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Court: Idaho's Election Law Unfair To Independents

REBECCA BOONE, Associated Press Writer

BOISE, Idaho (AP) — A federal judge says Idaho's election laws are unconstitutional and unfairly biased against would-be independent presidential candidates.

The Monday morning ruling from U.S. Magistrate Judge Ronald Bush sided with Donald Daien, a Phoenix, Ariz. resident who sued Idaho last year claiming he was unfairly barred from collecting signatures in Idaho to get an independent presidential candidate like Ralph Nader on the state ballot.

Daien argued that Idaho's rules violated his right to free speech because nonresidents are barred from circulating petitions in Idaho. He also contended it's unfair to require more than 6,500 signatures for independent presidential candidates to get on the ballot, when candidates seeking statewide office need only 1,000 signatures.

The judge agreed.

"A ballot process that generally presumes by its nature that new ideas and new candidates are always imported and that additionally discourages non-residents from working within Idaho to press debate upon and foster support for new ideas and new candidates, is inherently nefarious and certainly inimical to First Amendment principles," Bush wrote.

Attorneys for Secretary of State Ben Ysursa, who was named in the lawsuit, argued in court that Idaho's residency and signature requirements ensured a level of local support for a candidate before allowing ballot access. They said that keeps candidates who can't muster Idaho support from cluttering up Idaho ballots.

But while the judge said that perspective is consistent with the fact that national presidential campaigns are generally conducted without much attention to Idaho voters, that's no reason it should continue.

"Who is to say that some future independent political movement may not as likely germinate or gain its momentum in Idaho as in any other state, particularly if one of the hallmarks of an independent political campaign is a connection with voters who may otherwise feel disaffected from the major political parties and their candidates, in a setting where such voters may already feel overlooked and underappreciated in part because of their arguably less significant political influence compared to more populous states?" Bush wrote.

Daien's attorney, Daniel Treuden, expressed satisfaction with Bush's ruling.

"We're very pleased because it protects First Amendment rights, both voting and speech rights," said Treuden, a member of The Bernhoft Law Firm in Milwaukee, Wis.

Treuden said the firm had handled similar lawsuits in several other states, including Wisconsin and Arizona, and that similar lawsuits will be filed soon in Kansas and South Dakota.

Ysursa says his office and the Idaho attorney general's office is still reviewing the ruling, but he expects to approach Idaho lawmakers during the next legislative session in January about tweaking the law.

"I'm leaning toward some statutory changes early in the next session, and we can get them implemented in time so we don't run afoul of anyone who wants to run for president," Ysursa said. "What we're concerned about is making sure we don't have a legal battle that will hold up printing the ballots."

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