

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

WILLIAM M. BELITSKUS, R.D. #1)
Box 172B, Kane, PA 16735;)
ANNE GOEKE, 730 Hamilton Street,)
Lancaster, PA 17602;)
THOMAS ALAN LINZEY, 2244 Lindsay)
Lot Road, Shippensburg, PA 17257;)
BARBARA KNOX, R.D. #1 Box 357,)
Blairs Mills, PA 17213;)
JOHN STITH, 1007 Golfview)
Avenue #32, State College, PA 16801;)
ERIC PRINDLE, Susquehanna University,)
Selinsgrove, PA 17870;)
JENNARO PULLANO, 117 Blair Avenue,)
Reading, PA 19601;)
RALPH NADER, 1225 15th Street, NW,)
Washington, D.C. 20005)
NADER 2000 PRIMARY COMMITTEE,)
1225 15th Street, NW, Washington, D.C.)
20005;)
PENNSYLVANIA GREEN PARTY,)
P.O. Box 7413, Lancaster, PA 17604; and)
WILL DONOVAN III, 330 Fifth Avenue,)
State College, PA 16803,)

Plaintiffs,)

v.)

KIM PIZZINGRILLI, in her official)
capacity as Secretary of State of)
Pennsylvania, 302 North Office Building,)
Harrisburg, PA 17120; and)
RICHARD FILLING, in his official)
capacity as the Commissioner overseeing)
Pennsylvania's Bureau of Commissions,)
Elections and Legislation, 302 North Office)
Building, Harrisburg, PA 17120)

Defendants.)
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COMPLAINT

Civil Action No.

Plaintiffs, by and through their attorneys, allege and say the following:

INTRODUCTION

1. This is a civil action for declaratory and injunctive relief arising under the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution and under 42 U.S.C. § 1983. Plaintiffs challenge the Commonwealth of Pennsylvania's requirement at 25 P.S. §§ 2873, 2911, 2913, and 2914 that all candidates for elected office pay a filing fee in order to gain access to the ballot, with no provision for a waiver of such fee or alternative means of ballot qualification. This filing fee system violates Plaintiffs' fundamental rights under the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution and under 42 U.S.C. § 1983.

JURISDICTION AND VENUE

2. This action is brought under 42 U.S.C. § 1983 and under the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. Jurisdiction is conferred by 28 U.S.C. § 1331.

3. Venue is properly laid in the Middle District of Pennsylvania under 28 U.S.C. § 1391(b) because the Defendants reside in this district and the events giving rise to the claim have occurred in this district.

PARTIES

4. Plaintiff William M. Belitskus intends to run as a 2000 candidate for U.S. Representative for the 5th District of Pennsylvania. Mr. Belitskus resides in Kane, Pennsylvania as a homesteader and receives no monetary compensation for his services. He seeks to represent the interests of the less affluent segment of the Pennsylvania

community, and would suffer financial hardship from paying the \$150 filing fee required by Pennsylvania law for candidate access to the ballot for U.S. Representative.

5. Plaintiff Anne E.R. Goeke intends to run as a 2000 candidate for Auditor General of Pennsylvania. Ms. Goeke resides in Lancaster, Pennsylvania and is not currently employed. She seeks to represent the interests of the less affluent segment of the Pennsylvania community, and would suffer financial hardship from paying the \$200 filing fee required by Pennsylvania law for candidate access to the ballot for statewide office.

6. Plaintiff Thomas Alan Linzey intends to run as a 2000 candidate for Attorney General of Pennsylvania. Mr. Linzey resides in Shippensburg, Pennsylvania and runs a non-profit law office. He seeks to represent the interests of the less affluent segment of the Pennsylvania community, and would suffer financial hardship from paying the \$200 filing fee required by Pennsylvania law for candidate access to the ballot for statewide office.

7. Plaintiff Barbara S. Knox intends to run as a 2000 candidate for State Treasurer of Pennsylvania. Ms. Knox resides in Blairs Mills, Pennsylvania and is retired. She seeks to represent the interests of the less affluent segment of the Pennsylvania community, and objects to paying the \$200 filing fee required by Pennsylvania law for candidate access to the ballot for statewide office.

