

## Certification as a Write-In Candidate

*Pearlman v. Gonzales (Martha Vázquez,  
D.N.M. 6:98-cv-1160) and Pearlman v. Vigil-Giron  
(Bruce D. Black, D.N.M. 1:00-cv-1475)*

A pro se litigant filed a federal complaint in the District of New Mexico on September 23, 1998, challenging New Mexico’s secretary of state’s refusal to certify the plaintiff as a write-in Green Party candidate for governor.<sup>1</sup> One reason for her refusal was that the Green Party had become a major political party, so its candidate had to be selected in a primary election.<sup>2</sup> Approximately three weeks later, Judge Martha Vázquez determined that “[t]he reasons cited by Secretary Gonzales for declining Pearlman’s candidacy are not supported by fact or law.”<sup>3</sup> Judge Vázquez also determined, however, that the suit was barred by the Eleventh Amendment.<sup>4</sup> “The proper venue for the resolution of this dispute is not with the federal courts but in the New Mexico Supreme Court.”<sup>5</sup> The plaintiff had already failed to prevail there.<sup>6</sup>

On October 24, 2000, the pro se litigant filed another federal complaint against New Mexico’s secretary of state, this time seeking certification as a write-in candidate for President and an injunction requiring New Mexico to provide a space on the ballot for write-in presidential candidates.<sup>7</sup> On the following day, Judge Bruce D. Black opined that the difference in office to which the plaintiff aspired did not negate New Mexico’s Eleventh Amendment immunity.<sup>8</sup> Moreover, the litigant’s filing suit after the ballots had already been printed weighed against the equitable relief he sought.<sup>9</sup> On January 8, 2001, Judge Black granted the secretary’s motion to dismiss the action.<sup>10</sup>

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1. [Complaint](#), Pearlman v. Gonzales, No. 6:98-cv-1160 (D.N.M. Sept. 23, 1998), D.E. 1; *see Amended Complaint*, *id.* (Sept. 28, 1998), D.E. 3.

2. [Opinion](#), *id.* (Oct. 15, 1998), D.E. 9.

3. *Id.* at 14.

4. *Id.* at 17–21.

5. *Id.* at 20.

6. *See High Court Won’t Reconsider Bid*, Albuquerque J., Sept. 23, 1998, at C3.

7. [Complaint](#), Pearlman v. Vigil-Giron, No. 1:00-cv-1475 (D.N.M. Oct. 24, 2000), D.E. 1; *see Would-Be Write-In Candidate Sues State*, Albuquerque J., Oct. 25, 2000, at B3; *see also* Michael Janofsky, *Forget Third Party, These Presidential Hopefuls Offer Array of Choices*, N.Y. Times, July 8, 2000, at A10.

8. [Opinion](#) at 2, Pearlman, No. 1:00-cv-1475 (D.N.M. Oct. 25, 2000), D.E. 2.

9. *Id.* at 2–3

10. [Docket Sheet](#), *id.* (Oct. 24, 2000).