Permitting Independent Voters to Vote in Party Primaries

Hole v. North Carolina Board of Elections
(James A. Beaty, Jr., M.D.N.C. 1:00-cv-477)

An unsuccessful candidate for the Republican nomination for Guilford County District Court Judge filed a federal complaint in the Middle District of North Carolina on May 11, 2000, nine days after the primary election, alleging that her First Amendment rights were violated by the state and the party's permitting independents to vote in the election.[1]

The candidate was outvoted 8,130 to 8,061, a difference of 0.4%.[2] Of the ballots cast in the Republican primary, two thirds were cast in the candidate's race, and the ballots cast that day included 3.7% cast by independents.[3]

On May 17, Judge James A. Beaty, Jr., heard and denied the candidate's motion for a temporary restraining order.[4] The election was certified on the following day.[5] On August 17, he denied the candidate's motion for a preliminary injunction, explaining that her prayer was essentially foreclosed by the Supreme Court's 1986 decision in *Tashjian v. Republican Party of Connecticut* that a state could not forbid a party from accepting votes in a primary election from independent voters.[6]

The candidate voluntarily dismissed her action on September 15, and the case was closed on stipulation on June 11, 2001.[7]

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1. Hole v. North Carolina Bd. of Elections, 112 F. Supp. 2d 475, 476 (M.D.N.C. Aug. 17, 2000); Docket Sheet, Hole v. North Carolina Bd. of Elections, No. 1:00-cv-477 (M.D.N.C. May 11, 2000); *see* Paula Christian, *Judicial Candidate Sues Two Election Boards*, Greensboro News & Rec., May 16, 2000, at B1.

2. *Hole*, 112 F. Supp. 2d at 476; *see* Paula Christian, *Losing Candidate to Ask for Recount*, Greensboro News & Rec., May 6, 2000, at B1.

3. *Hole*, 112 F. Supp. 2d at 476.

4. *Id.* at 477; Docket Sheet, *supra* note 1.

5. *Hole*, 112 F. Supp. 2d at 477.

6. *Id.* at 479–82; *see* Tashjian v. Republican Party of Conn., 479 U.S. 208 (1986); *see also* Greensboro News & Rec., Aug. 22, 2000, at B1.

7. Docket Sheet, *supra* note 1.