

## Minor-Party State Faction Opposing the National Nominee

*Browne v. Bayless*

*(Robert C. Broomfield, D. Ariz. 2:00-cv-1774)*

Rival factions of Arizona’s Libertarian Party named different presidential nominees for the 2000 election, and the national party’s nominee was not the one selected to represent the party on the Arizona ballot. After unsuccessful state-court litigation, the national nominee filed an action in federal court, which the district judge dismissed one week later. The action was barred by (1) the *Rooker-Feldman* doctrine, which states that among federal courts only the Supreme Court has appellate jurisdiction over state-court proceedings; (2) *Younger* abstention, which avoids undue interference in state functions; (3) the plaintiffs’ failure to name indispensable parties; and (4) laches.

*Subject:* Getting on the ballot. *Topics:* Getting on the ballot; matters for state courts; laches; party procedures.

The Libertarian Party’s national nominee for President filed a federal complaint in the District of Arizona on Friday, September 15, 2000, challenging his exclusion from the general-election ballot in Arizona.<sup>1</sup> Also named as plaintiffs were a voter who wished to serve as an Arizona elector for the candidate, another Arizona voter, and a Virginia voter who wanted to protect the value of her vote by ensuring that the candidate appeared on all states’ ballots.<sup>2</sup> The candidate was to be listed as an independent in North Dakota and as the Libertarian candidate in all other states and the District of Columbia.<sup>3</sup>

Rival factions of Arizona’s Libertarian Party selected different presidential nominees, and the rival nominee was selected for the Arizona ballot instead of the plaintiff.<sup>4</sup> The plaintiff could have run as an independent, but presidential elector candidacy papers were due on June 14—for either a party or an independent candidate—and the plaintiff did not become a national Libertarian nominee until July 2.<sup>5</sup>

The plaintiff candidate filed an action in Arizona’s superior court on August 18 and received an adverse judgment on September 8, including a ruling

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1. Docket Sheet, *Browne v. Bayless*, No. 2:00-cv-1774 (D. Ariz. Sept. 15, 2000) [hereinafter *Browne* Docket Sheet] (D.E. 1); Opinion at 1–2, 7, *id.* (Sept. 22, 2000), D.E. 12 [hereinafter *Browne* Opinion].

2. *Browne* Opinion, *supra* note 1, at 2.

3. *Id.* at 3 & n.2; see *Libertarian Split Costs Candidate Ballot Spot*, Ariz. Republic, Sept. 26, 2000, at B1 [hereinafter *Libertarian Split*].

4. *Browne* Opinion, *supra* note 1, at 3 n.3; see Howard Fischer, *Arizona Ballot Will Omit Libertarians’ Candidate*, Ariz. Daily Star, Sept. 24, 2000, at 5 (“The national party . . . chose last year to back the splinter faction.”).

5. *Browne* Opinion, *supra* note 1, at 3–4.

that the elector candidacy deadline was not unconstitutional.<sup>6</sup> The candidate did not file an appeal, and Arizona’s supreme court denied discretionary review on September 12.<sup>7</sup>

The federal court assigned its case to Judge Robert C. Broomfield,<sup>8</sup> who held a telephonic scheduling hearing with the parties and set the case for arguments on September 20.<sup>9</sup> On September 22, Judge Broomfield granted the defendants’ motion to dismiss the case<sup>10</sup> for several reasons: (1) the action was barred by the *Rooker-Feldman* doctrine, which states that among federal courts only the Supreme Court has appellate jurisdiction over state-court proceedings;<sup>11</sup> (2) “[p]ursuant to the *Younger* abstention doctrine, courts may decline to exercise jurisdiction to avoid undue interference in state functions”;<sup>12</sup> (3) the plaintiffs failed to name county boards of supervisors as indispensable defendants under Arizona law;<sup>13</sup> and (4) laches.<sup>14</sup>

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6. *Id.* at 5–6.

7. *Id.* at 6.

8. *Browne* Docket Sheet, *supra* note 1.

Judge Broomfield died on July 10, 2014. Federal Judicial Center Biographical Directory of Article III Federal Judges, [www.fjc.gov/history/judges](http://www.fjc.gov/history/judges).

9. *Browne* Opinion, *supra* note 1, at 1.

Judge Broomfield issued an order to show cause on the morning of September 19. Order, *Browne v. Bayless*, No. 2:00-cv-1774 (D. Ariz. Sept. 19, 2000), D.E. 5.

10. *Browne* Opinion, *supra* note 1, at 32; *see* Fischer, *supra* note 4; *Libertarian Split*, *supra* note 3.

11. *Browne* Opinion, *supra* note 1, at 8–15; *see* D.C. Ct. of Appeals v. Feldman, 460 U.S. 462 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *see also* Martin A. Schwartz, Section 1983 Litigation 21–24 (Federal Judicial Center 3d ed. 2014).

12. *Browne* Opinion, *supra* note 1, at 15; *see* *Younger v. Harris*, 401 U.S. 37 (1971).

13. *Browne* Opinion, *supra* note 1, at 21–22; *see* Ariz. Rev. Stat. § 16-351.C.

14. *Browne* Opinion, *supra* note 1, at 24–25 (“Where laches unquestionably comes into play is with Plaintiffs’ decision to file a lawsuit first in the Superior Court, then wait an entire month before launching the present federal action. . . . The court finds that the filing of Plaintiffs’ federal complaint in mid-September reflects a lack of necessary diligence.”).