

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION  
COLUMBUS

RALPH NADER, PETER MIGUEL )  
CAMEJO, HERMAN BLANKENSHIP, )  
KIM BLANKENSHIP, JULIE COYLE , )  
LOGAN MARTINEZ, and )  
LARRY SNIDER, )

Plaintiffs, )

v. )

J. KENNETH BLACKWELL, )  
OHIO SECRETARY OF STATE, )

Defendant. )

Civil Action No. **02 . 04 1052**

Judge **JUDGE SMITH**

**MAGISTRATE JUDGE ABEL**  
**COMPLAINT FOR**  
**DECLARATORY JUDGMENT**  
**AND INJUNCTIVE RELIEF**  
**TEMPORARY RESTRAINING**  
**ORDER AND PRELIMINARY**  
**INJUNCTION**  
**REQUESTED**

Plaintiffs challenge Defendant's refusal to count write-in votes for Ralph Nader and Peter Miguel Camejo under the First and Fourteenth Amendments to the United States Constitution, and 42 U.S.C. § 1983. In support of their Complaint, Plaintiffs state and allege as follows:

**I. PARTIES**

1. The Plaintiffs include Ralph Nader and Peter Miguel Camejo, candidates for President and Vice-President, respectively, as well as five individuals who either cast or intended to cast write-in votes for Nader and Camejo.

2. Plaintiffs are Ralph Nader and Peter Miguel Camejo, candidates for President and Vice-President of the United States, and five electors in Ohio who cast or who intended to cast write-in votes for Nader and Camejo: Herman Blankenship, whose residence is 255 East Oakland Street, Toledo, Ohio 43608; Kim Blankenship, whose residence is 255 East Oakland Street, Toledo, Ohio 43608; Julie Coyle, whose residence is 2554 Westbock Drive, Toledo, Ohio

43613; Logan Martinez, whose residence is 430 East Bruce Avenue, Dayton, Ohio 45405; and Larry Snider, whose residence is 401 Wellington Avenue, Newark, Ohio 43055.

2. Defendant is J. Kenneth Blackwell, Ohio Secretary of State, who has authority over all Ohio elections, and who is expressly empowered by Ohio law to accept and refuse declarations of intent to proceed as write-in candidates.

## **II. JURISDICTION**

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 in that it arises under the Constitution of the United States. Declaratory relief is proper under 28 U.S.C. § 2201 and 28 U.S.C. § 2202.

## **III. VENUE**

4. Venue is proper in the Court under 28 U.S.C. § 1391(b) in that Defendant resides in his official capacity as Secretary of State and has his principle place of business situated within this judicial district.

## **IV. FACTS**

5. Plaintiffs, Ralph Nader, Peter Miguel Camejo, Herman Blankenship, Kim Blankenship, Julie Coyle, Logan Martinez and Larry Snider, by and through counsel, bring this Complaint for Declaratory Judgment and Injunctive Relief against Defendant J. Kenneth Blackwell, Ohio Secretary of State, to prevent him from ignoring write-in votes cast for Ralph Nader and Peter Miguel Camejo during the November 2, 2004, general presidential election.

6. Defendant ordered all Ohio local boards of elections to remove or redact Nader's and Camejo's names from their general election ballots on September 28, 2004, because Defendant determined that the Nader/Camejo campaign failed to properly collect 5,000 voter signatures as required by Ohio law.

7. The Nader/Camejo campaign challenged the Defendant's decision in separate law suits filed in the first week of October 2004 in state and federal court.

8. On Tuesday, October 12, 2004, the United States District Court for the Southern District of Ohio refused the Nader/Camejo campaign's request for emergency relief, which would have (if granted) returned Nader and Camejo to the ballot. This decision was upheld by the United States Court of Appeals for the Sixth Circuit on Monday, October 18, 2004, which refused to issue emergency relief and refused to expedite the appeal.

9. On Friday, October, 22, 2004, the Ohio Supreme Court refused the Nader/Camejo campaign's request for emergency relief, which would have (if granted) returned Nader and Camejo to the ballot.

10. On Tuesday, October 26, 2004, the United States Supreme Court denied emergency relief to the Nader/Camejo campaign, which would have (if granted) returned Nader and Camejo to the ballot.

