

Challenging an Age Restriction for the Office of Mayor

McClafferty v. Portage County Board of Elections
(Sara Lioi, N.D. Ohio 5:09-cv-2210)

A twenty-one-year-old prospective candidate for mayor challenged a requirement that a mayor be at least twenty-three years of age, which was established after the plaintiff performed well in a mayoral election at the age of nineteen. Observing that the next election arose before the plaintiff turned twenty-three only because of a resignation, the district court denied the plaintiff immediate relief.

Subject: Getting on the ballot. *Topics:* Getting on the ballot; ballot language.

On September 24, 2009, a twenty-one-year-old prospective candidate for mayor of Streetsboro, seeking to fill a vacancy arising from a resignation, filed a federal complaint in the Northern District of Ohio against the city and Portage County's board of elections challenging a requirement adopted in 2007 that legislative and executive officers in Streetsboro be at least twenty-three years of age, a requirement adopted after the plaintiff came within one vote of the eventual winner in a primary election for mayor.¹ With his complaint, the plaintiff filed a motion for a temporary restraining order and a preliminary injunction.²

Judge Sara Lioi conducted a telephone conference with the parties on the day that the complaint was filed and set the case for hearing five days later.³ On September 30, Judge Lioi denied the plaintiff immediate relief, noting that when the age restriction was adopted the next mayoral election was expected to be in 2011, when the plaintiff would have been old enough to be elected mayor.⁴

1. Complaint, *McClafferty v. Portage Cty. Bd. of Elections*, No. 5:09-cv-2210 (N.D. Ohio Sept. 24, 2009), D.E. 1; *McClafferty v. Portage Cty. Bd. of Elections*, 661 F. Supp. 2d 826, 829 (N.D. Ohio 2009); *see Streetsboro Amendment Challenged*, Cleveland Plain Dealer, Sept. 26, 2009, at B5; *Troubled Streetsboro Mayor Resigns*, Cleveland Plain Dealer, May 2, 2009, at B3.

2. Motion, *McClafferty*, No. 5:09-cv-2210 (N.D. Ohio Sept. 24, 2009), D.E. 2; *McClafferty*, 661 F. Supp. 2d at 829.

3. Order, *McClafferty*, No. 5:09-cv-2210 (N.D. Ohio Sept. 25, 2009), D.E. 5 (specifying issues for the hearing); Docket Sheet, *id.* (Sept. 24, 2009); *McClafferty*, 661 F. Supp. 2d at 829; *see* Docket Sheet, *supra* (order eliminating the temporary-restraining-order portion of the pending motion); Withdrawal Motion, *McClafferty*, No. 5:09-cv-2210 (N.D. Ohio Sept. 24, 2009), D.E. 4.

4. *McClafferty*, 661 F. Supp. 2d 826.