

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION (CHICAGO)**

LIBERTARIAN PARTY OF ILLINOIS,)
ILLINOIS GREEN PARTY, DAVID)
F. BLACK, SHELDON SCHAFFER,)
RICHARD J. WHITNEY, WILLIAM)
REDPATH, BENNETT W. MORRIS,)
MARCUS THRONEBURG,)

Plaintiffs,)

and ALEXANDER (AJ) RUGGIERI,)

Intervenor-Plaintiff,)

vs.)

J.B. PRITZKER, in his official capacity)
as Governor of Illinois,)

and WILLIAM J. CADIGAN, KATHERINE S.)
O'BRIEN, LAURA K. DONAHUE, CASSANDRA)
B. WATSON, WILLIAM R. HAINE, IAN K.)
LINNABARY, CHARLES W. SCHOLZ,)
WILLIAM M. MCGUFFAGE, in their official)
capacities as Board Members for the Illinois State)
Board of Elections,)

Defendants.)

Case No. 1:20-cv-02112

Hon. Charles R. Norgle

VERIFIED COMPLAINT

**TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION
REQUESTED**

1. This is an action to modify the signature requirements in the Illinois Election Code for established party candidates, and in particular for intervening Plaintiff Alexander (AJ) Ruggieri, Republican Party candidate in the 52nd Legislative District. Ruggieri asks that this Court enter an Order similar to that which was entered on April 23, 2020 (and modified on May 15, 2020) wherein new party and independent candidates are required to collect only 10% of the

number of signatures otherwise required to make the General Election ballot (“the Order”), such that that same signature threshold would apply to Ruggieri as well.

Requirements for Candidates to Appear on the General Election Ballot

2. Under the Illinois Election Code, a political party becomes and continues to be an established party in every political division in the state when its gubernatorial nominee garners in excess of 5% of the vote statewide. 10 ILCS 5/10-2.

3. Having demonstrated this minimal electoral performance, established parties are entitled to nominate their candidates for the general election via a primary election, as well as by petition following a primary election. An established party candidate must, among other things, collect petition signatures of primary electors in order to demonstrate a modicum of support for their candidacy. After prevailing at a primary election, an established party candidate has earned a place on the general election ballot.

4. Where no candidate of an established party is nominated at a primary election, an established party may still nominate a candidate by a process through which a party committee designates a candidate, and then that candidate must collect and file signatures of electors. 10 ILCS 7-61. Candidates who are nominated after the primary in this manner must collect the same minimum number of signatures as candidates for that same office who run in primary elections. *Id.* Established party candidates nominated after the primary must collect their signatures and file their nomination papers within 75 days after the day of the general primary election. *Id.* This election cycle, such established party candidate filings were due to be filed no later than June 1, 2020.

5. Illinois law provides a similar method for new party and independent candidates to appear on the general election ballot. Among other things, new party and independent candidates

must collect petition signatures of electors in order to demonstrate a modicum of support sufficient to justify placing their names on the general election ballot. However, because neither new party candidates nor independent candidates have to first win a party primary before making the general election ballot, new party and independent candidates are required to collect more signatures than are required from established party candidates.

6. A new party or independent candidate for statewide office must gather signatures equal to the lesser of 25,000 or 1% of the votes cast in the preceding statewide election. 10 ILCS 5/10-2, 10-3. By comparison, statewide candidates for established parties need gather only between 5,000 and 10,000 signatures to qualify for the primary ballot. 10 ILCS 5/7-10(a). For other than statewide offices, new party and independent candidates are required to submit a number of signatures equal to or greater than 5% of the votes cast in a political subdivision at the preceding general election. 10 ILCS 5/10-2, 10-3. By contrast, established party candidates for congress are required to gather signatures equal to .5% of the number of primary voters in a particular congressional district. 10 ILCS 5/7-10(b). Established party candidates for the Illinois House and Illinois Senate are required to gather 500 and 1,000 signatures respectively. 10 ILCS 5/8-8.

7. While signature requirements for are generally higher for new party and independent candidates, this Court has repeatedly affirmed the constitutionality of Illinois' ballot access laws. See, e.g., *Tripp v. Scholz*, 872 F.3d 857 (7th Cir. 2017); *Nader v. Keith*, 385 F.3d 729 (7th Cir. 2004). The disparity in the required number of signatures between established party candidates and new party and independent candidates is grounded in the notion that “ballot access laws serve the important, interrelated goals of preventing voter confusion, blocking frivolous candidates from the ballot, and otherwise protecting the integrity of elections.” *Navarro v. Neal*, 716 F.3d 425, 431 (7th Cir. 2013).

8. Prior to entry of the Order, under Illinois law, in this election cycle, new party and independent candidates were permitted to gather signatures between March 24, 2020, to be filed not later than June 22, 2020. 10 ILCS 5/10-4, 10-6.

9. Due to public health concerns related to COVID-19 and accompanying emergency stay-at-home orders issued by the Governor between March 9, 2020 and the present, robust public gathering of petition signatures for new party, independent and established party candidates has been not been possible. Governor Pritzker's successive Executive Orders required that Illinoisans "stay at home" for the entirety of the circulation period for established party candidates to collect signatures and to file petitions to fill vacancies in nomination following the primary.

