

## A Disabled Candidate’s Challenge to Signature and Contribution Statutes

*Herschafft v. New York Board of Elections (1:00-cv-2748)*  
*and Herschafft v. New York City Campaign Finance Board*  
*(1:00-cv-3754) (Jack B. Weinstein*  
*and Carol B. Amon, E.D.N.Y.)*

A prospective independent candidate for New York’s city council filed a pro se federal complaint in the Eastern District of New York on May 16, 2000, challenging the state’s requirement that he qualify for the November 2001 ballot by obtaining ballot petition signatures during a six-week period—from July 10, 2001, to August 21.<sup>1</sup> The plaintiff sought a year or more to gather the required 1,460 signatures to accommodate his schizophrenia, which was in remission.<sup>2</sup>

Judge Jack B. Weinstein heard the case two days later.<sup>3</sup> Judge Weinstein dismissed the case a week after the hearing, finding that the time limitation on collecting ballot petition signatures violated neither the Americans with Disabilities Act (ADA) nor the Constitution.<sup>4</sup>

On November 3, 2000, the court of appeals affirmed Judge Weinstein’s constitutional ruling but remanded the case for reconsideration of the ADA claim.<sup>5</sup> The court ordered reconsideration of the claim because of a letter from the plaintiff’s clinical psychologist filed on Judge Weinstein’s invitation at the May 18, 2000, hearing to file additional supporting documents within one month.<sup>6</sup>

Meanwhile, the plaintiff filed another pro se federal action in the Eastern District of New York on June 26, 2000, seeking relaxation of the city’s campaign contribution reporting requirements for contributions less than ten dollars.<sup>7</sup> Judge Weinstein held a show-cause hearing three days later and granted the plaintiff’s motion for recusal.<sup>8</sup> The court reassigned both cases to Judge Carol B. Amon.<sup>9</sup>

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1. Docket Sheet, *Herschafft v. N.Y. Bd. of Elections*, No. 1:00-cv-2748 (E.D.N.Y. May 16, 2000) [hereinafter *Signature Docket Sheet*] (D.E. 1); *A. v. N.Y. Bd. of Elections*, 99 F. Supp. 2d 258, 259–60 (E.D.N.Y. 2000).

2. *A.*, 99 F. Supp. 2d at 259–60.

3. *Signature Docket Sheet*, *supra* note 1 (D.E. 6).

4. *A.*, 99 F. Supp. 2d 258; *see* 42 U.S.C. §§ 12101–12213 (2015).

5. *Herschafft v. N.Y. Bd. of Elections*, No. 00-7698, 2000 WL 1655036 (2d Cir. Nov. 3, 2000), 234 F.3d 1262 (table), *cert. denied*, 531 U.S. 1078 (2001).

6. *Id.* at \*1.

7. Docket Sheet, *Herschafft v. N.Y. City Campaign Fin. Bd.*, No. 1:00-cv-3754 (E.D.N.Y. June 26, 2000) [hereinafter *Contribution Docket Sheet*] (D.E. 1); *Herschafft v. N.Y. City Campaign Fin. Bd.*, 127 F. Supp. 2d 164, 166–67 (E.D.N.Y. 2000).

8. *Contribution Docket Sheet*, *supra* note 7 (D.E. 2).

9. *Id.* (Aug. 3, 2000); *Signature Docket Sheet*, *supra* note 1 (June 29, 2000).

Reviewing an amended complaint filed on October 3,<sup>10</sup> Judge Amon dismissed the case on December 8.<sup>11</sup> Because the reporting requirements were tied to matching public funding, “The instant provisions are substantially related to significant governmental interests.”<sup>12</sup> The court of appeals affirmed the dismissal on May 17, 2001.<sup>13</sup>

Reviewing an amended complaint filed in the first case on April 17, 2001,<sup>14</sup> Judge Amon granted the defendant board of elections summary judgment on August 13.<sup>15</sup> (1) “These undisputed facts are not sufficient to establish that plaintiff is presently substantially limited in a major life activity.”<sup>16</sup> (2) “At best, . . . whether plaintiff’s disability in fact precludes him from participating in the election is speculative.”<sup>17</sup> (3) “It is the Court’s opinion that an accommodation that would require a defendant to violate an otherwise constitutional state law is inherently unreasonable.”<sup>18</sup> The court of appeals affirmed the judgment on May 13, 2002.<sup>19</sup>

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10. Contribution Docket Sheet, *supra* note 7 (D.E. 13).

11. *Herschaft*, 127 F. Supp. 2d 164; *see* *Herschaft v. N.Y. City Campaign Fin. Bd.*, 139 F. Supp. 2d 282 (E.D.N.Y. 2001) (denying reconsideration).

12. *Herschaft*, 127 F. Supp. 2d at 168.

13. *Herschaft v. N.Y. City Campaign Fin. Bd.*, 10 F. App’x 21 (2d Cir.), *cert. denied*, 534 U.S. 888 (2001).

14. Signature Docket Sheet, *supra* note 1 (D.E. 27).

15. *Herschaft v. N.Y. Bd. of Elections*, No. 1:00-cv-2748, 2001 WL 940923 (E.D.N.Y. Aug. 13, 2001).

16. *Id.* at \*4.

17. *Id.* at \*5.

18. *Id.* at \*6 (footnote omitted).

19. *Herschaft v. N.Y. Bd. of Elections*, 37 F. App’x 17 (2d Cir.), *cert. denied*, 537 U.S. 825 (2002).