

## Challenging the Invalidation of Ballot-Access Signatures

*Van Auken v. Blackwell*

*(Gregory L. Frost, S.D. Ohio 2:04-cv-891)*

In 2004, the Socialist Equality Party failed to qualify a presidential candidate in Ohio for the general election and sought emergency relief in federal court. The district court denied immediate relief because the party had not shown that Ohio's secretary of state had failed to provide a legally required review of their case or that they could not obtain mandamus relief from Ohio's state courts if merited.

*Subject:* Getting on the ballot. *Topics:* Getting on the ballot; matters for state courts.

On September 15, 2004, the Socialist Equality Party candidates for President and Vice President and a Dayton voter filed a federal complaint in the Southern District of Ohio alleging unreasonable invalidation of 4,172 of the 7,983 signatures the candidates submitted for ballot qualification, leaving fewer than the 5,000 required.<sup>1</sup> On the following day, the plaintiffs filed a motion for a temporary restraining order or a preliminary injunction.<sup>2</sup>

Judge Gregory L. Frost held a teleconference with the parties and, on September 17, denied injunctive relief.<sup>3</sup> Judge Frost determined that he could resolve the motion on the briefs, without a hearing.<sup>4</sup> The plaintiffs had not shown that Ohio's secretary of state had failed to provide a legally required review of their case or that they could not obtain mandamus relief from Ohio's state courts if merited.<sup>5</sup>

On November 22, the parties stipulated dismissal of the action.<sup>6</sup>

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1. Complaint, *Van Auken v. Blackwell*, No. 2:04-cv-891 (S.D. Ohio Sept. 15, 2004), D.E. 1.

2. Motion, *id.* (Sept. 16, 2004), D.E. 3.

3. Opinion, *id.* (Sept. 17, 2004), D.E. 4.

Tim Reagan interviewed Judge Frost for this report by telephone on June 1, 2012. Judge Frost retired on May 2, 2016. Federal Judicial Center Biographical Directory of Article III Federal Judges, [www.fjc.gov/history/judges](http://www.fjc.gov/history/judges).

4. Interview with Hon. Gregory L. Frost, June 1, 2012.

5. Opinion, *supra* note 3, at 5–7.

6. Stipulation, *Van Auken*, No. 2:04-cv-891 (S.D. Ohio Nov. 22, 2004), D.E. 10.