

At-Large Caucus Precincts

Chesnut v. Democratic Party of Nevada

(James C. Mahan, D. Nev. 2:08-cv-46)

In 2008, voters challenged the Nevada Democratic Party's plans for nominating caucuses in which some voters would be able to participate in at-large caucuses at times other than the scheduled time for regional caucuses. The court determined that the party had not exceeded its authority in determining its nominating procedures.

Subject: Voting procedures. *Topics:* Party procedures; intervention; recusal.

Eight days before Nevada's 2008 Democratic presidential nominating precinct caucuses, the Nevada State Education Association and six voters filed a federal action challenging, on equal-protection and statutory grounds, the planned administration of the upcoming Saturday, January 19, caucuses.¹ Nevada law provided that major political parties hold precinct caucuses to select delegates to county conventions, which then would select delegates to a state convention, which then would select delegates to the national convention.² The plaintiffs objected to how the party addressed the difficulty of using a procedure to select delegates that disadvantaged persons who had to work during caucus times.³ The solution created at-large precincts, which allowed shift workers in large Las Vegas hotels to meet at times different from regular caucus times; representation at the conventions would be based on participation rather than voter registration, and only shift workers in Las Vegas would be able to benefit from the change.⁴ Three days after filing the complaint, the plaintiffs filed a motion for a temporary restraining order or preliminary injunction.⁵

The court assigned the case to Judge Kent J. Dawson, but he recused himself, and so the court reassigned the case to Judge James C. Mahan.⁶

1. Complaint, *Chesnut v. Democratic Party of Nev.*, No. 2:08-cv-46 (D. Nev. Jan. 11, 2008), D.E. 1.

News media described the lawsuit as an action by supporters of Hillary Rodham Clinton against supporters of Barack Obama. Steve Friess, *Lawsuit Over Precincts in Nevada*, N.Y. Times, Jan. 13, 2008, at 120; David McGrath Schwartz, *Voting on the Strip a No-No, Suit Says*, Las Vegas Sun, Jan. 12, 2008, at A1; see also Lisa Mascaro, *Reid Caught in Middle of Strip-Voting Suit*, Las Vegas Sun, Jan. 15, 2008, at A3 ("Although the Strip caucus sites were established last year, the lawsuit challenging them was filed just three days after the Culinary Union endorsed Obama.").

2. Nev. Rev. Stat. § 293.130 to .163.

3. Complaint, *supra* note 1.

4. *Id.*

5. Motion, *Chesnut*, No. 2:08-cv-46 (D. Nev. Jan. 14, 2008), D.E. 6; see Adrienne Packer & Molly Ball, *Hearing Seeks to Stop At-Large Caucus Sites*, Las Vegas Rev.-J., Jan. 16, 2008, at 6A.

6. Docket Sheet, *Chesnut*, No. 2:08-cv-46 (D. Nev. Jan. 11, 2008).

Tim Reagan interviewed Judge Mahan for this report by telephone on May 18, 2012.

On January 15, the plaintiffs made unsuccessful out-of-court overtures to the defendant to settle the case.⁷ On the same day, the Democratic National Committee moved to intervene.⁸

Spectators filled the courtroom for a two-hour January 17 hearing.⁹ At the hearing, Judge Mahan granted the motion to intervene and denied immediate injunctive relief.¹⁰

Judge Mahan determined that the controlling case was *Ripon Society v. National Republican Party*.¹¹ *Ripon Society* concerned allocation of delegates for the 1976 Republican national convention.¹² The allocation formula, among other things, gave extra seats to states who had been more successful in electing Republicans.¹³ The Court of Appeals for the District of Columbia Circuit determined en banc that the equal-protection principle of one person one vote did not apply to political conventions.¹⁴ Political parties have First Amendment rights respecting self-governance.¹⁵ “[A] party might well wish to impose conditions on delegate selection which are inconsistent with an unconstrained, mathematically equal system of representation.”¹⁶ The *Ripon Society* court concluded that equal protection “is satisfied if the representational scheme and each of its elements rationally advance some legitimate interest of the party in winning elections or otherwise achieving its political goals.”¹⁷ In *Ripon Society*, “the [allocation] formula rationally advance[d] legitimate party interests in political effectiveness.”¹⁸

On March 19, Judge Mahan approved a stipulated dismissal.¹⁹

7. See Adrienne Packer, *Teachers Union, Democrats Fail to Settle Lawsuit Over Caucus Sites*, Las Vegas Rev.-J., Jan. 16, 2008, at 1A.

8. Motion to Intervene, *Chesnut*, No. 2:08-cv-46 (D. Nev. Jan. 15, 2008), D.E. 10.

9. Interview with Hon. James C. Mahan, May 18, 2012; Docket Sheet, *supra* note 6; see Adrienne Packer, *Judge OKs At-Large Caucuses on Strip*, Las Vegas Rev.-J., Jan. 18, 2008, at 1A.

10. Order, *Chesnut*, No. 2:08-cv-46 (D. Nev. Jan. 30, 2008), D.E. 20; see Packer, *supra* note 9.

11. 525 F.2d 567 (D.C. Cir. 1975); Interview with Hon. James C. Mahan, May 18, 2012; see Packer, *supra* note 9 (reporting that Judge Mahan “said political parties have the freedom to set up their own guidelines for caucuses if they do not discriminate against voters based on race, gender or religion”).

12. *Ripon Soc’y*, 525 F.2d at 570.

13. *Id.* at 570–71.

14. *Id.* at 578–87.

15. *Id.* at 585–86.

16. *Id.* at 583.

17. *Id.* at 586–87.

18. *Id.* at 588.

19. Order, *Chesnut v. Democratic Party of Nev.*, No. 2:08-cv-46 (D. Nev. Mar. 19, 2008), D.E. 25.