

Idiosyncratic Preferences for Name on Ballot

NaPier v. Baldacci (D. Brock Hornby, D. Me. 2:06-cv-151)

A minor gubernatorial candidate filed a pro se complaint two months before the 2006 general election because the state was not acceding to his orthographic preferences for his name, including the printing of “Phillip” with the letters “i” represented as just dots with eyebrows and the double “l” represented with a smile under it. The federal judge determined that the case was a matter for the state court.

Subject: Voting procedures. *Topics:* Pro se party; matters for state courts.

On September 11, 2006, approximately two months before Maine’s gubernatorial election, a candidate for governor filed a federal pro se complaint against state officials in the District of Maine.¹ The plaintiff wanted his name on the ballot to be “Phillip Morris NaPier—Thu PeoPles Hero,” and he wanted “Phillip” written so that the letters “i” were just dots with eyebrows and the double “l” had a smile under it.² He also wanted his party identified as the “Pissed Off Patriots.”³ With his complaint, he filed a hand-written motion for an emergency hearing.⁴

Judge D. Brock Hornby held a hearing two days later, at which the plaintiff appeared pro se with a well-behaved guide dog.⁵ Regarding the plaintiff’s pleadings as seeking a temporary restraining order, Judge Hornby, on the case’s fourth day, denied the plaintiff immediate relief.⁶

If the plaintiff is entitled to any relief, he should proceed quickly to state court. The three-day delay caused by this federal filing should not affect any rights he has there. (If he has delayed too long, that delay occurred before the federal suit was filed, not in the last three days; if the Secretary of State has already taken actions that would prevent relief, they were taken before notice of the federal lawsuit, not during the past three days.)⁷

On September 19, a state court denied the plaintiff injunctive relief.⁸ Because the plaintiff did not respond to the state’s October 2 motion to dismiss the federal action, Judge Hornby dismissed it on October 24.⁹

1. Complaint, *NaPier v. Baldacci*, No. 2:06-cv-151 (D. Me. Sept. 11, 2006), D.E. 1; *NaPier v. Baldacci*, 453 F. Supp. 2d 185, 186 (D. Me. 2006).

2. *NaPier*, 453 F. Supp. 2d at 186, 190.

3. *Id.* at 186.

4. Motion, *NaPier*, No. 2:06-cv-151 (D. Me. Sept. 11, 2006), D.E. 2.

5. Docket Sheet, *id.* (Sept. 11, 2006) [hereinafter D. Me. Docket Sheet]; *NaPier*, 453 F. Supp. 2d at 186; Interview with Hon. D. Brock Hornby, Aug. 6, 2012 (noting that especially with pro se cases it is important to make sure as early as possible that defendants are served promptly in emergency cases).

Tim Reagan interviewed Judge Hornby for this report by telephone.

6. *NaPier v. Baldacci*, 451 F. Supp. 2d 256 (D. Me. 2006), *amended*, 453 F. Supp. 2d 185.

7. *NaPier*, 453 F. Supp. 2d at 189.

8. Opinion, *NaPier—Thu Peoples Hero v. Baldacci*, No. CV-06-521 (Me. Sup. Ct. Sept.

19, 2006), *attached as Ex. 1*, Motion to Dismiss, *NaPier*, No. 2:06-cv-151 (D. Me. Oct. 2, 2006), D.E. 13.

9. D. Me. Docket Sheet, *supra* note 5.