

Minor Party State Faction Opposing the National Nominee

Browne v. Bayless

(*Robert C. Broomfield, D. Ariz. 2:00-cv-1774*)

The Libertarian Party’s national nominee for President filed a federal complaint in the District of Arizona on Friday, September 15, 2000, challenging his exclusion from the general election ballot in Arizona.¹ Also named as plaintiffs were a voter who wished to serve as an Arizona elector for the candidate, another Arizona voter, and a Virginia voter who wanted to protect the value of her vote by ensuring that the candidate appeared on all states’ ballots.² The candidate was to be listed as an independent in North Dakota and as the Libertarian candidate in all other states and the District of Columbia.³

Rival factions of Arizona’s Libertarian Party selected different presidential nominees, and the rival nominee was selected for the Arizona ballot instead of the plaintiff.⁴ The plaintiff could have run as an independent, but presidential elector candidacy papers were due on June 14—for either a party or an independent candidate—and the plaintiff did not become a national Libertarian nominee until July 2.⁵

The plaintiff candidate filed an action in Arizona’s superior court on August 18 and received an adverse judgment on September 8, including a ruling that the elector candidacy deadline was not unconstitutional.⁶ The candidate did not file an appeal, and Arizona’s supreme court denied discretionary review on September 12.⁷

The federal court assigned the federal case to Judge Robert C. Broomfield,⁸ who held a telephonic scheduling hearing with the parties and set the case for arguments on September 20.⁹ On September 22, Judge Broomfield granted the defendants’ motion to dismiss the case¹⁰ for several reasons: (1) the action was

1. [Docket Sheet](#), *Browne v. Bayless*, No. 2:00-cv-1774 (D. Ariz. Sept. 15, 2000) (D.E. 1); [Opinion](#) at 1–2, 7, *id.* (Sept. 22, 2000), D.E. 12.

2. [Opinion](#), *supra* note 1, at 2.

3. *Id.* at 3 & n.2; *see Libertarian Split Costs Candidate Ballot Spot*, *Ariz. Republic*, Sept. 26, 2000, at B1 [hereinafter *Libertarian Split*].

4. [Opinion](#), *supra* note 1, at 3 n.3; *see* Howard Fischer, *Arizona Ballot Will Omit Libertarians’ Candidate*, *Ariz. Daily Star*, Sept. 24, 2000, at 5 (“The national party . . . chose last year to back the splinter faction.”).

5. [Opinion](#), *supra* note 1, at 3–4.

6. *Id.* at 5–6.

7. *Id.* at 6.

8. [Docket Sheet](#), *supra* note 1.

Judge Broomfield died on July 10, 2014. Federal Judicial Center Biographical Directory of Federal Judges, <http://www.fjc.gov/history/home.nsf/page/judges.html>.

9. [Opinion](#), *supra* note 1, at 1.

Judge Broomfield issued an order to show cause on the morning of September 19. [Order](#), *Browne v. Bayless*, No. 2:00-cv-1774 (D. Ariz. Sept. 19, 2000) (D.E. 5).

10. [Opinion](#), *supra* note 1, at 32; *see* Fischer, *supra* note 3; *Libertarian Split*, *supra* note 3.

barred by the *Rooker-Feldman* doctrine, which states that among federal courts only the Supreme Court has appellate jurisdiction over state court proceedings;¹¹ (2) “[p]ursuant to the *Younger* abstention doctrine, courts may decline to exercise jurisdiction to avoid undue interference in state functions;¹² (3) the plaintiffs failed to name county boards of supervisors as indispensable defendants under Arizona law;¹³ and (4) laches.¹⁴

11. [Opinion](#), *supra* note 1, at 8–15; see [D.C. Ct. of Appeals v. Feldman](#), 460 U.S. 462 (1983); [Rooker v. Fidelity Trust Co.](#), 263 U.S. 413 (1923); see also Martin A. Schwartz, [Section 1983 Litigation](#) 21–24 (Federal Judicial Center 3d ed. 2014).

12. [Opinion](#), *supra* note 1, at 15; see [Younger v. Harris](#), 401 U.S. 37 (1971).

13. [Opinion](#), *supra* note 1, at 21–22; see [Ariz. Rev. Stat. § 16-351.C](#) (2007).

14. [Opinion](#), *supra* note 1, at 24–25 (“Where laches unquestionably comes into play is with Plaintiffs’ decision to file a lawsuit first in the Superior Court, then wait an entire month before launching the present federal action. . . . The court finds that the filing of Plaintiffs’ federal complaint in mid-September reflects a lack of necessary diligence.”).