

Ballot Access for a Minor Party in a Special Congressional Election

Green Party of Arkansas v. Priest
(*George Howard, Jr., E.D. Ark. 4:01-cv-586*)

A September 4, 2001, federal complaint challenged a state’s ballot-access laws, which made it impossible for the Green Party to offer a candidate in a November 20 special election to replace a member of Congress who had been given a presidential appointment. The district judge tentatively granted the plaintiffs relief after a September 13 proceeding and issued an opinion confirming the injunction four days later: “The State has no compelling interest in allowing unrecognized parties to participate in some elections but not others.” The plaintiffs were awarded \$10,165.58 in attorney fees and costs.

Subject: Getting on the ballot. *Topics:* Getting on the ballot; attorney fees.

On September 4, 2001, the Green Party, its candidate for a special election to Congress, and a voter filed a federal complaint in the Eastern District of Arkansas challenging Arkansas’s ballot-access laws for making it impossible for the Green Party to participate in the November 20 special election to replace Asa Hutchinson, whom the President had named administrator of the Drug Enforcement Administration.¹ With their complaint, the plaintiffs filed a motion for a preliminary injunction.²

On September 10, Judge George Howard, Jr., set the case for a September 13 trial on the merits.³ The parties filed a joint stipulation of facts on September 12,⁴ which Judge Howard adopted.⁵

At the conclusion of the September 13 proceeding, Judge Howard tentatively granted the plaintiffs an injunction, issuing an opinion confirming the injunction on September 17.⁶ “The State has no compelling interest in allowing unrecognized parties to participate in some elections but not others.”⁷

On October 3, Judge Howard granted the plaintiffs a stipulated fee-and-costs award of \$10,165.58.⁸

1. Complaint, *Green Party of Ark. v. Priest*, No. 4:01-cv-586 (E.D. Ark. Sept. 4, 2001), D.E. 1.

2. Preliminary-Injunction Motion, *id.* (Sept. 4, 2001), D.E. 2.

3. Order, *id.* (Sept. 10, 2001), D.E. 6; *Green Party of Ark. v. Priest*, 159 F. Supp. 2d 1140, 1141 & n.1 (E.D. Ark. 2001).

Judge Howard died on April 21, 2007. Federal Judicial Center Biographical Directory of Article III Federal Judges, www.fjc.gov/history/judges.

4. Stipulation, *Green Party of Ark.*, No. 4:01-cv-586 (E.D. Ark. Sept. 12, 2001), D.E. 7.

5. *Green Party of Ark.*, 159 F. Supp. 2d at 1141–43.

6. *Id.*, 159 F. Supp. 2d 1140; *see Green Party Candidate Ordered Onto Ballot*, Memphis Commercial Appeal, Sept. 14, 2001, at B2.

7. *Green Party of Ark.*, 159 F. Supp. 2d at 1144.

8. Order, *Green Party of Ark.*, No. 4:01-cv-586 (E.D. Ark. Oct. 3, 2001), D.E. 14; *see*

The Green Party candidate drew 2% of the vote.⁹

Stipulation, *id.* (Oct. 2, 2001), D.E. 13.

9. See *Republican Candidate Wins Arkansas Congressional Seat*, Tulsa World, Nov. 21, 2001, at A3.