

## Ballot Filing Fee

*Belitskus v. Pizzingrilli*

(A. Richard Caputo, M.D. Pa. 3:00-cv-1300)

Ralph Nader, seven other persons wishing to run for office, two political organizations, and a voter filed a federal complaint in the Middle District of Pennsylvania's Harrisburg courthouse on Monday, July 24, 2000, objecting to Pennsylvania's ballot filing fee.<sup>1</sup> The filing deadline was August 1.<sup>2</sup> The complaint was similar to one that had been filed in the Eastern District one week previously, but the plaintiffs agreed to refile the case in the Middle District after the commonwealth moved for a transfer.<sup>3</sup>

With their complaint, the plaintiffs filed a motion for a temporary restraining order and a preliminary injunction.<sup>4</sup> After an evidentiary hearing on the following day,<sup>5</sup> Scranton Judge A. Richard Caputo denied the plaintiffs a temporary restraining order and set the preliminary injunction hearing for July 27.<sup>6</sup> "I'm not going to grant the Temporary Restraining Order because I don't think that it's ripe at this point. I don't know that there's anything for me to do right now."<sup>7</sup>

On July 27, Judge Caputo ordered Pennsylvania to provide an alternative to the \$100 filing fee for ballot access to the one plaintiff who showed an inability to pay, and Judge Caputo required the posting of a \$100 bond.<sup>8</sup>

[T]he United States Supreme Court, in my view, has essentially held that an election law, which does not provide for alternative access to the ballot for those who are unable to pay, violates equal protection of the law in terms of someone's First and Fourteenth Amendment Constitutional Rights and is, therefore, unconstitutional.<sup>9</sup>

The order was issued on the following day.<sup>10</sup>

On September 13, two candidates, the voter, and the Green Party remained as plaintiffs, but Ralph Nader and the other plaintiffs voluntarily dismissed their claims.<sup>11</sup>

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1. [Complaint](#), *Belitskus v. Pizzingrilli*, No. 3:00-cv-1300 (M.D. Pa. July 24, 2000), D.E. 1; [Belitskus v. Pizzingrilli](#), 343 F.3d 632, 638 (3d Cir. 2003).

2. [Belitskus v. Pizzingrilli](#), 243 F. Supp. 2d 179, 181 n.1 (M.D. Pa. 2001).

3. [Docket Sheet](#), *Belitskus v. Pizzingrilli*, No. 2:00-cv-3603 (E.D. Pa. July 17, 2000); Transcript at 6, *Belitskus*, No. 3:00-cv-1300 (M.D. Pa. July 25, 2000, filed Aug. 30, 2000), D.E. 17 [hereinafter July 25, 2000, Transcript].

4. [Docket Sheet](#), *Belitskus*, No. 3:00-cv-1300 (M.D. July 24, 2000) (D.E. 2); *see* July 25, 2000, Transcript, *supra* note 3, at 5.

5. July 25, 2000, Transcript, *supra* note 3.

6. [Docket Sheet](#), *supra* note 4 (D.E. 7); [Belitskus](#), 343 F.3d at 638.

7. July 25, 2000, Transcript, *supra* note 3, at 49.

8. [Docket Sheet](#), *supra* note 4 (D.E. 9, 11); [Belitskus v. Pizzingrilli](#), 243 F. Supp. 2d 179, 180–81 (M.D. Pa. 2001); *see* Ryan Dougherty, *Judge Waives Green Party Candidate's Filing Fee*, State College Centre Daily Times, Aug. 10, 2000, at 5A.

9. Transcript at 64–65, *Belitskus*, No. 3:00-cv-1300 (M.D. Pa. July 27, 2000, filed Aug. 30, 2000), D.E. 18.

10. [Docket Sheet](#), *supra* note 4 (D.E. 11); [Belitskus](#), 343 F.3d at 638.

11. [Stipulation](#), *Belitskus*, No. 3:00-cv-1300 (M.D. Pa. Sept. 13, 2000), D.E. 19; [Belitskus](#), 343 F.3d at 638 n.4.

On August 20, 2001, Judge Caputo issued a permanent injunction, holding that “absent a reasonable alternative, a filing fee which an indigent candidate cannot afford violates the Fourteenth Amendment.”<sup>12</sup> On September 11, 2003, the court of appeals agreed.<sup>13</sup>

The parties settled on the matter of attorney fees.<sup>14</sup> The \$100 bond was returned on May 13, 2004.<sup>15</sup>

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12. *Belitskus*, 243 F. Supp. 2d at 183, *aff'd*, 343 F.3d 632; see Elliot Grossman, *State's Fees for Candidates Struck Down*, Allentown Morning Call, Aug. 23, 2001, at A1; *Judge Kills Pa. Candidate Fees*, Lancaster Intelligencer J., Aug. 22, 2001, at 7.

13. *Belitskus*, 343 F.3d at 647, 651; see David B. Caruso, *Pa. Filing Fees Ruled Illegal*, Pittsburgh Post-Gazette, Sept. 12, 2003, at B18.

14. *Notice*, *Belitskus*, No. 3:00-cv-1300 (M.D. Pa. Apr. 30, 2004), D.E. 100; *Letter*, *id.* (Mar. 19, 2004), D.E. 98.

15. *Order*, *id.* (May 13, 2004), D.E. 101.