

No Pandemic Relief from a Ballot-Petition Signature Requirement for Signatures Due Very Early in the Pandemic

Garcia v. Griswold
(*William J. Martínez, D. Colo. 1:20-cv-1268*)

A prospective primary-election candidate sought relief from a state supreme court denying her relief from the ballot-petition signature requirement despite social distancing made necessary by a global infectious pandemic. The federal district judge denied the candidate relief because of her delay in bringing the case and because the pandemic had a small impact on signature gathering, as signatures were due early in the pandemic.

Subject: Getting on the ballot. *Topics:* Getting on the ballot; Covid-19; laches; intervention; primary election; matters for state courts; case assignment.

A prospective primary-election candidate for the U.S. Senate filed a federal complaint in the District of Colorado on May 6, 2020, challenging the constitutionality of a state supreme-court ruling denying her a position on the June ballot for not obtaining enough ballot-petition signatures despite the signature-gathering obstacles posed by the global Covid-19 infectious pandemic.¹ Noting that the ballot would be certified on the following day, the prospective candidate and her campaign filed with their complaint a motion for a temporary restraining order and a preliminary injunction.²

Senior Judge Lewis T. Babcock declined the case.³ On May 7, Judge William J. Martínez denied the plaintiffs immediate relief, promising a detailed written order later.⁴ As the signature-submission deadline was March 17, the defendants were prejudiced by laches.⁵ On March 17, moreover, social distancing made necessary by the pandemic was still in its early days, so it could only have a limited impact on signature gathering.⁶

Because of the complexities of the case, Judge Martínez knew that he had to call the balls and strikes immediately and issue a thoughtful explanation of

1. Complaint, *Garcia v. Griswold*, No. 1:20-cv-1268 (D. Colo. May 6, 2020), D.E. 1. *See generally Colorado Supreme Court Rules U.S. Senate Candidate Doesn't Belong on Ballot After All*, Denver Post, May 5, 2020, at 2A (reporting on a decision in another prospective candidate's case).

2. Motion, *Garcia*, No. 1:20-cv-1268 (D. Colo. May 6, 2020), D.E. 7.

3. Notice, *id.* (May 7, 2020), D.E. 11.

4. Order, *id.* (May 7, 2020), D.E. 12 [hereinafter May 7, 2020, Order], 2020 WL 2505888. Tim Reagan interviewed Judge Martínez for this report by telephone on October 27, 2020.

5. May 7, 2020, Order, *supra* at 4 (noting that even the state-court action was not filed until April 24).

6. *Id.* at 3.

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his decision later.⁷ He issued a detailed opinion on July 15⁸ and an amended opinion on August 21.⁹

A prospective candidate for the state legislature had moved to intervene in the case on May 7,¹⁰ but she withdrew her motion on May 11 in light of Judge Martínez's decision.¹¹

The parties stipulated dismissal of the action on August 28.¹²

7. Interview with Judge William J. Martínez, Oct. 27, 2020.

8. Opinion, *Garcia*, No. 1:20-cv-1268 (D. Colo. July 17, 2020), D.E. 24, 2020 WL 4003648.

9. Opinion, *id.* (Aug. 21, 2020), D.E. 24, 2020 WL 4926051.

10. Intervention Motion, *id.* (May 7, 2020), D.E. 10.

11. Motion Withdrawal, *id.* (May 11, 2020), D.E. 18.

12. Stipulated Dismissal, *id.* (Aug. 28, 2020), D.E. 31.