## Idaho

In 2000, Ralph made history by having the highest write-in vote ever in the history of presidential candidates in any state: a whopping 2.45 percent of the total vote cast in Idaho. No write-in candidate for president at a general election has ever had as much as 1 percent. *See Ballot Access News*, www.ballot-access-news.org, Jan. 1, 2001, issue.) So we were eager to see how he could do if he were actually on the ballot.

The Idaho Code requires independent candidates for president to submit 1 percent of those who voted in the last presidential election or, in 2004, 5,016 signatures properly verified by appointment with the county clerks by August 24. (IDAHO CODE §§ 34-708A and 34-1807.) In 2000, the Nader campaign had sued Idaho, with the help of the Brennan Center for Justice at NYU School of Law, because Idaho required 1 percent (in 2000, this was 4,918 signatures), while only requiring 1,000 signatures for all other independent candidates. We challenged the reasonableness of the 1 percent of the registered voters requirement in Idaho. But we lost, all the way up to the U.S. Supreme Court, which refused to take the case or put us on the ballot. (*See Ralph Nader 2000 v. Pete T. Cenarrusa*, U.S. District Court of the District of Idaho, CIV 00-503-S-MHW [questioning the constitutionality of the 1 percent requirement].) So we had to go write-in. While 1 percent may sound reasonable, collecting signatures in Idaho is no cakewalk. We lost the facial challenge to the law in 2000, and we failed again in 2004 to get on Idaho's ballot, this time because of how state officials employed their procedures for eliminating signatures.

After failing to qualify with the requisite number of signatures (*see* Letter from Ben Ysursa, secretary of state, state of Idaho, to Michael Richardson, Ballot Access coordinator, Sept. 2, 2004, on file with author), we sued the secretary of state, because it

turns out that the county election officials were invalidating a number of people who were registered to vote in Idaho but had moved elsewhere within the state, and thus the voter registration addresses did not match. This was an Illinois and Maryland problem (See *Grand Illusion* pp 89-94, 97-99). Idaho was even invalidating signers who used post office boxes or those who moved within the county. Under Idaho law the move within the county did not change their eligibility as an elector or signer of the petition. (*See* IDAHO CODE § 34-104 [defining a qualified elector as any person who has resided in the state and in the county at least 30 days preceding election].) The county election officials were striking eligible electors because of changed addresses, even though Idaho is one of the few states that permits voters to register on Election Day with same-day voter registration.

We sent a team of volunteers to compare the signatures that were invalidated to the electronic database of voter registrations. In just two counties, Ada and Canyon, our volunteers found enough "improperly invalidated" signatures to bring our count over the required 5,016. The volunteers found these improperly invalidated signatures simply by comparing the signatures to the state's voter database. The voters' signatures were on registration cards exclusively in the possession of the secretary of state's office, which apparently didn't bother to check the petition signatures against the cards before striking signers who had valid registrations, even if the signers put down their post office box address. (*See* Letter from Basil Culyba, attorney for Nader for President 2004, to Ben Ysursa, secretary of state for the state of Idaho, dated Sept. 3, 2004, on file with author.)

We filed a complaint, which the Idaho attorney general's office tried to dismiss—read this—by claiming that we had waited too long to file on purpose in "an effort to

substantially prejudice the rights of overseas absentee voters—most notably this year, over 2,000 Idaho soldiers who were mobilized in the past year, several of whom are in Iraq." (*See* Defendant's Memorandum in support of its Motion to Dismiss, CV0C0407234D at 13.) On what basis they could irresponsibly concoct and impute such ill will when we were trying to allow voters of their state to have a choice is beyond me.

On October 6, 2004, Judge Deborah Bail dismissed the complaint, claiming we had failed to join necessary parties, apparently the chief election officials of Ada and Canyon counties. We refiled the complaint on October 13, arguing that a state that has same-day voter registration has no discernible significant interest in striking eligible electors for failure to maintain a particular address within the state. The problem was amassing evidence. Because of the short time frame, we were unable to ascertain that the signatures rejected for "address change" were the signatures of voters who had already filed address changes with the county clerk. We agreed to voluntarily dismiss the suit, but we ultimately believed that Idaho did not do right by our campaign and that the state's validation process should be challenged. We didn't have the resources on the ground to pursue this case by visiting sixteen Idaho counties during business hours to do the rigorous checking that the state should have done. Idaho and Missouri—which inexplicably claimed it had approximately 2,000 or so less signatures than our coordinators contend were submitted and which were reflected on the receipt we received from the state—were lost purely because of lack of ground resources from our campaign and/or the stonewall of the state officials. We also lost close ones in Massachusetts and Virginia, probably because we didn't have enough of a safety net in signatures but also because we had no friends in the state apparatus. In Virginia, the state board of elections

official ushered our people turning in petitions to another room to help sort them and asked all non-Nader people to leave but allowed a representative of the Virginia Democratic Party to be present. This representative told the state official that the state could not accept our signatures and that he would call the attorney general if the board of elections person accepted them because we didn't have them all properly presorted by jurisdiction before noon. After a multiparty telephone conference with the AG's office, our petitions were accepted, as we had simply been complying with exactly what the board of elections official had told us to do when we were on the premises, following the board's instructions for turning in petitions before noon. We still ended up short and not on the ballot.