

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

NICHOLAS GLUBA, Libertarian for Congress, District 1, CHARLES ALDRICH, Libertarian for Congress, District 4 and MARCO BATTAGLIA, Libertarian for U. S. Congress, Third Congressional District, State of Iowa,

Petitioners,

vs.

STATE OBJECTIONS PANEL,

Respondent,

and

DAN SMICKER, CYNTHIA YOCKEY, JACK SAYERS, GARRETT ANDERSON, TRUDY CAVINESS and ELAINE GAESSER,

Intervenors-Respondents.

CASE NO. CVCV067799

**RULING ON PETITIONS
FOR JUDICIAL REVIEW**

A contested hearing on these consolidated petitions for judicial review was held before the undersigned on September 5, 2024 as previously scheduled on an expedited basis. Upon consideration of arguments made at the hearing, and having reviewed the file and being otherwise duly advised in the premises, the court rules as follows:

This is a judicial review proceeding brought pursuant to Iowa Code chapter 17A regarding a decision of the State Objections Panel dated September 3, 2024¹ which sustained objections made by the intervenors to placing the petitioners' names on their

¹ The respondent shall be referred to as "the panel" unless context requires otherwise. The actual decision of the panel was provided on August 28, 2024 at the conclusion of the hearing in question. The written decision was submitted by the panel after this action was commenced.

respective general election ballots. The basis for this decision was that the party on whose behalf these candidacies were pursued (the Libertarian Party of Iowa) (hereinafter “Libertarian Party”) did not follow the statutory process for holding its county convention, thus invalidating the results of the ensuing party convention at which the petitioners’ names were placed in nomination. The petitioners contend that this decision was in error for the following reasons: 1) the intervenors do not have standing to object to the petitioners’ candidacies; 2) the respondent does not have the authority pursuant to Iowa Code §43.24 to entertain the specific objections made by the intervenors; 3) the intervenors did not establish that they qualify to object pursuant to Iowa Code §43.24; 4) the panel’s decision violates the petitioners’ free speech rights; and 5) the proper process to remedy the claimed infraction was pursuant to Iowa Code §39A.4, not §43.24.

As noted earlier, this action is being brought pursuant to Iowa Code chapter 17A. While not holding that this is the exclusive remedy for the review of the panel, the Iowa Supreme Court has held on multiple occasions that the panel can be considered an agency whose decisions are properly subject to judicial review under this chapter. Schmett v. State Objections Panel, 973 N.W.2d 300, 302-03 (Iowa 2022); Chiodo v. Section 43.24 Panel, 846 N.W.2d 845, 848 n. 1 (Iowa 2014). A district court acts in an appellate capacity when it exercises its judicial review power under chapter 17A. Neal v. Annett Holdings, Inc., 814 N.W.2d 512, 518 (Iowa 2012). The appropriate standard of review for this court is governed by Iowa Code §17A.19(10). The grounds being pursued by the petitioners are 1) the panel’s decision was based upon a provision of law that is unconstitutional on its face or as applied; 2) it was based on an erroneous interpretation of a provision of law whose interpretation has not been clearly been vested by a provision

of law in the discretion of the panel; 3) it was the product of reasoning so illogical as to render it wholly irrational; and 4) it was otherwise unreasonable, arbitrary, capricious, or an abuse of discretion. Iowa Code §17A.19(10)(a), (c), (i), (n) (2023).²

A decision is irrational when it is not governed by or according to reason; a decision is illogical when it is contrary to or devoid of logic. The Sherwin-Williams Co. v. Iowa Dep't of Revenue, 789 N.W.2d 417, 432 (Iowa 2010). As the panel does not have interpretive authority over any relevant statutes, any decision regarding such interpretation is reviewed for correction of errors at law. Schmett, 973 N.W.2d at 303. A decision is arbitrary or capricious when it is taken without regard of the law or facts of the case. Banilla Games, Inc. v. Iowa Dep't of Inspections and Appeals, 919 N.W.2d 6, 19 (Iowa 2018). For an agency to act unreasonably is the equivalent of having abused its discretion. Id. (“Discretion is abused when it is exercised on grounds clearly untenable or to an extent clearly unreasonable”).