10. Consequently, new party and independent candidates initiated this action to obtain relief from their signature requirements.

11. On April 23, 2020, this Court entered the Order, which relaxes the requirements for new party and independent candidates throughout Illinois to access the general election ballot in light of the difficulty in collecting petition signatures due to COVID 19. As set forth in the Order (as amended by this Court on May 15, 2020), new party and independent candidates must now collect only 10% of their original requirement, are permitted to collect signatures remotely, and have been extended an additional 4 weeks of time, through July 20, 2020, to collect this new, minimal number of petition signatures.

12. Ruggieri concedes that some accommodation for independent and new party candidates must be made due to COVID 19 and Governor Pritzker's successive Executive Orders. However, the relief granted by this Court to new party and independent candidates now permits those candidates to access the ballot much more easily than established party candidates like

Ruggieri, essentially turning Illinois ballot access law upside down. This is particularly true here, where established party candidates like Ruggieri were tasked with collecting signatures to fill vacancies in office at the same time, and under the same conditions, as new party and independent candidates were required to collect signatures.

13. At present, for example, any new party or independent candidate for the Illinois General Assembly is now required to collect fewer signatures than any established party candidate for the General Assembly. Further, established party candidates have been required to abide by settled signature collection rules (unlike new party and independent candidates), and were required to gather and file their signatures by June 1, 2020, whereas new party and independent candidates have an additional month – through July 20, 2020 – to gather their signatures.

14. To run for State Senate in the 52nd Legislative District, Ruggieri was required to submit 1000 signatures by June 1, 2020. Prior to entry of the Order, an independent or new party candidate for State Senate in the 52nd Legislative District would have been required to submit a minimum of 4,523 to access the General Election ballot. Under the Order, new party and independent candidates for this office may qualify for the ballot by only submitting only 452 signatures, and are permitted to collect them remotely, and have been given an additional month to collect them.

15. This now disparate treatment, in light of all public health circumstances and decades of settled Illinois ballot access law, leaves the Ruggieri with claims for equal protection under the law.

PARTIES

16. Intervening Plaintiff AJ Ruggieri is a Republican candidate for State Senate in the 52nd Legislative District. Ruggieri was designated by the Republican Legislative Committee for the 52nd Legislative District on May 18, 2020 to fill the vacancy in nomination for that office.

17. Plaintiffs Green Party of Illinois, Libertarian Party of Illinois and their affiliated candidates, as well as certain independent candidates, brought this action to relax their ballot access requirements in light of COVID 19 and Governor Pritzker's emergency declarations.

18. Defendant, J.B. Pritzker, is the Governor of Illinois and has issued the emergency declarations and executive orders that have placed an impediment on signature collection.

19. Defendants, William J. Cadigan, Katherine S. O'Brien, Laura K. Donahue, Cassandra B. Watson, William R. Haine, Ian K. Linnabary, Charles W. Scholz, and William M. McGuffage, are members of the Illinois State Board of Elections, which body is charged with overseeing the administration of Illinois election laws.

20. At all times relevant to this action, Defendants were engaged in state action under color of state law.

21. Defendants are being sued in their official capacities for declaratory and injunctive relief under 42 U.S.C. § 1983 and 28 U.S.C. § 2201, as well as costs and attorney's fees under 42 U.S.C. § 1988(b).

JURISDICTION

22. Jurisdiction in this case is predicated on 28 U.S.C. § 1331, this being a case arising under the Constitution of the United States, 42 U.S.C. § 1983 and 28 USCA § 1367.

VENUE

23. Venue is proper in this District under 28 U.S.C. 1391(b) because a substantial part of the events giving rise to Plaintiffs' claims occurred in the Northern District of Illinois.

FACTS

24. For the sake of brevity, Ruggieri adopts the original Plaintiffs' allegations with regard to the origins, spread and danger of COVID-19 as well as the resulting actions, declarations and executive orders of Governor Pritzker. These allegations are set forth in the Amended Complaint, at paragraphs 42-57.

25. Governor Pritzker extended the "stay at home" order through May 31, 2020.

26. Ruggieri was designated to fill the vacancy in nomination for the Republican Party in the 52nd Legislative District on May 18, 2020. As such, at that point but not before, Ruggieri was required to gather petition signatures under the same COVID 19-hampered conditions as independent and new party candidates, as required by Section 7-61 of the Election Code. 10 ILCS 5/7-61.

27. Nonetheless, Ruggieri and his supporters used their best efforts under the circumstances and between May 18, 2020 and June 1, 2020, did collect and file Ruggieri's nomination papers, which included petitions containing 1,152 petition signatures.

28. On June 8, 2020, a resident of the 52nd Legislative District filed an objection with the Illinois State Board of Elections ("SBE") to Ruggieri's nomination papers under Section 10-8 of the Election Code on the grounds that Ruggieri's petitions contained fewer than the statutory minimum of 1,000 valid petition signatures.

