



Press Release

FOR IMMEDIATE RELEASE

December 14, 2010

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Ninth Circuit Sends ACLU Voting Rights Case To Trial Court

Kelly v. McCulloch seeks to preserve rights of independent candidates and electorate

MISSOULA, MT — A Montana voting rights case brought by the ACLU of Montana and the National ACLU Voting Rights Project that seeks to promote political dialogue and protect the rights of all independent candidates must go back to the trial court, according to a Dec. 10 ruling from the U.S. Court of Appeals for the Ninth Circuit.

The decision in *Kelly v. McCulloch* reversed the United States District Court's denial of the claims of would-be candidate Steve Kelly of Gallatin County, who sought to run in 2008 as an independent candidate for the U.S. Senate.

The District Court decision said that Kelly did not have standing to bring the case, but the Ninth Circuit ruled that Kelly, and fellow plaintiff, Clarice Dreyer, both have standing as registered voters.

Dreyer is a Gallatin County resident who wanted to vote for Kelly but was unable to because of his inability to qualify for the ballot.

McCulloch is named in the case in her capacity as Secretary of State of Montana.

According to the Ninth Circuit decision, Kelly's and Dreyer's "basic constitutional rights as voters are implicated, and they therefore have standing to challenge Montana's ballot access requirements."

Kelly said on Friday that he was "thrilled to have the opportunity for the court to fully consider our claim."

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.

Barriers to ballot access for independent candidates hurt not only the candidates themselves, but the electorate as a whole by limiting political dialogue," said ACLU of Montana Executive Director Scott Crichton.

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 last time a Montana independent candidate successfully qualified to run for the U.S. Senate was in 1936.

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