

Ballot-Petition Signature Requirements in Maine During the Covid-19 Pandemic

*Bond v. Dunlap (1:20-cv-216) and
Jorgensen v. Dunlap (1:20-cv-272) (Nancy Torresen, D. Me.)*

Because of social distancing made necessary by the global COVID-19 infectious pandemic, prospective candidates in Maine's 2020 general election sought court-ordered modifications to the ballot-petition signature requirements. One candidate's effort was unsuccessful, and the other's was mooted by her obtaining a sufficient number of signatures without judicial modification.

Subject: Getting on the ballot. *Topics:* Getting on the ballot; Covid-19; intervention; laches.

Prospective candidates in the November 3, 2020, general election sought modifications to Maine's ballot-petition signature requirements in light of social distancing made necessary by the global Covid-19 infectious pandemic. One case was unsuccessful, and another was mooted by meeting the state's requirements.

United States Senate

A prospective candidate for the U.S. Senate filed a federal complaint in the District of Maine on Friday, June 19, 2020, against Maine's governor, secretary of state, senate president, and house of representatives speaker, seeking relief from the ballot-petition signature requirements.¹ Among other relief, the complaint sought a temporary restraining order and a preliminary injunction.²

On the day that the complaint was filed, Judge Nancy Torresen ordered service of the complaint on the state and set the case for a telephone conference on Monday.³ Judge Torresen's strategy during the pandemic was to hold as telephone conferences proceedings that otherwise would have been held in chambers with just the parties' attorneys, but she would open to the public anything that would have been held in open court.⁴ Judge Torresen ordered the plaintiff to seek the immediate injunction by separate motion and ordered briefing completed by July 13.⁵

1. Complaint, *Bond v. Dunlap*, No. 1:20-cv-216 (D. Me. June 19, 2020), D.E. 1.

2. *Id.* at 23; Docket Sheet, *id.* (June 19, 2020) [hereinafter *Bond* Docket Sheet] (D.E. 2).

3. *Bond* Docket Sheet, *supra* note 2 (D.E. 5, 6); *see id.* (minutes, D.E. 7).

Tim Reagan interviewed Judge Torresen for this report by telephone on September 18, 2020.

4. Interview with Judge Nancy Torresen, Sept. 18, 2020.

5. *Bond* Docket Sheet, *supra* note 2 (D.E. 8); *see* Motion, *Bond*, No. 1:20-cv-216 (D. Me. June 29, 2020), D.E. 11 (noting that the signature-collection period had ended and that ballot petitions were due in two days).

A prospective independent candidate for President moved on July 7 to intervene and obtain similar relief.⁶ After resolving the plaintiff's injunction motion, Judge Torresen denied the intervention motion.⁷

On July 13, Judge Torresen granted the plaintiff a one-day extension of time to reply to the defendants' brief.⁸

Judge Torresen denied the plaintiff immediate relief on July 24.⁹ Because of the pandemic, Maine extended the signature submission deadline from May 25 to June 26.¹⁰ Other independent senate candidates were able to meet the signature requirements during the pandemic, and the requirement for "wet" in-person signatures helped to prevent fraudulent copying of signatures.¹¹

After the election, the parties stipulated dismissal of the case.¹²

United States President

A minor party's candidate for President filed a federal complaint in the District of Maine on July 31, asking the court to require Maine's secretary of state to cut in half the number of ballot-petition signatures needed to get on the November 3 general-election ballot.¹³ With her complaint, the plaintiff filed a motion for an expedited hearing, noting, "Nomination petitions must be delivered to the state by August 3, 2020, and the Defendant has indicated that they must finalize the Maine ballot by August 28, 2020."¹⁴

Judge Torresen set the case for a telephone conference on August 3, providing the parties with call-in information.¹⁵ During the conference, Judge Torresen decided that preliminary-injunction briefing should be completed by August 11.¹⁶

On August 10, however, Maine reported that the candidate had qualified for the ballot.¹⁷ The plaintiff dismissed her complaint voluntarily that day.¹⁸

6. Intervention Motion, *Bond*, No. 1:20-cv-216 (D. Me. July 7, 2020), D.E. 12.

7. *Bond* Docket Sheet, *supra* note 2 (D.E. 25).

A notice of appeal also moved to expand the case to all fifty states. Notice of Appeal, *Bond*, No. 1:20-cv-216 (D. Me. Oct. 1, 2020), D.E. 27. The court of appeals determined that the appeal was not timely. Order, *Bond v. Dunlap*, No. 20-1971 (1st Cir. Oct. 27, 2020).

8. *Bond* Docket Sheet, *supra* note 2 (D.E. 20); *see* Motion, *Bond*, No. 1:20-cv-216 (D. Me. July 13, 2020), D.E. 19.

9. Opinion, *Bond*, No. 1:20-cv-216 (D. Me. July 24, 2020), D.E. 24, 2020 WL 4275035.

10. *Id.* at 12.

11. *Id.* at 9–10, 24–25.

12. Stipulation, *id.* (Nov. 19, 2020), D.E. 34.

13. Complaint, *Jorgensen v. Dunlap*, No. 1:20-cv-272 (D. Me. July 31, 2020), D.E. 1.

14. Motion, *id.* (July 31, 2020), D.E. 5.

15. Docket Sheet, *id.* (July 31, 2020) (D.E. 8); *see id.* (minutes, D.E. 11).

16. *Id.* (deadlines reset, Aug. 3, 2020).

17. Status Report, *id.* (Aug. 10, 2020), D.E. 13.

18. Voluntary Dismissal, *id.* (Aug. 10, 2020), D.E. 14.