29. On June 19, 2020, the SBE conducted an exam of the objection to Ruggieri's petition signatures. The initial result of the SBE exam has indicated that Ruggieri's petitions

contain 949 presumptively valid signatures, which is below the statutory minimum for established party candidates for State Senate.

30. The SBE is currently scheduled to meet as the State Officers Electoral Board on July 20 to enter an order with respect to whether Ruggieri's name will appear on the General Election ballot. As it stands, without the aid of this Court, Ruggieri will not make the General Election ballot.

31. Given the Governor's Executive Order, Ruggieri and his supporters have been deprived of the ability to freely collect petition signatures for the entire period during which he was permitted to collect petition signatures. Notably, petition signature collection is not an "essential activity" under any of Governor Pritzker's Executive Orders. Moreover, the physical proximity generally necessary to collect a petition signature is incompatible with social distancing practices.

32. Currently, established party candidates are required to collect 100% of the minimum number of signatures required by statute, whereas new party and independent candidates must collect only 10% of the signatures otherwise required.

33. Established party candidates were required to collect signatures in-person, and petition circulators must have witnessed those signatures in-person, whereas independent and new party candidates may collect signatures remotely, without an in-person witness, outside the physical presence of a circulator.

34. An established party candidate (like Ruggieri) filling a vacancy in nomination was required to abide by the 75-day collection period in 10 ILCS 5/7-61, and was required to file signatures by the statutory deadline of June 1, 2020. The circulation period for new party and

independent candidates, which began on March 24, 2020 and was to conclude on June 22, 2020, has been extended nearly a month – through July 20, 2020.

35. Like new party and independent candidates, signature gathering by established party candidates like Ruggieri has been significantly hampered due to the emergency orders issued by the Governor and public health concerns, and was unreasonably burdensome under the circumstances.

36. The coronavirus outbreak, the Governor's orders, and the extraordinary relief granted to new party and independent candidates directly cause injury-in-fact to Ruggieri and to his First and Fourteenth Amendment rights. At this point, Ruggieri's opponents are permitted to collect signatures under the same circumstances as he was, and are required to submit only a fraction of their statutory minimum.

37. This Court has the power to properly redress Ruggieri's injuries by issuing the same relief to Ruggieri as has been granted to new party and independent candidates.

**FIRST CAUSE OF ACTION
FIRST AMENDMENT**

38. All previous paragraphs and allegations are incorporated herein.

39. Under present circumstances, Illinois's ballot-access requirements for established party candidates who fill a vacancy in nomination following a primary election where no established party candidate appeared on the ballot and no write-in candidate was nominated violates rights guaranteed by the First and Fourteenth Amendments to the United States Constitution, as enforced through 42 U.S.C. § 1983.

40. A real and actual controversy exists between the parties.

41. Ruggieri has no adequate remedy at law other than this action for declaratory and equitable relief.

42. Ruggieri has suffered irreparable harm as a result of the violations complained of herein, and that harm will continue unless declared unlawful and enjoined by this Court.

**SECOND CAUSE OF ACTION
FOURTEENTH AMENDMENT EQUAL PROTECTION CLAUSE**

43. All previous paragraphs and allegations are incorporated herein.

44. Under present circumstances, Illinois's ballot-access requirements, as modified by the Order of this Court, for established party candidates who fill a vacancy in nomination following a primary election where no established party candidate appeared on the ballot and no write-in candidate was nominated violate rights guaranteed by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, as enforced through 42 U.S.C. § 1983.

45. A real and actual controversy exists between the parties.

46. Ruggieri has no adequate remedy at law other than this action for declaratory and equitable relief.

47. Ruggieri has suffered irreparable harm as a result of the violations complained of herein, and that harm will continue unless declared unlawful and enjoined by this Court.

DEMAND FOR RELIEF

WHEREFORE, Ruggieri respectfully prays that this Court:

- (1) Enter an Order permitting Ruggieri to access the General Election ballot with 10% of the statutory minimum number of signatures otherwise required, to put him in parity with his opponents who are also required to collect signatures under the effects of the COVID 19 pandemic and Governor Pritzker's successive Executive Orders.
- (2) Enjoin the State Board of Elections from enforcing the statutory minimum signature requirement against Ruggieri in the pending objection to his nomination papers, and instead to follow the Order of this Court.
- (3) Retain jurisdiction over this matter and order Defendants to provide to Ruggieri any additional relief the Court deems just.

Respectfully submitted,

Alexander (AJ) Ruggieri

/s/ John Fogarty, Jr. _____

Counsel for the Intervenor

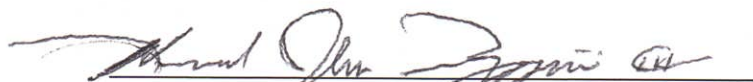
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VERIFICATION OF INTERVENOR

(pursuant to 28 U.S.C. Sec. 1746)

I, Alexander (AJ) Ruggieri, verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed July 2, 2020



Alexander (AJ) Ruggieri, Intervenor