8. Plaintiff John R. Stith intends to run as a 2000 candidate for Pennsylvania State Representative for the 77th District. Mr. Stith resides in State College, Pennsylvania and is employed as an organizer for Ralph Nader's presidential campaign ("Nader 2000"). He seeks to represent the interests of the less affluent segment of the

Pennsylvania community, and would suffer financial hardship from paying the \$100 filing fee required by Pennsylvania law for candidate access to the ballot for State Representative.

9. Plaintiff Eric Prindle intends to run as a 2000 candidate for Pennsylvania State Representative for the 85th District. Mr. Prindle resides in Selinsgrove, Pennsylvania and is a student at Susquehanna University who works part time. He seeks to represent the interests of the less affluent segment of the Pennsylvania community, and would suffer financial hardship from paying the \$100 filing fee required by Pennsylvania law for candidate access to the ballot for State Representative.

10. Plaintiff Jennaro Pullano intends to run as a 2000 candidate for the Pennsylvania State Senate for the 11th District. Mr. Pullano resides in Reading, Pennsylvania and works as a chimney sweeper. He seeks to represent the interests of the less affluent segment of the Pennsylvania community, and would suffer financial hardship from paying the \$100 filing fee required by Pennsylvania law for candidate access to the ballot for the State Senate.

11. Plaintiff Ralph Nader is the Green Party candidate for President of the United States. Mr. Nader resides in the state of Connecticut. He is actively seeking general election ballot access for his candidacy in all 50 states, and will attempt to be placed on the Pennsylvania ballot for November 2000. He seeks to represent the interests of the less affluent segment of the community and objects to paying the \$200 filing fee required by Pennsylvania law for candidate access to the ballot for U.S. President.

12. Plaintiff Nader 2000 Primary Committee, Inc. ("Nader 2000") is the principal campaign committee for Ralph Nader's candidacy for President in the 2000

elections. Nader 2000 is a non-profit corporation organized under the laws of the District of Columbia and maintains its headquarters in Washington, D.C. with staff, field operations, and volunteers around the nation.

13. Plaintiff Pennsylvania Green Party is a political body as defined by 25 P.S. § 2831 seeking to place a slate of candidates on the Pennsylvania ballot in November 2000. The party has a grass roots base of candidates, many of whom would suffer financial hardship from the Pennsylvania filing fees. The Pennsylvania Green Party also has members who wish to support and vote for candidates regardless of their ability to pay the filing fees. Many of its candidates and members are drawn from the less affluent segment of the Pennsylvania community.

14. Plaintiff William Donovan III is a resident of State College, Pennsylvania and a student at Pennsylvania State University. He is registered to vote in Center County, Pennsylvania, and is a member of the Pennsylvania Green Party. He volunteers for Green Party candidates and intends to vote for and support Anne Goeke, Thomas Alan Linzey, Barbara Knox, William M. Belitskus, and Ralph Nader in the November 2000 elections. He is from the less affluent segment of the Pennsylvania community, and feels that the above candidates best represent his interests. He is unable to make large contributions to these candidates.

15. Each of the candidate Plaintiffs is a qualified candidate who has met all of the constitutional requirements for public office, will have obtained all of the required ballot petition signatures before August 1, 2000, and would be eligible to run for public office but for the difficulty in paying Pennsylvania's filing fee for ballot access.

16. Defendant Kim Pizzingrilli is the Secretary of State of Pennsylvania. As head of the Pennsylvania Department of State, she oversees the state's electoral process through the Bureau of Commissions, Elections and Legislation. The Secretary of the Commonwealth receives for filing the nomination petitions of political party candidates, the nomination papers for political bodies, and accompanying fees for the offices of President of the United States, United States Senator, and all state offices including State Senator and State Representative. 25 P.S. §§ 2873, 2913, 2914. Ms. Pizzingrilli is sued in her official capacity.

17. Defendant Richard Filling is the Commissioner overseeing the Bureau of Commissions, Elections and Legislation. The Bureau is charged with administering functions related to the election process including access to the electoral ballot. He is sued in his official capacity.

THE UNCONSTITUTIONAL FILING FEE PROVISIONS

18. Elections in Pennsylvania are governed by the rules and procedures set forth at 25 P.S. §§ 2600 et seq. These provisions distinguish between "political parties" eligible to participate in the Pennsylvania primary and other "political bodies" which may nominate candidates for the general election ballot by filing nomination papers. 25 P.S. §§ 2831, 2862 and 2911.

