

## Requirement That a Party's Nominee Be a Member of the Party

*South Dakota Libertarian Party v. Gant*  
(*Lawrence L. Piersol, D.S.D. 4:14-cv-4132*)

A party's nominee was disqualified because the nominee's party change was not effective until it was received by the county auditor, after the nomination. The district judge denied the party and the nominee a preliminary injunction, because the minimal burden of requiring the party change before the nomination was justified by the state's interest in maintaining party integrity.

*Subject:* Getting on the ballot. *Topic:* Getting on the ballot.

South Dakota's Libertarian Party and its candidate for public utilities commissioner filed a federal complaint in the District of South Dakota on August 25, 2014, against South Dakota's secretary of state, challenging as unconstitutional the disqualification of the candidate for being a member of the Republican Party.<sup>1</sup> Judge Lawrence L. Piersol set the case for hearing on August 28.<sup>2</sup> The plaintiffs filed a motion for a preliminary injunction on August 27.<sup>3</sup>

At the hearing, Judge Piersol denied the plaintiffs an injunction and granted the defendants a dismissal.<sup>4</sup> On October 10, Judge Piersol issued a published opinion explaining his ruling.<sup>5</sup>

The candidate changed his registration on the morning of his nomination, but the change was not received by the county auditor until four days later.<sup>6</sup>

A change in voter registration is not effective until received by the county auditor. . . .

. . .

. . . [The candidate] easily could have met the affiliation requirement by simply filling out a voter registration card [in person] at an approved agency, or by getting the form to the county auditor, any time prior to his nomination.<sup>7</sup>

Judge Piersol agreed with South Dakota's argument that "the State has an interest in preserving political parties as viable and identifiable groups, enhancing party building efforts, and guarding against party raiding and 'sore

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1. Complaint, S.D. Libertarian Party v. Gant, No. 4:14-cv-4132 (D.S.D. Aug. 25, 2014), D.E. 1.

2. Order, *id.* (Aug. 25, 2014), D.E. 7; see Minutes, *id.* (Aug. 28, 2014), D.E. 14.

3. Preliminary-Injunction Motion, *id.* (Aug. 27, 2014), D.E. 9.

4. Order, *id.* (Aug. 28, 2014), D.E. 16; S.D. Libertarian Party v. Gant, 60 F. Supp. 3d 1043, 1043 (D.S.D. 2014).

5. S.D. *Libertarian Party*, 60 F. Supp. 3d 1043.

6. *Id.* at 1044.

7. *Id.*

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loser' candidacies by spurned primary contenders."<sup>8</sup> The minimal burden on the party was justified by the state's legitimate and important interests.<sup>9</sup>

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8. *Id.* at 1051.

9. *Id.* at 1050–51.