

Broad Challenge to Ballot-Petition Signature Requirements

Dekom v. New York
(*Joanna Seybert, E.D.N.Y. 2:12-cv-1318*)

The district judge denied immediate relief in a broad prospective challenge to New York’s ballot-petition signature requirements filed pro se by three prospective candidates. After full briefing, the judge dismissed the action.

Subject: Getting on the ballot. *Topics:* Getting on the ballot; pro se party; equal protection; case assignment; recusal.

A March 16, 2012, pro se federal complaint filed in the Eastern District of New York by three prospective candidates for legislative office four days before the beginning of the ballot-petition signing period broadly challenged New York’s petition signature requirements:

In order to be nominated, New York would make a pregnant woman go door-to-door in a high crime area. It would make a man in a wheelchair go up stairs. It would make a senior citizen walk on icy walkways after dark. It wouldn’t do anything to a Hispanic voter because he’s locked out of the system, along with parts of our armed forces. This is what the government of New York considers the “least restrictive” means of exercising the right to vote.¹

On the day that the complaint was filed, Judge Joanna Seybert held an ex parte hearing with the first named plaintiffs and denied the plaintiffs immediate relief.² Noting that because the signature period had not yet started it was not clear that the case was ripe, Judge Seybert announced, “I’m denying the temporary order to obtain an injunction here, because I don’t see the immediacy”³ An appeal was dismissed on March 12, 2013, as moot.⁴

As the case proceeded, Judge Seybert denied the pro se plaintiffs permission to file documents electronically, but granted them the privilege of receiving electronic notices of filings.⁵

On July 13, 2012, the first two named plaintiffs and their wives filed a separate pro se federal action alleging mistreatment by local party officials.⁶

1. Complaint at 26, *Dekom v. New York*, No. 2:12-cv-1318 (E.D.N.Y. Mar. 16, 2012), D.E. 1; Transcript at 2, *id.* (Mar. 16, 2012, filed July 16, 2013), D.E. 68; *see* Amended Complaint, *id.* (June 12, 2012), D.E. 23.

2. Transcript, *supra* note 1; Minutes, *Dekom*, No. 2:12-cv-1318 (E.D.N.Y. Mar. 16, 2012), D.E. 5.

3. Transcript, *supra* note 1, at 3.

4. Order, *Dekom v. New York*, No. 12-1446 (2d Cir. Mar. 12, 2013), D.E. 121.

5. Order, *Dekom*, No. 2:12-cv-1318 (E.D.N.Y. May 29, 2012), D.E. 18 (“All Plaintiffs’ filings must be either hand-delivered or mailed to the *Pro Se* Office with proof of service.”); Order, *Dekom*, No. 2:12-cv-1318 (E.D.N.Y. Apr. 20, 2012), D.E. 16.

6. Complaint, *Dekom v. Nassau County*, No. 2:12-cv-3473 (E.D.N.Y. July 13, 2012), D.E. 1.

This case was assigned to Judge Seybert as related to the March 16 case.⁷ On September 18, 2013, Judge Seybert granted the defendants a dismissal and denied the plaintiffs' motion for recusal because of her previous rulings against them and previous affiliation with the party.⁸

Judge Seybert resolved the signature case by dismissing it on June 18, 2013, also denying a motion for her recusal.⁹ On August 13, Judge Seybert dismissed another pro se action by the first named plaintiff challenging state-court fees pertaining to the plaintiff's efforts in the 2013 election cycle.¹⁰

7. Notice, *id.* (July 17, 2012), D.E. 3.

Also related was a 2005 housing action by the first named defendant, Complaint, Dekom v. Suozzi, No. 2:05-cv-5099 (E.D.N.Y. Oct. 31, 2005), D.E. 1, which was dismissed in 2006 by Judge Arthur D. Spatt for failure to prosecute it, Order, *id.* (May 22, 2006), D.E. 5.

8. Opinion, *Dekom*, No. 2:12-cv-3473 (E.D.N.Y. Sept. 18, 2013), D.E. 21, 2013 WL 5278019, *aff'd*, 595 F. App'x 12 (2d Cir. 2014).

9. Opinion, *Dekom*, No. 2:12-cv-1318 (E.D.N.Y. June 18, 2013), D.E. 66, 2013 WL 3095010, *aff'd*, 583 F. App'x 15 (2d Cir. 2014).

10. Opinion, Dekom v. Agostino, No. 2:13-cv-4510 (E.D.N.Y. Aug. 13, 2013), D.E. 6, 2013 WL 4095214, *appeal dismissed*, Order, Dekom v. Agostino, No. 13-3775 (2d Cir. Nov. 14, 2013), D.E. 16 (dismissing the appeal for failure to pay the filing fee).