

## **Nevada**

A poll in July put Nevada in toss-up territory, with 45 percent for Bush, 42 percent for Kerry, and 4 percent for Nader, so we knew we would be challenged here regardless of how many signatures we turned in. Though the state of Nevada only required 5,135 valid signatures by August 13, 2004, for independent candidates to get on the ballot, on July 8 the campaign submitted 11,878 signatures to the registrar's office. (NEV. REV. STAT. § 298.109.) On August 2, the secretary of state sent us a letter stating that the Nader petition was sufficient to qualify Ralph as an independent candidate in Nevada. (Letter from Dean Heller, secretary of state, state of Nevada, to Mr. Nader, dated Aug. 2, 2004.) The secretary of state had determined that we had submitted 8,711 valid signatures.

Once again the Democrats began to call signors of our petition, claiming to check on the "fraud in the Nader campaign." One of our petition signers said that a caller in a call placed to him on August 17, 2004, stated that it had been determined that "there was definitely fraud committed by the Nader campaign" in the collection of petition signatures. The caller then urged our supporter, repeatedly, to admit on the phone either that he did not sign the Nader petition or that he "was tricked into signing it." Our signer, after asking the caller several times to identify himself, said that the caller admitted he was from the "Democratic National Committee in Las Vegas." To be sure, after the call ended, our supporter called the telephone number recorded on his caller identification, and it was answered, "Hello, DNC."

A second email was also sent to us late at night on Tuesday, August 17, 2004, from Las Vegas. The author said, "I signed a petition to get Ralph Nader on the November ballot a month or so ago. This evening (Tuesday) I received a call from

someone checking on potential fraud issues with the Nader Campaign. They informed me that while checking signatures on the submitted petitions, that there was definitely fraud going on and they were trying to get me to admit on the phone that I did not sign this petition. I asked who was contacting me and it took several minutes for them to admit that they were from the Democratic Party in Las Vegas doing serious investigation with regard to Ralph Nader petitions. . . . I believe that if someone wishes to be on a voters ballots, they have the right, and dirty politics by the Democrats have now persuaded me not to vote for Kerry.” (Email to volunteer@votenader.org, Tuesday, Aug. 17 2004, on file with author.)

The Democrats claimed that the Nader campaign secured signatures through false pretenses to “repeal taxes” or to get “voter registration” changed and that the petition contained invalid, insufficient, and forged signatures. The Democrats also claimed that false affidavits of circulators were used to verify signatures, as their main issue was that the Nevada state code required the circulator affiant to provide his or her permanent residential address, rather than “falsely” listing a hotel where the circulators were staying while collecting signatures. (Petition for Writ of Mandamus and Challenge to Candidacy of Ralph Nader Pursuant to NEV. REV. STAT. § 298.109 (4); Request for Expedited Hearing Pursuant to NEV. REV. STAT. § 298.109(4), Civil Docket 04-01187A, at 4–9.) This was getting tedious.

The statute only requires that an independent candidate’s petition for the office of president “contain the affidavit of the person who circulated the document that all signatures thereon are genuine to the best of his knowledge and belief and were signed in his presence by persons registered to vote in that county.” (NEV. REV. STAT.

§ 298.109(2).) The statute requires an affidavit to this effect by the circulator but doesn't specify any form of affidavit.

The Honorable William A. Maddox listened to the testimony provided and on September 1, 2004, issued a decision from the bench that shows the judge understood well that the state can't require the circulator to be a resident and registered voter to seek signatures. He noted that the public officials required to interpret the law found Nader/Camejo qualified for the ballot and that the statute didn't require the circulators to put their residence down at all. So we were dealing with a regulation implemented by the secretary of state that didn't define anywhere what "reside" meant. Given the lack of specificity in the regulation, the absence of the requirement in the statute, and the burden on the plaintiff, the lower court ruled in our favor. The judge arrived at this conclusion even as he equated petition circulators with "carnival workers" and said "in small towns, at least the ones I grew up in, half the time, whenever the carnival worker showed up, you locked your daughters up so they didn't run off with them." (Transcript dated Sept. 1, 2004, of Judge William Maddox in 04-01187A, In the First Judicial District Court of the state of Nevada in and for Carson City.)

The Democrats appealed with this Hail Mary argument and another claiming that the whole petition was "permeated by fraud" and should be thrown out because of *six* "forged" signatures, even though there was no evidence that the alleged forgeries were from circulators rather than from spouses signing for one another. On September 15, 2004, the Nevada Supreme Court affirmed our lower court decision unanimously. (*McKinley v. Heller*, 43881, Sept. 1, 2004.) The court said that the regulation was "ambiguous," as the term "reside" could mean actual residence or legal domicile.

This whole legal charade cost us thousands of dollars—both to turn in more than double the signatures required and to pay the lawyer who so ably came to our defense on short notice.