The factual backdrop for this dispute is relatively straightforward and generally undisputed.³ In accordance with the bylaws of the Libertarian Party, that party held its precinct caucuses on the same day as its county conventions. At the subsequently held district or state conventions (the record is unclear on which took place), the petitioners were nominated as that party's candidate for the applicable congressional district. Timely objections pursuant to Iowa Code §43.24(1)(a)⁴ were made by the intervenors

² Another ground originally pled but not pursued by the petitioners is that the panel's decision was the product of decision making undertaken by the attorney general who was subject to disqualification. Iowa Code §17A.19(10)(e) (2023). That argument is therefore deemed waived.

³ Since the petitioners are not challenging the factual findings of the panel as not being based on substantial evidence when the record is viewed as a whole, see Iowa Code §17A.19(10)(f) (2023), the facts as stated within the decision (and summarized herein) are deemed to be supported by substantial evidence.

⁴ That statute allows for “any person who would have the right to vote for the candidate for the office in question” to file written objections “to the legal sufficiency of a...certificate of nomination filed or issued under this chapter.” Iowa Code §43.24 (1)(a) (2023). Each of the written objections stated that the

based on the argument that the process utilized by the Libertarian Party did not result in authorized delegates to the state convention, thus invalidating the certificates of nomination that resulted from that convention.⁵ These objections were heard by the panel on August 28, 2024. The panel voted 2-1 to remove the petitioners' names from the general election ballot, concluding in pertinent part as follows:

As the candidates acknowledged, the Libertarian Party's holding its precinct caucuses and county conventions on the same night did not comply with the law. The delegates elected at the precinct caucuses did not begin their terms until the next day, so they could not have held county conventions the same night...Without a valid county convention, there were no valid delegates elected to the district conventions and therefore no valid district conventions from which the candidates could have been certified as Libertarian Party nominees.

D0019, Notice of State Objections Panel Decision at 3 (9/3/2024). It went on to conclude that even assuming that the party's actions were measured by a substantial compliance standard, it would still fall short:

Complete failure, as the Iowa Supreme Court has recognized, does not constitute substantial compliance. Here, the Libertarian Party's attempt did not result in "substantially compliant" county conventions; it resulted in meetings whose attendees had no power to constitute a political party to nominate candidates.

D0019 at 3-4 (citation omitted). The dissenting member of the panel focused on a number of issues, including 1) the lack of evidence of the objectors' qualifications to so object; 2) a challenge to a certificate of nomination should relate only to the "elements"

objectors were registered voters in the congressional district at issue. The panel found that each of the objectors were eligible under the statute to file objections.

⁵ The objections also alleged that the Libertarian Party had failed to file their delegate lists with the appropriate county auditors. While that argument was identified by the panel and addressed by it in passing, the parties to this litigation have not focused on it as a ground for reversal. Accordingly, this court will not address that purported ground for disqualification.

of that certificate, not the process that resulted in it; 3) the objectors did not have standing to object, as they could show no injury such as not being able to vote for a Libertarian candidate as a registered voter for that party; 4) the panel did not have the authority to dictate a party's internal processes; 5) the restrictions placed on the party's processes violates the associational rights under the First Amendment of the party and its members; and 6) the panel's decision is contrary to the goal of providing candidates access to the ballot. D0045, Dissent to Panel Decision at 6-8 (9/4/2024). The dissent was provided in statement form after the decision was announced by the panel; a written decision of the panel was not submitted until September 3, 2024. D0019. A consolidated document incorporating both the decision and the dissent were made a part of the record in this case on September 4, 2024. D0045.

