order in the ballot access planning efforts and expenditures to get ILGP's candidates placed on the November 3, 2020 General Election ballot. I have tailored petitioning efforts to comply with the requirements set forth in Judge Pallmeyer's Preliminary Injunction Order.

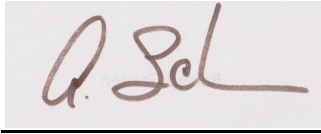
11. If Judge Pallmeyer's Preliminary Injunction Order were to be vacated or substantially amended by moving the filing deadline to a date significantly earlier than the current deadline of July 20, this would surely result in the loss of ILGP's economic resources, campaign volunteer time, and paid staff time. The candidates also would not have adequate notice and a reasonable opportunity to comply with any newly revised signature requirements and/or filing deadlines,

as requested by the defendants on appeal.

VERIFICATION (pursuant to 28 U.S.C. § 1746)

I, Anna Schiefelbein, verify under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on: 6-19-20

A handwritten signature in dark ink, appearing to read "A. Schiefelbein", is written over a light gray rectangular background. The signature is cursive and somewhat stylized.

Anna Schiefelbein

# Attachment 10

## DECLARATION OF ALIA SARFRAZ

1. My name is Alia Sarfraz.

2. I am a Green Party candidate for State Representative in the Illinois General Assembly, District 52, in the November 3, 2020 General Election in Illinois. I have been duly nominated and endorsed as a candidate by the Illinois Green Party.

3. I did not attempt to circulate any petitions to Illinois voters to secure placement on the ballot in this election cycle, as would normally be required for “new party” candidates under the Illinois Election Code, until after the Preliminary Injunction Order was entered by the Honorable Rebecca R. Pallmeyer in *Libertarian Party of Illinois, et al. v. J.B. Pritzker, et al.*, (N.D. Ill. No. 20-cv-2112), on April 23, 2020, and as subsequently amended.

4. I did not do so, because, under normal circumstances, I would have been required to obtain 2,363 “hard copy” or “wet” petition signatures from registered Illinois voters during the period between March 24, 2020 and the filing deadline of June 22, 2020. This would not have been possible, due to the risks of exposure to the COVID-19 virus, to myself, circulators and prospective signers, the emergency restrictions on public gatherings, and for the other reasons set forth in Judge Pallmeyer’s Memorandum Opinion and Order.

5. Under the Preliminary Injunction Order, as amended, I still have to collect 237 valid petition signatures, either “wet” (on hard copy petition sheets), or electronically signed, from registered Illinois voters in my district, by July 20,

2020. I am in the process of attempting to do so. This is still difficult to achieve under current public-health related restrictions on public gatherings and given voters' reasonable apprehensions about close personal contact during the pandemic – but it is possible.

6. Accordingly, I have reasonably relied upon the Preliminary Injunction Order in my campaign planning and in my efforts to get my name placed on the November 3, 2020 General Election ballot as a candidate. Since the Order was entered, I have tailored my campaign's petitioning efforts to comply with the requirements set forth therein.

7. If Judge Pallmeyer's Preliminary Injunction Order were to be vacated or substantially amended by moving the filing deadline to a date significantly earlier than the current deadline of July 20, this would surely result in my exclusion from the General Election ballot for the reasons stated herein, and for the additional reason that I would not have adequate notice and a reasonable opportunity to comply with any newly revised signature requirements and/or filing deadlines, as requested by the defendants on appeal.

VERIFICATION (pursuant to 28 U.S.C. § 1746)

I, Alia Sarfraz, verify under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

06/19/2020

Executed on: \_\_\_\_\_



\_\_\_\_\_  
Alia Sarfraz

# Attachment 11

## DECLARATION OF JOSHUA HELLMANN

1. My name is Joshua Hellmann. I am a resident of Murphysboro, Illinois.
2. I am a Green Party candidate for County Board, District 3, in Jackson County, Illinois, in the November 3, 2020 General Election in Illinois. I have been duly nominated and endorsed as a candidate by the Illinois Green Party.
3. I have not attempted to circulate any petitions to Illinois voters to secure placement on the ballot in this election cycle, as would normally be required for "new party" candidates under the Illinois Election Code. I have not done so because I have reasonably relied upon the Preliminary Injunction Order entered by the Honorable Rebecca R. Pallmeyer in *Libertarian Party of Illinois, et al. v. J.B. Pritzker, et al.*, (N.D. Ill. No. 20-cv-2112), on April 23, 2020, and as subsequently amended.
4. I qualify for placement on the November 3, 2020 General Election ballot under paragraph 5 of Judge Pallmeyer's Preliminary Injunction Order, because the Illinois Green Party successfully petitioned to place a candidate for Jackson County Board, District 3, on the 2016 and 2018 General Election ballots.
5. I have not attempted to circulate any petitions to Illinois voters in this election cycle for the additional reason that I do not wish to subject myself or anyone else to any unnecessary risks of exposure to the COVID-19 virus.

