

Disqualification of a Primary-Election Candidate for Previously Running as an Independent

Swanson v. Pitt

(Myron H. Thompson, M.D. Ala. 2:04-cv-534)

A would-be candidate for the United States Senate filed a pro se federal complaint alleging that it was improper to exclude him as a candidate in a primary election for having previously run as an independent. The district judge declined to issue a temporary restraining order; later, he granted the defendants summary judgment.

Subject: Getting on the ballot. *Topics:* Getting on the ballot; primary election; pro se party.

A would-be candidate for the United States Senate filed a pro se federal complaint in the Middle District of Alabama on June 1, 2004, claiming that it was improper to exclude him as a candidate in the Democratic primary election for having previously run as an independent.¹ In 2002, the plaintiff attempted to qualify for the ballot as an independent candidate, and failing to do so he ran as a write-in candidate.² Among the relief sought was a temporary restraining order.³

On June 2, Judge Myron H. Thompson declined to issue a temporary restraining order.⁴ On August 4, he granted the defendants summary judgment.⁵

1. Complaint, *Swanson v. Pitt*, No. 2:04-cv-534 (M.D. Ala. June 1, 2004), D.E. 1 [hereinafter *Swanson* Complaint]; *Swanson v. Pitt*, 330 F. Supp. 2d 1269, 1271–72 (M.D. Ala. 2004).

2. *Swanson*, 330 F. Supp. 2d at 1273 & n.6; see *Swanson v. Worley*, 490 F.3d 894 (11th Cir. 2007) (denying relief from a signature requirement); *Swanson v. Bennett*, 219 F. Supp. 2d 1225 (M.D. Ala. 2002) (providing relief to other candidates with sufficient signatures from a last-minute change in the due date); Opinion, *Swanson v. Bennett*, No. 2:02-cv-1244 (M.D. Ala. Feb. 18, 2003), D.E. 18 (denying relief for alleged interferences with write-in votes).

3. *Swanson* Complaint, *supra* note 1.

4. Order, *Swanson*, No. 2:04-cv-534 (M.D. Ala. June 2, 2004), D.E. 14.

5. *Swanson*, 330 F. Supp. 2d 1269.