

Disqualified Presidential Electors

Phillips v. Galvin

(Reginald C. Lindsay, D. Mass. 1:00-cv-12067)

A minor party's presidential campaign filed a federal complaint seeking an injunction placing the party's candidates on the November ballot despite a finding that some of its proposed presidential electors were not qualified. The court ruled against the party, in part because of laches.

Subject: Getting on the ballot. *Topics:* Getting on the ballot; laches; interlocutory appeal.

On October 6, 2000, the Constitution Party campaign for President and Vice President filed a federal complaint in the District of Massachusetts seeking an injunction placing the party's candidates on the November ballot despite a finding that some of its proposed presidential electors were not qualified.¹ With their complaint, the plaintiffs filed a motion for a preliminary injunction.²

At an October 12 hearing,³ Judge Reginald C. Lindsay denied the plaintiffs immediate injunctive relief.⁴

Many times when the issues are as complicated as the issues are in this case, I advance the case for trial and try the case dealing with the preliminary injunction and the issue on the merits at the same time.

Obviously, that is not a solution that is available to me in this case in light of the election on November 7th, so I have to decide this.⁵

Judge Lindsay determined that the party had not shown Massachusetts's elector qualification requirements to be unconstitutional, and Massachusetts's secretary of state was entitled to a defense of laches because of the party's delay in bringing the action.⁶

The plaintiffs filed a notice of interlocutory appeal on October 17.⁷ One week later, the court of appeals denied the plaintiffs immediate relief.⁸

1. Complaint, *Phillips v. Galvin*, No. 1:00-cv-12067 (D. Mass. Oct. 6, 2000), D.E. 1; *see* Transcript at 4, *id.* (Oct. 12, 2000, filed Oct. 16, 2000), D.E. 9 (“they are denying a place on the ballot for Frazier and Phillips by deeming three of their twelve presidential elector candidates ineligible . . . on the basis of their having been enrolled in a political party”).

2. Docket Sheet, *id.* (Oct. 6, 2000) (D.E. 2).

3. Transcript, *supra* note 1.

4. Docket Sheet, *supra* note 2 (D.E. 7).

Judge Lindsay died on March 12, 2009. Federal Judicial Center Biographical Directory of Article III Federal Judges, www.fjc.gov/history/judges.

5. Transcript, *supra* note 1, at 65.

6. *Id.* at 66–71; *see id.* at 27, 71 (noting that Judge Lindsay would not be preparing a written ruling because he was leaving town that afternoon and would be gone all of the following week).

7. Notice, *Phillips*, No. 1:00-cv-12067 (D. Mass. Oct. 17, 2000), D.E. 11.

8. Docket Sheet, *Phillips v. Galvin*, No. 00-2237 (1st Cir. Oct. 18, 2000) (“Given plaintiffs’ less than favorable chances of prevailing on appeal, given their tardiness in filing suit, and

On December 19, the parties stipulated dismissal of the action.⁹

given the impracticability of fashioning appropriate and nondisruptive relief at this late stage, . . . the motion for injunction pending appeal is denied.”).

9. Stipulation, *Phillips*, No. 1:00-cv-12067 (D. Mass. Dec. 19, 2000), D.E. 15.