Standing/eligibility of objectors. The petitioners maintain that the objectors did not have "standing" to make any objections to the nomination process utilized by the Libertarian Party, as they cannot establish a specific personal or legal interest in the action, or an injury in fact. In making this argument, the petitioners incorrectly compare the notion of standing with the statutory parameters established by the legislature for an objection pursuant to Iowa Code §43.24. It is clear that each of the objectors qualified to make the objections each filed pursuant to Iowa Code §43.24; the factual findings of the panel which support that conclusion are not being challenged on judicial review. There is a difference between one's ability to participate in an administrative proceeding and to have standing to seek judicial review of any decision that flows from that proceeding:

We recognize a person may be a proper party to agency proceedings and not have standing to obtain judicial review. This is evident from the language of the statute allowing only a "party ... who is aggrieved or adversely

affected” by agency action to obtain review. Iowa Code § 17A.19(1). Richards was a proper party to the agency proceedings under Iowa Code section 427.1(26): “Any taxpayer... may make application to the director of revenue and finance for revocation for any exemption, based upon alleged violations of this chapter.” Of itself, this provision does not give Richards standing to obtain judicial review.

Richards v. Iowa Dep’t of Revenue and Finance, 454 N.W.2d 573, 575 (Iowa 1990)

(cited with approval and quoted in Dickey v. Iowa Ethics and Campaign Disclosure Board, 943 N.W.2d 34, 38 (Iowa 2020)). The analysis in Richards is equally applicable to the present case—each of the objectors qualified as same under Iowa Code §43.24; the notion of standing only comes about after the administrative process instituted by the objectors is being reviewed in a judicial proceeding. The petitioners’ standing argument therefore fails.

Authority of panel/standard for compliance. The petitioners also argue that the limits of the panel’s authority under Iowa Code §43.24(1)(a) extend only to the sufficiency of the contents of a candidate’s certificate of nomination, not to whether the party complied with the appropriate process that resulted in the certificate. The first step in analyzing this argument is to look at the statutory language itself:

Objections to the legal sufficiency of a nomination petition or certificate of nomination filed or issued under this chapter or to the eligibility of a candidate may be filed in writing by any person who would have the right to vote for the candidate for the office in question. Objections relating to incorrect or incomplete information that is required under section 43.14 or 43.18 shall be sustained.

Iowa Code §43.24(1)(a) (2023). The Iowa Supreme Court has held that the addition of the second sentence to the statute in 2021 provided the exclusive remedy for objections covered by §43.14 (form of nomination papers) and §43.18 (affidavit of candidacy).

Schmett, 973 N.W.2d at 304-05 (objection based on failure to include date of signing of nomination petition overruled as not within scope of amendment governing “objections to incorrect or incomplete information,” as date is required by Iowa Code §43.15, not §43.14).

The analysis and holding in Schmett is not necessarily determinative of the issue posed in the present case; namely, what constitutes the “legal sufficiency” of the petitioners’ certificates of nomination. The petitioners contend that it pertains only to the information within the four corners of the document in question. This argument, taken along with the language in the second sentence of §43.24(1)(a), as interpreted in Schmett, would render the “legal sufficiency” language in the first sentence superfluous; there would be no other valid objections except for those required by §43.14 and §43.18. This is not an appropriate interpretation of “legal sufficiency.” See Beverage v. Alcoa, Inc., 975 N.W.2d 670, 685 (Iowa 2022) (“We generally read legislation in a manner to avoid rendering portions of a statute superfluous or meaningless”).

The “legal sufficiency” of any nominating document must necessarily involve something other than the content of that document. It is therefore logical to conclude that it must include whether the proper procedures required under the law were followed in generating that document. Otherwise, as the intervenors point out, there would be no check against the use of nominating papers that are facially correct, but improperly offered in response to a party’s legitimate nominating process. While that is not the precise scenario at issue here, the principle is a sound interpretation of Iowa Code §43.24(1)(a). The respondent had the authority under that statute to entertain objections

to the petitioner's certificates of nomination based on defects in the process utilized by the Libertarian Party.⁶

The defect in question is that the Libertarian Party had its county conventions on the same day as precinct caucus which would have nominated delegates to those conventions. As conceded by the petitioners, this process is not consistent with the language of Iowa Code §43.94, which provides that the term of a delegate to a county convention "shall begin on the day following their election at the precinct caucus..." Iowa Code §43.94 (2023). The obvious implication of this language is that any action taken by a delegate-elect on the day he or she is elected is not a valid exercise of their authority as a delegate. The question then becomes by what standard of compliance are the actions of the Libertarian Party to be measured.

