

Improper Change in the Ballot-Petition Signature Requirement During an Election Cycle

Nader 2000 Primary Committee v. Hechler
(*Charles H. Haden II, S.D. W. Va. 2:00-cv-839*)

Supporters of a presidential candidate challenged his disqualification from the general-election ballot while another candidate qualified by submitting his ballot petition on the day before the number of signatures required to qualify doubled. The district judge granted the plaintiffs a preliminary injunction, also finding that it was probably unconstitutional for the state to require petition circulators to be registered to vote in the state.

Subject: Getting on the ballot. *Topics:* Getting on the ballot; attorney fees.

On September 7, 2000, Ralph Nader, his presidential campaign, a West Virginia voter, and an out-of-state supporter filed a federal complaint in the Southern District of West Virginia seeking to overturn Nader's disqualification from the November 7 general-election ballot for President.¹ With their complaint, the plaintiffs filed a motion for a preliminary injunction.²

In 1999, West Virginia doubled the number of ballot-petition signatures required for independent and minor-party candidates from 1% to 2% of the votes cast for the same office in the previous general election.³ The Natural Law Party candidate qualified for the 2000 presidential election by submitting his ballot petition on July 10, 1999, the day before the signature-requirement increase went into effect.⁴ Nader submitted his petition later, with enough signatures to satisfy the old rule but not enough to satisfy the new rule.⁵

On September 12, 2000, Judge Charles H. Haden II set the case for hearing on the following day.⁶ On September 15, Judge Haden ordered Nader's name added to the ballot.⁷ In addition to the inequality of applying different

1. Complaint, *Nader 2000 Primary Comm. v. Hechler*, No. 2:00-cv-839 (S.D. W. Va. Sept. 7, 2000), D.E. 1; *Nader 2000 Primary Comm. v. Hechler*, 112 F. Supp. 2d 575, 576 (S.D. W. Va. 2000).

2. Preliminary-Injunction Motion, *Nader 2000 Primary Comm.*, No. 2:00-cv-839 (S.D. W. Va. Sept. 7, 2000), D.E. 2; *Nader 2000 Primary Comm.*, 112 F. Supp. 2d at 576.

3. *Nader 2000 Primary Comm.*, 112 F. Supp. 2d at 576-77.

4. *Id.* at 577.

5. *Id.*

6. Order, *Nader 2000 Primary Comm.*, No. 2:00-cv-839 (S.D. W. Va. Sept. 12, 2000), D.E. 6; see *Judge Delays Ballot Ruling*, Charleston Daily Mail, Sept. 14, 2000, at 12A; *Nader Says State Law Hinders Candidates*, Charleston Daily Mail, Sept. 13, 2000, at 4C.

Judge Haden died on March 20, 2004. Federal Judicial Center Biographical Directory of Article III Federal Judges, www.fjc.gov/history/judges.

7. *Nader 2000 Primary Comm.*, 112 F. Supp. 2d 575; see *Nader Wins Ballot Spot*, N.Y. Times, Sept. 16, 2000, at A10; *Nader's Name Must Be Put on State Ballots, Judge Says*, Charleston Daily Mail, Sept. 15, 2000, at 2A.

signature requirements to different candidates for the same election, Judge Haden found probably unconstitutional West Virginia's requirement that circulators of ballot petitions be registered voters in West Virginia.⁸

Judge Haden was not, however, willing to issue a permanent injunction on the local-registration issue without proper briefing, which the plaintiffs did not provide, so Judge Haden dismissed the complaint without prejudice on June 6, 2001.⁹ On September 13, Judge Haden signed an agreed attorney-fee award of \$10,000.¹⁰

8. *Nader 2000 Primary Comm.*, 112 F. Supp. 2d at 580.

9. Order, *Nader 2000 Primary Comm.*, No. 2:00-cv-839 (S.D. W. Va. June 6, 2001), D.E. 18.

10. Order, *id.* (Sept. 13, 2001), D.E. 22.