

Permitting Independent Voters to Vote in Party Primary Elections

Hole v. North Carolina Board of Elections
(James A. Beaty, Jr., M.D.N.C. 1:00-cv-477)

An unsuccessful primary-election candidate filed a federal complaint nine days after the election alleging that her First Amendment rights were violated by the state and the party's permitting independents to vote in the election. The district court denied relief as foreclosed by the Supreme Court's 1986 decision in *Tashjian v. Republican Party of Connecticut*.

Subject: Voting procedures. *Topic:* Primary election.

An unsuccessful candidate for the Republican nomination for Guilford County District Court Judge filed a federal complaint in the Middle District of North Carolina on May 11, 2000, nine days after the primary election, alleging that her First Amendment rights were violated by the state and the party's permitting independents to vote in the election.¹

The candidate was outvoted 8,130 to 8,061, a difference of 0.4%.² Of the ballots cast in the Republican primary election, two-thirds were cast in the candidate's race, and the ballots cast that day included 3.7% cast by independents.³

On May 17, Judge James A. Beaty, Jr., heard and denied the candidate's motion for a temporary restraining order.⁴ The election was certified on the following day.⁵ On August 17, Judge Beaty denied the candidate's motion for a preliminary injunction, explaining that the prayer was essentially foreclosed by the Supreme Court's 1986 decision in *Tashjian v. Republican Party of Connecticut* that a state could not forbid a party from accepting votes in a primary election from independent voters.⁶

The candidate voluntarily dismissed her action on September 15, and the case was closed on stipulation on June 11, 2001.⁷

1. *Hole v. N.C. Bd. of Elections*, 112 F. Supp. 2d 475, 476 (M.D.N.C. Aug. 17, 2000); Docket Sheet, *Hole v. N.C. Bd. of Elections*, No. 1:00-cv-477 (M.D.N.C. May 11, 2000); see Paula Christian, *Judicial Candidate Sues Two Election Boards*, Greensboro News & Rec., May 16, 2000, at B1.

2. *Hole*, 112 F. Supp. 2d at 476; see Paula Christian, *Losing Candidate to Ask for Recount*, Greensboro News & Rec., May 6, 2000, at B1.

3. *Hole*, 112 F. Supp. 2d at 476.

4. *Id.* at 477; Docket Sheet, *supra* note 1.

Judge Beaty retired on January 31, 2018. Federal Judicial Center Biographical Directory of Article III Federal Judges, www.fjc.gov/history/judges.

5. *Hole*, 112 F. Supp. 2d at 477.

6. *Id.* at 479–82; see *Tashjian v. Republican Party of Conn.*, 479 U.S. 208 (1986); see also Mike Fuchs, *Judge Upholds Primary Result*, Greensboro News & Rec., Aug. 22, 2000, at B1.

7. Docket Sheet, *supra* note 1.