19. Candidates of political parties seeking a place on the primary ballot must file nomination petitions and pay filing fees to the Secretary of the Commonwealth or, for local office, with a County Board of Election. 25 P.S. § 2873. Candidates of political bodies seeking a place on the general election ballot must file nomination papers with the same offices, and must pay the same filing fees. 25 P.S. § 2911, 2913, 2914.

20. These fees range from \$200 for the U.S. presidency and any statewide office; \$50 for U.S. Representative; \$100 for State Senator, State Representative, and most offices filled by county-wide or city-wide vote; to \$5 to \$25 for local offices. 25 P.S. § 2873.

21. There is no means provided by Pennsylvania law for a candidate to qualify to appear on the ballot without paying these fees. There is no waiver for candidates who would face financial hardship from having to pay these fees, nor is there an alternative means for a candidate to qualify for the ballot. Even those candidates who satisfy the stringent signature requirements of Pennsylvania law are required to pay the filing fees as well.

22. Pennsylvania's filing fee system is unconstitutional as a violation of the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. *Bullock v. Carter*, 405 U.S. 134 (1972); *Lubin v. Panish*, 415 U.S. 709 (1974). Filing fees are permissible only if the state provides an alternative means of qualifying for the ballot without payment of fees, such as qualifying through petition signatures. A system requiring the payment of filing fees with no alternative "falls with unequal weight on voters, as well as candidates, according to their economic status." *Bullock*, 405 U.S. at 144. Pennsylvania's fees, without any waiver or alternative means of ballot qualification, unconstitutionally exclude candidates based on their economic status and deny voters the opportunity to vote for candidates from the less affluent segment of the Pennsylvania community.

23. The filing fees are not reasonably necessary to the accomplishment of a legitimate state objective. While filing fees may limit the number of candidates

appearing on the ballot, they are not a valid means of determining a candidate's seriousness. *Lubin* 415 U.S. at 716-717; *Bullock*, 405 U.S. at 145-146. "Filing fees, however large, do not, in and of themselves, test the genuineness of a candidacy or the extent of the voter support of an aspirant for public office." *Lubin*, 415 U.S. at 717. Additionally, Pennsylvania's stringent signature requirements ensure that only candidates with demonstrated popular support will gain ballot access, even without payment of filing fees. 25 P.A. §§ 2872.1 and 2911.

24. There is no legitimate state interest in having candidates pay the costs of elections, which are a state function and benefit voters more than candidates. *Bullock*, 405 U.S. at 148.

25. The filing fees will work a substantial hardship on the candidate Plaintiffs, many of whom will be excluded from the ballot based on their economic status. The fees will also injure the Pennsylvania Green Party and its members in their ability to field the slate of candidates of their choice, to put forward candidates representing the less affluent segment of the Pennsylvania community, and to support such candidates. Plaintiff Donovan will be injured in his ability to vote for and support the candidates of his choice.

COUNT 1: EQUAL PROTECTION (42 U.S.C. § 1983)

26. Plaintiffs repeat and re-allege paragraphs 1 through 25 as if fully set forth herein.

27. Pennsylvania's filing fee system violates Plaintiffs' fundamental rights under the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution and under 42 U.S.C. § 1983.

PRAYER FOR RELIEF

WHEREFORE, relying on the foregoing allegations, Plaintiffs respectfully request that this Court:

- A. Issue a declaratory judgment pursuant to 28 U.S.C. § 2201 that Pennsylvania's candidate filing fee system, as codified in 25 P.S. §§ 2873, 2911, 2913, and 2914, violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983;
- B. Issue a temporary restraining order and preliminary and permanent injunction enjoining the Defendants from any further enforcement of Pennsylvania's candidate filing fee system as codified in 25 P.S. §§ 2873, 2911, 2913, and 2914 and requiring Defendants to accept the nomination papers of the Plaintiff candidates without payment of the filing fees;
- C. Award Plaintiffs their attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and
- D. Grant Plaintiffs any other relief that this Court deems just and proper.

Respectfully submitted this 24th day of July, 2000,

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**Application for Admission Pro Hac Vice pending.*