

Signature Requirements for Independent and New-Party Candidates

Delaney v. Bartlett

(Frank W. Bullock, Jr., M.D.N.C. 1:02-cv-741)

“On September 6, 2002, approximately two months before the election and days before the absentee ballots were to be printed,” a write-in candidate to be one of North Carolina’s senators filed a federal complaint in the Middle District of North Carolina challenging the signature requirement for getting on the ballot as an independent candidate.¹ With their complaint, the plaintiffs—the candidate and two of his supporters—filed a motion for a temporary restraining order and a preliminary injunction.²

Judge Frank W. Bullock, Jr., heard the case on September 19 and denied the motions.³ One month later, he issued an opinion explaining his reasons.⁴ The candidate was defeated by Elizabeth Dole.⁵

On July 26, 2004, Judge Bullock determined that ballot signature requirements for independent and new-party candidates in the general election were an unconstitutional combination.⁶ Independent candidates had to submit by the last Friday in June a number of signatures equal to 2% of the total number of registered voters; a candidate running on behalf of a new party, however, could get the party and the candidate on the ballot for a number of signatures equal to 2% of the voters in the most recent gubernatorial election, submitted by the first day of June.⁷ “Given the potential magnitude of the disparity and the historical evidence of ballot exclusion, the burden on unaffiliated candidates *vis-à-vis* new party candidates appears unreasonable and discriminatory.”⁸ Moreover, the requirement based on voter registrations was unconstitutionally vague, because of uncertainty about what would be used as the authoritative record for comparison.⁹

An appeal was dismissed voluntarily on October 21.¹⁰ The signature requirement for independent candidates in North Carolina is now 2% of the most recent gubernatorial vote.¹¹

1. [Delaney v. Bartlett](#), 370 F. Supp. 2d 373, 374 (M.D.N.C. 2004); [Docket Sheet](#), *Delaney v. Bartlett*, No. 1:02-cv-741 (M.D.N.C. Sept. 6, 2002).

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

3. *Id.*

Judge Bullock retired from the bench on August 1, 2006. Federal Judicial Center Biographical Directory of Federal Judges, <http://www.fjc.gov/history/home.nsf/page/judges.html>.

4. *Delaney*, 370 F. Supp. 2d at 374; [Docket Sheet](#), *supra* note 1.

5. [Opinion](#) at 3, *Delaney*, No. 1:02-cv-741 (M.D.N.C. Dec. 24, 2003), D.E. 37, [available at 2003 WL 23192145](#) (denying motions for summary judgment).

6. *Delaney*, 370 F. Supp. 2d 373.

7. *Id.* at 375.

8. *Id.* at 378.

9. *Id.* at 382–85.

10. [Docket Sheet](#), *Delaney v. Bartlett*, No. 04-2230 (4th Cir. Sept. 30, 2004).

11. [N.C. Gen. Stat. § 163-122\(a\)\(1\)](#) (2014).