

Electronic Ballot-Petition Signatures in Rhode Island During a Pandemic

Acosta v. Restrepo (Mary S. McElroy, D.R.I. 1:20-cv-262)

Because of the global Covid-19 infectious pandemic, a district judge in Rhode Island ordered election officials to accept ballot-petition signatures electronically.

Subject: Getting on the ballot. *Topics:* Getting on the ballot; Covid-19.

Six prospective candidates for Rhode Island’s senate filed a federal complaint against election officials for Rhode Island and five of its municipalities on Tuesday, June 16, 2020, challenging Rhode Island’s requirement of collecting ballot-petition signatures in person during a narrow time window between June 30 and July 10, made difficult by the social distancing that became necessary during the global Covid-19 infectious pandemic.¹ With their complaint, the plaintiffs filed an emergency motion for injunctive relief and expedited consideration.²

Judge Mary S. McElroy set the case for a remote chambers videoconference on Friday at 3:00 p.m.³ She set the conference for late in the day so that the parties had the morning to get organized.⁴ She then set the case for a 3:30 p.m. hearing by videoconference on June 23, and then she set the case for another videoconference at noon on June 25.⁵

On June 25, Judge McElroy issued a preliminary injunction requiring Rhode Island’s election authorities to accept for the November election ballot-petition signatures collected electronically.⁶ “Because of the pandemic, and the effect the in-person signature requirement will have on ballot access, the current signature process is not narrowly tailored to advance the state’s interests.”⁷

The parties stipulated dismissal of the action in September 2021.⁸

1. Complaint, *Acosta v. Restrepo*, No. 1:20-cv-262 (D.R.I. June 16, 2020), D.E. 1; *Acosta v. Restrepo*, 470 F. Supp. 3d 161, 163–65 (D.R.I. 2020); see Katherine Gregg, *ACLU Sues to Suspend Signature Requirement for R.I. Ballot Access*, Providence J., June 18, 2020, at A5.

2. Motion, *Acosta*, No. 1:20-cv-262 (D.R.I. June 16, 2020), D.E. 2; *Acosta*, 470 F. Supp. 3d at 165.

3. Docket Sheet, *Acosta*, No. 1:20-cv-262 (D.R.I. June 16, 2020).

For this report, Tim Reagan interviewed Judge McElroy and her law clerk Kevin Rolando by telephone on September 4, 2020.

4. Interview with Judge Mary S. McElroy and her law clerk Kevin Rolando, Sept. 4, 2020.

5. Docket Sheet, *supra* note 3.

6. *Acosta*, 470 F. Supp. 3d 161; see Katherine Gregg, *Judge: Signatures Not Worth It in Virus Age*, Providence J., June 24, 2020, at A4.

7. *Acosta*, 470 F. Supp. 3d at 167.

8. Docket Sheet, *supra* note 3 (order granting stipulated dismissal, Sept. 1, 2021); Stipulation, *Acosta*, No. 1:20-cv-262 (D.R.I. Sept. 1, 2021), D.E. 54.