Whether strict compliance with a statute is required or whether substantial compliance is adequate is dependent on whether the duty imposed by the statute is mandatory or directory. Glawe v. Ohlendorf, 547 N.W.2d 839, 843 (Iowa Ct.App. 1996):

The dichotomy between a mandatory and a directory statute relates to whether a failure to perform the duty will have the effect of invalidating the governmental action that the requirement affects.

In determining whether a statute is mandatory or directory, we look to the nature of the duty in light of the purpose the statute was designed to serve. When the duty imposed by the provision is essential to effect the main purpose of the statute, the provision is mandatory, and failure to perform the duty will invalidate subsequent proceedings. When the duty imposed is not essential to the main statutory

⁶ In this regard, the court rejects the petitioners' argument that the proper procedure was to have the Iowa Secretary of State issue a notice of technical infraction pursuant to Iowa Code §39A.6(1). While that option was available, there is nothing in that statute or elsewhere that would support the proposition that it is the exclusive remedy under these circumstances.

objective, however, the provision is directory, and failure to perform the duty will not affect the validity of subsequent proceedings unless prejudice is shown.

Willett v. Cerro Gordo County Zoning Board of Adjustment, 490 N.W.2d 556, 559-60 (Iowa 1992) (citations omitted).

The statutory provision in question utilizes the term “shall,” which is generally associated with a statute being mandatory in nature. Kopecky v. Iowa Racing and Gaming Commission, 891 N.W.2d 439, 443 (Iowa 2017). This is by no means a universal rule; the better approach looks to whether the statutory provision goes “to the essence of the thing to be done” rather than “the time, form and mode of proceeding.” Save Our Stadiums v. Des Moines Independent Community School Dist., 982 N.W.2d 139, 148 (Iowa 2022). In this case, the statute establishes the beginning of the authority of a delegate to a county convention by setting the first date upon which the delegate’s term begins. This is clearly a provision that goes to the essence of what a delegate can and cannot do; they have no authority to act on behalf of the party until their term begins. The requirement in Iowa Code §43.24 is therefore mandatory in nature and requires strict compliance. The panel concluded correctly by requiring this level of compliance.

Impact on associational rights. The petitioners’ final argument is that the actions of the panel, even if within its statutory authority, impermissibly infringed upon their associational rights under the First Amendment. The interplay between the rights of the party and the interests of the state were summarized by the United States Supreme Court in New York Bd. of Elections v. Lopez Torres:

A political party has a First Amendment right to limit its membership as it wishes, and to choose a candidate-selection process that will in its view produce the nominee who best represents its political platform. These rights are

circumscribed, however, when the State gives the party a role in the election process—as New York has done here by giving certain parties the right to have their candidates appear with party endorsement on the general-election ballot. Then, for example, the party's racially discriminatory action may become state action that violates the Fifteenth Amendment. And then also the State acquires a legitimate governmental interest in ensuring the fairness of the party's nominating process, enabling it to prescribe what that process must be. We have, for example, considered it to be too plain for argument that a State may prescribe party use of primaries or conventions to select nominees who appear on the general-election ballot. That prescriptive power is not without limits. In Jones,⁷ for example, we invalidated on First Amendment grounds California's blanket primary, reasoning that it permitted non-party-members to determine the candidate bearing the party's standard in the general election.

552 U.S. 196, 202-03, 128 S.Ct. 791, 797-98 (2008) (internal citations and quotation marks omitted). Needless to say, any restriction on what candidates may appear on a ballot necessarily impacts the right to vote in general. Devine v. Wonderlich, 268 N.W.2d 620, 623 (Iowa 1978) (“Because an election contest involves the right of qualified voters to have their ballots counted for the candidate of their choice, the right of franchise is at stake”). While “election laws...invariably impose some burden upon individual voters,” applying a singular standard of review of strict scrutiny “would tie the hands of States seeking to assure that elections are operated equitably and efficiently.” Democratic Senatorial Campaign Committee v. Pate, 950 N.W.2d 1, 7 (Iowa 2020) (quoting Burdick v. Takushi, 504 U.S. 428, 433, 112 S.Ct. 32059, 2063 (1992)).

