

Arkansas

Arkansas requires 1,000 signatures to be turned in by noon on the first Monday in August, which meant August 2, 2004. (ARK. CODE ANN. § 7-8-302(5)(B).) Arkansas law has a unique but sensible provision that says if your petition is not initially sufficient, you have 10 days to cure any defects, a very reasonable procedure to prevent against technical slipups, but you must turn in at least 1,000 signatures by the first deadline. (*Id.*) Our supporters, as they were turning in about 1,100 signatures, were told by the secretary of state's office that a presidential candidate can't appear on the Arkansas ballot as an independent but *had to* have a party affiliation. So our state coordinator initially filed the petitions as the "Better Life Party" but then wrote to Secretary of State Charlie Daniels to tell him that the name of the party is "the Populist Party of Arkansas" with a slogan of "The Better Life." Ralph and Peter had become the nominees of the Populist Party. The secretary of state ultimately verified 1,286 valid signatures.

On September 10, 2004, Linda Chesterfield and the Democratic Party of Arkansas, represented by Robin J. Carroll, of the law firm Vickery & Carroll, P.A., and Brian D. Greer, an attorney in Little Rock, filed a complaint and petition for *writ of mandamus* and declaratory judgment. They filed in the Circuit Court of Pulaski County, Arkansas, against the county boards and state board of elections and the secretary of state, as well as Ralph and Peter personally (No. CV-04-9755, filed Sept. 10, 2004), claiming that "[p]laintiffs and their representative have reviewed the Petition and based

upon such review assert that the Petition is both fraudulent and defective.” (*Id.* at 3, para.

6.) Here we go again I thought.

The plaintiffs claimed that the secretary of state verified names of voters whose address did not match their voter registration address and that these 245 names should be eliminated. They also claimed that the petition forms used were invalid because they did not identify the Populist Party’s sponsorship of the ticket and that having Ralph and Peter’s name on the petition was fraudulent. Arkansas voters, they claimed, needed to know that they were being sponsored by the Populist Party, because, “[f]or example, if Defendants Nader and Camejo had been sponsored by the Neo-Nazi Party most signers surely would want to know about this group in getting access to the ballot.” (*Id.* at 10, para. 27.)

They also claimed there was no canvasser verification on the petition. But they managed to acknowledge that the forms are provided by the secretary of state, and the forms do not provide a place for a canvasser verification at all. Then they claimed the signatures on the petition “exhibit systematic fraud” and that “[t]here has been systematic fraud across the country by those attempting to place Nader’s and Camejo’s name on the ballot.” (*Id.* at 12, para. 34.)

They rehashed the Pennsylvania, Wisconsin, and New Mexico canard that because Nader and Camejo ran as Reform or independents in other states, they were disqualified from running as Populist in Arkansas. (*Id.* at 14, para. 42.) Finally, they claimed that the Populist Party had failed to hold a state convention. Once again, we were facing a kitchen-sink litigation approach to find anything that would stick to erase Nader/Camejo from the ballot. In an attempt to see if they could gin up some supposed

“fraud,” they hired a company called CAMCO to telephone everyone who had signed our petitions. The copy of the script used for questioning our petition signers is found at *Grand Illusion* p. 155. A person in the DNC who wanted to remain anonymous sent it to us as a “concerned citizen” on Friday, September 17. The document was sent from the email of a woman there who was the assistant of Jack Corrigan.

On September 20, 2004, Circuit Judge Timothy Davis Fox issued an 18-page order and opinion against us, instructing the secretary of state to recall the certification of all candidates and remove Ralph Nader. (*Linda Chesterfield, et al. v. Charlie Daniels, et al.* No. CV 2004-9755, (Cir. Ct. Pulaski County Ark. Sept. 20, 2004) (unpublished).) Ralph was served at 11:15 p.m. the night before the hearing, and Peter Camejo had not been served at all. The court couldn’t remove Camejo because it didn’t have personal jurisdiction over him, yet. (*See Populist Party of Arkansas v. Chesterfield*, 359 Ark. 58, 195 S.W.3d 354 (Ark. 2004).) The judge dismissed at the beginning of the hearing the plaintiff’s cause of action for “systematic fraud” and made quick work of disposing of the “sore loser” law contention, stating it was inapplicable in this case. He also found that the requirement to have a canvasser’s verification on the petition was nowhere to be found. (*Linda Chesterfield, et al. v. Charlie Daniels, et al.* No. CV 2004-9755, (Cir. Ct. Pulaski County Ark. Sept. 20, 2004) (unpublished). at 11–12.)

The judge, however, tossed out all the petitions as invalid because he said that the undersigned “propose the name of Ralph Nader and Peter Miguel Camejo as President and Vice President to be placed on the ballot,” instead of saying that these two names “are *the* candidates for President and Vice-President of every elector that signs the petitions” (emphasis in original). (*Id.* at 14.) He claimed the petition should have said

“*their*” candidates, which he found to be a requirement of the wording of the Arkansas statute. (See ARK. CODE ANN. § 7-8-302(5)(B) (2008).) For the lack of *two letters*, and a distinction he (but no one else) was reading into the statute or had briefed, we were going to be knocked off the ballot. We were being tossed from the ballot for following the secretary of state’s forms! (*Linda Chesterfield, et al. v. Charlie Daniels, et al.* No. CV 2004-9755, (Cir. Ct. Pulaski County Ark. Sept. 20, 2004) (unpublished). at 15-16.) The judge also said that to be a new political party one had to get 3 percent of the votes in the last gubernatorial election. Thus there was a distinction between being a political group and being a political party, which could cause confusion to the voters because there was another political party with the name of “Populist.” (*Id.* at 11.)

We appealed immediately to the Arkansas Supreme Court. In a 4–3 split decision written by Chief Justice Betty C. Dickey (for Justices Don Corbin, Robert Brown, and Ray Thornton), the court vacated the writ of mandamus and ordered Nader/Camejo to be included on the presidential ballot. (*See Populist Party of Arkansas v. Chesterfield*, 195 S.W.3d 354 (Ark. 2004).) The Arkansas Supreme Court said that the manner in which the court below interpreted their statutes “leads not only to an absurd result, but also renders the provision unconstitutional.” (*Id.* at 359.) The court noted that there was no statutory requirement that anyone who signed the petition had to be a member of the party or political group, only registered to vote. (*Id.* at 357.) The court also said that the party did not have to use the secretary of state’s form because the code did not prescribe a certain form but that the secretary of state has to accept any form that meets the statutory requirement. (*Id.* at 358.) The court ultimately agreed with a case in the U.S. Court of Appeals for the Sixth Circuit. (*See Anderson v. Mills*, 664 F.2d 600, 608-09 (6th Cir.

1981).) This was another example of mischief by minutiae brought on because of ambiguous state laws.