

## Ballot-Petition Deadline for Minor Parties

*Baldwin v. Cortés (Yvette Kane, M.D. Pa. 1:08-cv-1626)*

A minor party's federal complaint alleged that it was improper for the state to require minor parties to submit ballot petitions earlier and with more signatures than what was required for major parties. The court of appeals affirmed a judgment by the district court of no impropriety in the ballot-access requirements.

*Subject:* Getting on the ballot. *Topics:* Getting on the ballot; case assignment.

The Constitution Party filed a federal complaint in the Middle District of Pennsylvania on August 29, 2008, alleging that it was improper for Pennsylvania to require minor parties to submit ballot petitions earlier and with more signatures than Pennsylvania required for major parties.<sup>1</sup> As the result of a 1984 consent decree agreed to by Pennsylvania's secretary of the commonwealth, the deadline for minor parties was extended to August 1,<sup>2</sup> which predated the major parties' conventions by several weeks.<sup>3</sup> With its complaint, the party filed a motion for preliminary and permanent injunctions.<sup>4</sup>

The court assigned the case to Judge Yvette Kane.<sup>5</sup> On September 9, Judge Kane granted a motion for expedited hearing that the party filed that day, and Judge Kane scheduled a hearing for September 10.<sup>6</sup> She conducted an additional conference call with the parties on the day after the hearing.<sup>7</sup> Two days after the hearing, she invited the parties to move for her recusal because she served as secretary of the commonwealth in the 1990s.<sup>8</sup> All parties consented to Judge Kane's continuing to preside over the case.<sup>9</sup>

On September 12, Judge Kane issued an opinion finding no impropriety in the consent decree's deadline.<sup>10</sup> On May 6, 2010, the court of appeals affirmed her decision.<sup>11</sup>

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1. Complaint, *Baldwin v. Cortés*, No. 1:08-cv-1626 (M.D. Pa. Aug. 29, 2008), D.E. 1.

2. Consent Decree, *Libertarian Party of Pa. v. Davis*, No. 84-262 (M.D. Pa. June 13, 1984), *filed as* Ex. C, Complaint, *supra* note 1.

3. *See* Complaint, *supra* note 1, at 7.

4. Motion, *Baldwin*, No. 1:08-cv-1626 (M.D. Pa. Aug. 29, 2008), D.E. 2.

5. Letter, *id.* (Sept. 4, 2008), D.E. 5.

6. Order, *id.* (Sept. 9, 2008), D.E. 8; *see* Transcript, *id.* (Sept. 10, 2008, filed Oct. 13, 2008), D.E. 21; Motion, *id.* (Sept. 9, 2008), D.E. 6.

7. *See* Letter, *id.* (Sept. 12, 2008), D.E. 14.

8. Order, *id.* (Sept. 12, 2008), D.E. 13; Order, *id.* (Sept. 12, 2008), D.E. 16; Federal Judicial Center Biographical Directory of Article III Federal Judges, [www.fjc.gov/history/judges](http://www.fjc.gov/history/judges).

9. Letter, *Baldwin*, No. 1:08-cv-1626 (M.D. Pa. Sept. 12, 2008), D.E. 15.

10. Opinion, *id.* (Sept. 12, 2008), D.E. 17, 2008 WL 4279874.

11. *Baldwin v. Cortes*, 378 F. App'x 135 (3d Cir. 2010).