11. Ohio law directs that write-in candidates for the Presidency must file with Defendant a "declaration of intent" at least fifty days before the general election in order for their votes to be counted. O.R.C. § 3513.041. Specifically, § 3513.041 of the Ohio Revised Code states:

A write-in space shall be provided on the ballot for every office, except in an election for which the board of elections has received no valid declarations of intent to be a write-in candidate under this section. Write-in votes shall not be counted for any candidate who has not filed a declaration of intent to be a write-in candidate pursuant to this section. A qualified person who has filed a declaration of intent may receive write-in votes at either a primary or general election. Any candidate, except one whose candidacy is to be submitted to electors throughout the entire state, shall file a declaration of intent to be a write-in candidate before four p.m. of the fiftieth day preceding the election at which such candidacy is to be considered. If the election is to be determined by electors of a county or a district or subdivision within the county, such declaration shall be filed with the board of elections of that county. If the election is to be determined by electors of a subdivision located in more than one county, such declaration shall be filed with the

board of elections of the county in which the major portion of the population of such subdivision is located. If the election is to be determined by electors of a district comprised of more than one county but less than all of the counties of the state, such declaration shall be filed with the board of elections of the most populous county in such district. *Any candidate for an office to be voted upon by electors throughout the entire state shall file a declaration of intent to be a write-in candidate with the secretary of state before four p.m. of the fiftieth day preceding the election at which such candidacy is to be considered.* In addition, candidates for president and vice-president of the United States shall also file with the secretary of state by said fiftieth day a slate of presidential electors sufficient in number to satisfy the requirements of the United States constitution.

(Emphasis added).

12. A write-in candidate who does not file a timely declaration of intent has his write-in votes discarded and not counted.

13. When Defendant ceased accepting declarations of intent for write-in candidates on or about September 13, 2004, Plaintiffs, Ralph Nader and Peter Miguel Camejo, were qualified to appear by name on Ohio's election ballot.

14. On Tuesday, November 2, 2004, the Nader campaign attempted to submit to Defendant a properly executed and official "declaration of intent" in order to have write-in votes for Ralph Nader and Peter Miguel Camejo officially counted by Ohio elections officials.

14. Defendant refused to accept this "declaration of intent."

15. Defendant intends to discard and not count write-in votes for Ralph Nader and Peter Miguel Camejo.

16. Because of Defendant's refusal, otherwise valid and legitimate write-in votes for Ralph Nader and Peter Miguel Camejo will not be counted in Ohio.

### **CLAIMS FOR RELIEF**

#### **COUNT I**

17. Plaintiffs hereby incorporate all of the claims, allegations and assertions set forth in paragraphs 1-16 as if fully rewritten herein.

18. Ohio's requirement that a declaration of intent be filed 50 days before an election before write-in votes will be counted violates the First and Fourteenth Amendments to the United States Constitution, both facially and as applied to the Nader campaign.

### COUNT II

19. Plaintiffs hereby incorporate all of the claims, allegations and assertions set forth in paragraphs 1-16 as if fully rewritten herein.

20. Because of his actions, Defendant is constitutionally estopped under the First and Fourteenth Amendments from enforcing § 3513.041's temporal requirements in this case.

WHEREFORE, Plaintiffs demand judgment including the following:

A. That a Temporary Restraining Order be issued preventing Defendant from ignoring and not counting write-in votes for Ralph Nader and Peter Miguel Camejo;

B. That Defendant be preliminarily and thereafter permanently enjoined from ignoring and not counting write-in votes for Ralph Nader and Peter Miguel Camejo;

C. That a declaratory judgment be entered declaring that Ohio Revised Code § § 3513.041's temporal requirement, that is, that write-in candidates declare fifty days before their election, violates the First and Fourteenth Amendments to the United States Constitution, both facially and as applied under the facts of this case;

D. For the costs of this proceeding;

E. For a reasonable attorney's fee under 42 U.S.C. § 1988; and

F. For other such relief as deemed appropriate by this Court.

Respectfully submitted,

*Michael P. Cassidy*

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of this Complaint, Motions and supporting Memorandum were faxed and e-mailed to the Ohio Attorney General's Office, c/o Arthur J. Marziale, Jr., Senior Deputy Attorney General (Trial Attorney) ([amarziale@ag.state.oh.us](mailto:amarziale@ag.state.oh.us)), Richard N. Coglianesse ([rcoglianesse@ag.state.oh.us](mailto:rcoglianesse@ag.state.oh.us)) and Damian W. Sikora ([dsikora@ag.state.oh.us](mailto:dsikora@ag.state.oh.us)), Assistant Attorneys General, 30 E. Broad Street, 17<sup>th</sup> Floor, Columbus, OH 43215-3428 (FAX (614) 728-7592), Attorneys for the Defendant, on this 2d day of November, 2004.

*Michael P. Cassidy*  

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Michael P. Cassidy