

Too-Early Ballot-Access Requirement for New Political Parties

California Justice Committee v. Bowen
(Percy Anderson, C.D. Cal. 2:12-cv-3956)

A month before a primary election, and six months before the general election, minor parties filed a federal complaint challenging the state's ballot-access law for new political parties. The district judge issued a preliminary injunction without argument two weeks later. The state had not justified requiring ballot-petition signatures for the general election to be submitted 135 days before the primary election. Following a later bench trial, the judge issued a permanent injunction.

Subject: Getting on the ballot. *Topic:* Getting on the ballot.

On May 7, 2012, one month before California's primary election and six months before the general election, the Justice Party and the Constitution Party filed a federal complaint in the Central District of California challenging California's ballot-access law for new political parties.¹ With their complaint, the plaintiffs filed an unopposed *ex parte* application for a preliminary-injunction hearing only two weeks later.²

Judge Percy Anderson agreed to hear the case on May 21 at 1:30 p.m.³ On that day, however, Judge Anderson issued a preliminary injunction without argument.⁴ California's elections code required petition signatures or voter registrations supporting certification of a new party to be submitted 135 days before the primary election.⁵ Judge Anderson concluded, however, that "the Secretary of State has failed to explain why it is reasonable for that deadline to be 135 days prior to the primary election for a party that seeks only to appear on the general election ballot."⁶

On October 18, following a bench trial, Judge Anderson permanently enjoined the 135-day requirement.⁷ Neither party qualified a candidate for the 2012 general election.⁸

1. Complaint, Cal. Justice Comm. v. Bowen, No. 2:12-cv-3956 (C.D. Cal. May 7, 2012), D.E. 1.

2. Ex Parte Application, *id.* (May 7, 2012), D.E. 2; *see* Preliminary-Injunction Motion, *id.* (May 7, 2012), D.E. 16.

3. Order, *id.* (May 7, 2012), D.E. 13.

4. Minute Opinion, *id.* (May 21, 2012), D.E. 19, 2012 WL 2861349.

5. Cal. Elec. Code § 5100.

6. Minute Opinion, *supra* note 4, at 5.

7. Judgment, *California Justice Comm.*, No. 2:12-cv-3956 (C.D. Cal. Oct. 18, 2012), D.E. 50; Findings of Fact and Conclusions of Law, *id.* (Oct. 18, 2012), D.E. 49, 2012 WL 5057625; *see* Amended Judgment, *id.* (Nov. 29, 2012), D.E. 58.

8. California Secretary of State, Certified List of Candidates for the November 6, 2012, General Election (Aug. 30, 2012), elections.cdn.sos.ca.gov/statewide-elections/2012-general/certified-list-candidates.pdf.