VERIFICATION (pursuant to 28 U.S.C. § 1746)

I, Joshua Hellmann, verify under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on: 6/19/20

  
Joshua Hellmann



# Attachment 12

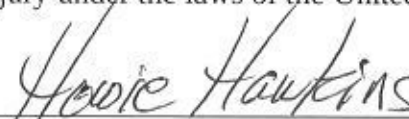
## DECLARATION OF HOWIE HAWKINS

1. My name is Howie Hawkins.
2. I am a Green Party candidate for President of the United States. I won the Illinois Green Party presidential primary and expect to receive the presidential nomination of the Green Party of the United States at its national convention on July 11, 2020.
3. I have not attempted to circulate any petitions to Illinois voters to secure placement on the ballot in this election cycle, as would normally be required for "new party" candidates under the Illinois Election Code. I have not done so because I have reasonably relied upon the Preliminary Injunction Order entered by the Honorable Rebecca R. Pallmeyer in *Libertarian Party of Illinois, et. al. v. J.B. Pritzker, et al.*, (N.D. Ill. No. 20-cv-2112), on April 23, 2020, and as subsequently amended.
4. I qualify for placement on the November 3, 2020 General Election ballot under paragraph 5 of Judge Pallmeyer's Preliminary Injunction Order, because the Illinois Green Party petitioned to place a candidate for President of the United States on the 2016 General Election ballot. That candidate, Jill Stein, received 76,802 votes from Illinois voters.
5. I have not attempted to circulate any petitions to Illinois voters in this election cycle for the additional reason that I do not wish to subject myself or anyone else to any unnecessary risks of exposure to the COVID-19 virus.

VERIFICATION (pursuant to 28 U.S.C. § 1746)

I, Howie Hawkins, verify under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on: June 19, 2020

  
\_\_\_\_\_  
Howie Hawkins

# Attachment 13

) In re: *Libertarian Party of Illinois, et al., Plaintiffs, v.*  
) *JB Pritzker, et al., Defendants* No. 20-cv-2112  
)

COUNTY OF COOK )

Honorable Rebecca R. Pallmeyer

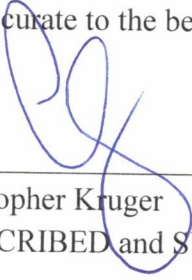
**Affidavit of Christopher Kruger**

I solemnly swear and affirm:

1. I have personal knowledge of all the events described in this affidavit.
2. If called to testify, I could truthfully and competently state:
3. I reside at 2022 Dodge Avenue, Evanston, IL 60201
4. I am a 66 years of age; I am a heart patient and have type II diabetes.
5. As a consequence, I am at significant risk for contracting the COVID 19 virus.
6. I am a candidate for State Representative in the Illinois 17th District.
7. I relied on the reasoning of Judge Rebecca Pallmeyer's Opinion and Order in conducting my campaign in accordance with CDC and the Governor's stated guidance for the Current Pandemic.
8. I wear masks and gloves at all times when I leave my house.
9. I carry hand sanitizer and keep paperwork underneath a plastic sheath.
10. The foregoing is a significant constraint on my core political speech and activity and impairs my ability to communicate with voters, knock on doors/ring doorbells, and frequent areas where people would congregate under the pre-pandemic conditions.
11. As an example, some persons are afraid to open the door to speak with a petitioner, even when shown the ballot petition, because of fear of contagion.
12. Since the issuance of the Pallmeyer Order, the revision of the petition-filing date from August to July has further increased the burden to, among other things, contact voters, gather signatures, and verify addresses, which is no easy task considering the haphazard and convoluted boundaries of the 17th and adjoining State Representative Districts.
13. People have been urged by local authorities as well as by the Governor's guidance to avoid crowds, stay six feet apart and keep moving when walking, biking or jogging and do not stop to interact; in fact they are much less prone to interact than prior to the Governor's guidance.
14. I feel that my rights, which were already compromised, will be further burdened, should the Court of Appeals further revise the District Court decision to increase signature requirements,

FURTHER AFFIANT SAYETH NOT.

I have read this affidavit, consisting of 14 paragraphs and signature block on two page, and it is true and accurate to the best of my knowledge and belief.



\_\_\_\_\_  
Christopher Kruger

SUBSCRIBED and SWORN to before me this 18 day of June 18, 2020.

Christopher T. Carey  
Notary Seal

