

Unsuccessful Challenge to Holding a Caucus

Napierski v. Guilderland Democratic Committee
(Glenn T. Suddaby, N.D.N.Y. 1:18-cv-846)

A district judge denied relief to a prospective candidate who challenged the plaintiff's party picking nominees for local offices using a caucus instead of a primary election, as other parties used. Receptive to claims that the caucus would not be adequately accessible to persons with disabilities, however, the judge obtained remedial assurances from the defendants.

Subject: Voting procedures. *Topics:* Getting on the ballot; party procedures; primary election; enjoining elections; equal protection; recusal; case assignment.

An intended candidate for town justice—who was the incumbent because of a recent appointment to fill a vacancy—and a voter—the candidate's father—filed a federal complaint in the Northern District of New York on July 18, 2018, challenging one major party's policy in Guilderland, New York, of selecting party nominees for local office using a caucus process instead of a primary election.¹ With their complaint, the plaintiffs filed a proposed order to show cause why the plaintiffs should not be granted a preliminary injunction.²

On the following day, Judge Mae A. D'Agostino recused herself,³ and the court reassigned the case to Judge Glenn T. Suddaby.⁴ He declined to issue the order to show cause:

[W]hile the Court is certainly disturbed by the asserted actions by Defendants (particularly with regards to the alleged [Americans with Disabilities Act] violation), the Court is hesitant to find that the standard for a Temporary Restraining Order has been met (particularly the likelihood-of-success prong) without briefing by Defendants.⁵

Judge Suddaby set the case for hearing on July 23.⁶

1. Complaint, *Napierski v. Guilderland Democratic Comm.*, No. 1:18-cv-846 (N.D.N.Y. July 18, 2018), D.E. 1; see Brendan J. Lyons, *Judge Decries Caucus System*, Albany Times-Union, July 24, 2018, at A1.

"Justice Richard Sherwood was suspended from the bench following his arrest on charges of stealing more than \$11 million from estates associated with a deceased couple who had used him for legal services. Sherwood later pleaded guilty to felony charges and is awaiting sentencing." Lyons, *supra*.

2. Proposed Order, *Napierski*, No. 1:18-cv-846 (N.D.N.Y. July 18, 2018), D.E. 5.

3. Order of Recusal, *id.* (July 19, 2018), D.E. 8.

4. Docket Sheet, *id.* (July 18, 2018).

5. *Id.* (D.E. 9).

6. *Id.*

"A recently appointed Guilderland town justice who is seeking to be elected to the position testified in federal court Monday that town Democratic Committee operatives had pledged to undermine her political career for continuing her campaign against their 'hand-selected' candidate." Lyons, *supra* note 1.

On the day after the hearing, Judge Suddaby held a telephonic conference to assess the extent to which the defendants would voluntarily satisfy his concerns about accommodating disabilities and not starting the caucus until everyone who arrived at the venue could enter and join.⁷ Later that day, Judge Suddaby denied the plaintiffs an injunction against use of a caucus to select a nominee, finding no equal-protection violation arising from one party using a caucus and other parties using primary elections.⁸ Judge Suddaby did order specific accommodations for persons with disabilities, recognizing, “In this case, Defendants have offered to make a number of modifications to the pavilion and surrounding park area in order to ameliorate the accessibility concerns raised in Plaintiffs’ motion.”⁹

With heavy turnout, the plaintiff candidate was defeated at the party caucus 153 to 132.¹⁰ She came in third in the general election.¹¹

The case was resolved by a stipulated dismissal on January 15, 2019.¹²

7. Transcript, *Napierski*, No. 1:18-cv-846 (N.D.N.Y. July 24, 2018, filed Aug. 15, 2018), D.E. 40.

8. Opinion at 17, *id.* (July 24, 2018), D.E. 30; see Brendan J. Lyons, *Ruling: Caucus Can Happen*, Albany Times-Union, July 25, 2018, at C6.

9. Opinion, *supra* note 8, at 15.

10. See Lyons, *supra* note 1.

11. See *Unofficial Results*, Albany Times-Union, Nov. 7, 2018, at A5.

12. Stipulated Dismissal, *Napierski*, No. 1:18-cv-846 (N.D.N.Y. Jan. 15, 2019), D.E. 72.