



Press Release

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ACLU Appeals Ruling Against Independent Candidate

Montana's ballot requirements for independents
are unconstitutional and the most burdensome in the nation

HELENA, MT — The ACLU of Montana is appealing a United States District Court decision upholding Montana's ballot access scheme for independent candidates. The case involved would-be candidate Steve Kelly of Gallatin County, who sought to run in 2008 as an independent candidate for the U.S. Senate.

Montana's requirements for independent candidates are the toughest in the nation. To appear on the 2008 ballot, Kelly would have had to file for office in early March – more than 200 days before the election -- submit more than 10,000 signatures and pay a \$1,693 filing fee.

By contrast, major party candidates are not required to submit any signatures, do not have to pay a filing fee and have until June to be selected by their parties.

"This ballot-access scheme blatantly violates the U.S. Constitution's right to free speech and the voting rights guaranteed under the First and Fourteenth Amendments, and gives qualified party candidates an almost insurmountable advantage," said Amy Cannata of the ACLU of Montana. "The burdens imposed by the state are so great that only one independent candidate has successfully qualified to run for the U.S. Senate since 1936."

The ACLU of Montana suit was also filed on behalf of Clarice Dreyer, a Gallatin County resident who wanted to vote for Kelly but was unable to because of his inability to qualify for the ballot.

The U.S. Supreme Court has declared that the "right to vote is 'heavily burdened' if that vote must be cast only for major-party candidates at a time when other parties or candidates are 'clamoring for a place on the ballot'"

Montana's signature gathering requirement is the most stringent in the country, its filing fee is tied with five other states as the third highest in the nation, and its deadline for filing is the third earliest in the country. No other state ranks in the top 15 for these three measures. The ballot-access scheme's unconstitutionality prompted the ACLU's Voting Rights Project to co-counsel on the case.

District Court Judge Sam E. Haddon erred in his decision that Kelly didn't have standing because he was not harmed because he had not decided to run for office before filing the case. In fact, the evidence demonstrated Kelly had decided to run before the suit was filed.

"The mere fact that these requirements are nearly impossible to meet and that they are unconstitutional gives Kelly automatic standing in this case," said Bryan Sells of the ACLU's Voting Rights Project, who is co-counsel in the case. "We are confident that our appeal will be successful."