⁷ California Democratic Party v. Jones, 530 U.S.567, 120 S.Ct. 2402 (2000).

Because of this, Iowa courts have followed a balancing approach (known as the Anderson-Burdick⁸ test which bases the rigorousness of the analysis on the extent the challenged law burdens voters' constitutional rights. LULAC, 950 N.W.2d at 209. Under this test, strict scrutiny is reserved for laws that create severe restrictions on the rights to vote, while a law that imposes only reasonable, nondiscriminatory restrictions that impact voting will apply a deferential standard of review. Id.:

Thus, as we have recognized when those rights are subjected to severe restrictions, the regulation must be narrowly drawn to advance a state interest of compelling importance. But when a state election law provision imposes only reasonable, nondiscriminatory restrictions upon the First and Fourteenth Amendment rights of voters, the State's important regulatory interests are generally sufficient to justify the restrictions.

Smith v. Iowa District Court for Polk County, 3 N.W.3d 524, 539 (Iowa 2024) (internal citations and quotation marks omitted).

A process that results in a particular individual not appearing on the ballot as a particular party's candidate does not severely burden that party's associational rights. Timmons v. Twin Cities Area New Party, 520 U.S. 351, 359, 117 S.Ct. 1364, 1370 (1997). On the other hand, a process that places a burden unequally on new or small political parties discriminates against those candidates and against those voters whose political preferences lie outside the existing political parties. Anderson, 460 U.S. at 793-94, 103 S.Ct. at 1572. Under the present circumstances, the court concludes that the process which formed the basis for the challenges to the Libertarian Party candidates being on the general election ballot is not a severe burden on either the party's or the

⁸ The name comes from the Burdick case quoted above and its predecessor, Anderson v. Celebrezze, 460 U.S. 780, 103 S.Ct. 1564 (1983). League of United Latin American Citizens of Iowa v. Pate, 950 N.W.2d 204, 207, 209 (Iowa 2020).

voters' associational rights and represents a reasonable, nondiscriminatory restriction on a party's ability to place their candidate before the voting public. The process is not weighed against the Libertarian Party—to the contrary, it is applicable to any group that qualifies as a major party under Iowa law.

The regulatory interests which form the basis for the establishment of a one-day break between the holding of precinct caucuses and the beginning of the terms of delegates elected at the caucuses have been expressed at avoiding overlapping terms of delegates, the prevention of dueling certificates of nomination and to provide some time to entertain internal challenges to a candidacy within the party. These interests are sufficient to justify the requirements of Iowa Code §43.94. Although these requirements resulted in the exclusion of the petitioners from the general election ballot, that result passes constitutional muster under the Anderson-Burdick test utilized by the Iowa courts.

Conclusion. The objectors were qualified to bring their challenges to the process utilized by the Iowa Libertarian Party pursuant to Iowa Code §43.24(1)(a). The panel had the statutory authority to hear and resolve those challenges, and in doing so properly utilized a strict compliance standard and correctly interpreted the applicable statutes. Finally, the process utilized by the objectors through the efforts of the panel did not unconstitutionally infringe upon the associational rights of either the Libertarian Party or Iowa voters. For these reasons, the decision of the panel will be upheld.

IT IS THEREFORE ORDERED that the decision of the State Objections Panel dated September 3, 2024 is affirmed in its entirety. This action is dismissed at the cost of the petitioners. The temporary injunction previously issued in this case is dissolved.



State of Iowa Courts

Case Number
CVCV067799
Type:

Case Title
NICHOLAS GLUBA VS STATE OBJECTIONS PANEL
OTHER ORDER

So Ordered

Michael D. Huppert, District Court Judge,
Fifth Judicial District of Iowa

Electronically signed on 2024-09-07 09:49:41