

Pro Se Challenge to a Slate's Ballot Exclusion

Sloan v. Kellner

(Mae A. D'Agostino, N.D.N.Y. 1:14-cv-1071)

A pro se federal complaint filed on August 29, 2014, in the Northern District of New York challenged the exclusion of four of the nine plaintiffs from the September 9 Democratic primary election for governor, lieutenant governor, comptroller, and attorney general.¹ Judge Mae A. D'Agostino issued an order on September 2 that defendants show cause by September 5 why the candidate plaintiffs should not be on the ballot.²

The federal complaint followed unsuccessful efforts in state court to overcome exclusion from the ballot for insufficient ballot petition signatures.³ Following submissions by the defendants, Judge D'Agostino denied the plaintiffs a preliminary injunction: (1) according to the *Rooker-Feldman* doctrine, among federal courts only the Supreme Court has appellate jurisdiction over state court proceedings; (2) the action was barred by issue preclusion; and (3) the complaint failed on the merits.⁴

On March 24, 2015, the court of appeals dismissed an interlocutory appeal as moot.⁵ On November 16, Magistrate Judge Christian F. Hummel recommended dismissal of the action for failure to serve defendants.⁶ Judge D'Agostino adopted that recommendation on December 14.⁷

1. Complaint, *Sloan v. Kellner*, No. 1:14-cv-1071 (N.D.N.Y. Aug. 29, 2014), D.E. 1.

2. Order, *id.* (Sept. 2, 2014), D.E. 6.

3. Opinion, *id.* (Sept. 8, 2014), D.E. 10.

4. *Id.*; see *District of Columbia Court 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).

5. Order, *Sloan v. N.Y. State Bd. of Elections*, No. 14-3342 (2d Cir. Mar. 24, 2015), D.E. 128.

6. Order, *Sloan*, No. 1:14-cv-1071 (N.D.N.Y. Nov. 16, 2015), D.E. 21.

7. Order, *id.* (Dec. 14, 2015), D.E. 26.