

# The Removal of Carl Romanelli from Pennsylvania's 2006 U.S. Senate Ballot

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*This article is a case study of the ballot qualification challenge brought by the Pennsylvania Democratic Party against Carl Romanelli, the Green Party candidate for U.S. Senate in 2006. The study argues that the state's legal process for challenging signatures on ballot access petitions imposes a greater burden on independent and minor party candidates than the letter of the law suggests; that Pennsylvania signature thresholds are arbitrary and unjust; and that the signature challenge process is motivated more by partisan political considerations than by a genuine public interest in preventing signature fraud. The study concludes that Romanelli may have qualified for a place on the ballot had the standard applied to him been that suggested by the ballot access law without the various criteria for disqualifying signatures added by his partisan opposition, legal precedents, the court-ordered review process, and the state's database of registered voters.*

Carl Romanelli was not the first candidate to have his initial qualification for the ballot in Pennsylvania overturned through a court challenge, but his 2006 U.S. Senate campaign was notable for several reasons. First, Romanelli was a potential “spoiler” candidate in a race that had attracted national attention. Second, even though he faced the highest signature hurdle for ballot access ever imposed on a candidate by Pennsylvania electoral law, he nonetheless submitted more signatures than any candidate in the state's history. The most remarkable aspect of Romanelli's campaign, though, is that while the number of signatures from registered Pennsylvania voters signing his petition in good faith likely exceeded the legal threshold of 67,070 names, the Democratic Party nevertheless succeeded in having Romanelli removed from the ballot. The process by which many of his petition signatures were challenged and invalidated shows that the actual barriers to ballot access in Pennsylvania for independent and minor party candidates are far greater than even Pennsylvania's restrictive ballot access statute

suggests. Romanelli's case thus calls into question whether independent and minor party candidates have a real opportunity to get on the ballot in Pennsylvania if one of the major parties wishes to thwart their access.

### **Ballot Access**

The account of ballot access presented here presupposes that the number of candidates on the ballot has a generally curvilinear impact on the quality of election outcomes. As a general principle, having more candidates on the ballot increases the odds that the "best" candidate in a particular race will win because each additional candidate has a chance of being an improvement over the best option already in the pool. This tendency is subject to diminishing returns, however, inasmuch as the likelihood of an added candidate being an improvement tends to be inversely proportional to the number of choices already available.<sup>2</sup> Having more candidates on the ballot also gives representation to a greater range of ideas and issue positions. Countering these probable benefits is the fact that each added candidate is likely to increase the time, energy, and money spent on the campaigns by the media and by voters evaluating the candidates. Hypothetically, as the number of candidates increases, some point eventually is reached where benefit relative to costs is maximized, after which the transaction costs begin substantially to outweigh the potential gains. Additional candidates beyond this optimal number constitute "ballot clutter." Because the costs and benefits defining the conceptual curve are highly variable and subjective, there can be no simple or objective determination of an ideal number of candidates in an election; but it seems likely that elections with three or four candidates would often be an improvement over two-candidate elections.<sup>3</sup> Unfortunately, few political races in Pennsylvania offer more than two choices. This condition suggests that current state ballot access requirements deprive Pennsylvania voters of an optimal number of ballot choices.<sup>4</sup>

Independent and minor party voters suffer in another, more direct way. Where ballot access is restricted to the two major parties and the election process has been largely co-opted by party primaries, voters have no candidates that truly represent them. Accordingly, they are reduced to being mere swing voters. Moreover, where one party or the other dominates, as in many Pennsylvania legislative districts,

independent and minor party voters are essentially disenfranchised because there is no viable alternative toward which to “swing” one’s vote.<sup>5</sup> For this large minority of Pennsylvania voters, having a meaningful vote depends upon the ability of independent and minor party candidates to obtain ballot access.<sup>6</sup>

In *Jeness v. Fortson* (1971), the U.S. Supreme Court recognized “an important state interest in requiring some preliminary showing of a significant modicum of support” before including a candidate’s name on the ballot. That court decision and others building upon it established “modicum of support” as the threshold-defining principle in setting ballot access rules. There is consensus that in principle a candidate showing a modicum of support must be included on the ballot, whereas one failing to do so may be excluded. What constitutes a “modicum of support” has been much debated, however, both in enacting ballot access legislation and in deciding ballot access disputes (see, e.g., ACLU 2006; *Maryland Green Party et al. v. Maryland Board of Elections et al.* 2003; *Rogers et al. v. Corbett et al.* 2006; *Rogers et al. v. Cortes* 2006; and Winger 2006a).

Under Pennsylvania law, the ballot access standard applied to independent candidates and minor political parties differs from the one applied to major parties. Republican and Democratic candidates must obtain a fixed number of signatures from registered voters of their own party within a three-week period to appear on their party’s primary ballot. They must then win their party primary by obtaining a plurality of votes to be placed on the general election ballot. The thresholds for statewide offices are either 1,000 or 2,000 signatures, depending upon the office. By contrast, the standard for minor parties requires that:

the number of qualified electors of the electoral district signing such nomination papers shall be at least equal to two per centum of the largest entire vote cast for any officer, except a judge of a court of record, elected at the last preceding election in said electoral district for which said nomination papers are to be filed, and shall be not less than the number of signers required for nomination petitions for party candidates for the same office [Pennsylvania Election Code, §2911(b)].

In practice, this law typically sets a threshold somewhere between 20,000 and 40,000 signatures; but because Bob Casey Jr. got 3,353,489 votes in the 2004 State Treasurer’s election, the threshold or “modicum

of support” for statewide candidates was 67,070 signatures in 2006. Two points should be emphasized regarding this threshold. First, the precise threshold fluctuates greatly from year to year because it is dependent upon the popularity of candidates from other parties who ran in prior election cycles. Second, the number of signatures required for independent and minor party candidates is typically 12 to 20 times greater than that required for Republicans and Democrats. In 2006, it was over 30 times greater.

As unfair as Pennsylvania’s ballot access rules are on paper, they are worse in practice. If having a “modicum of support” were the true criterion by which candidates are assessed for ballot access, Romanelli’s name would likely have appeared on the 2006 ballot. The barrier he faced—and other candidates continue to face—was far greater than the ostensible “modicum of support” principle behind the state election code.

### **The 2006 Election**

The 2006 U.S. Senate contest in Pennsylvania provided a special opportunity for Green Party candidate Carl Romanelli. The two-term incumbent, Rick Santorum, was a prominent conservative Republican whose articulation of right-wing moral positions made him a favorite with moral conservatives nationwide but placed him at the top of the Democrats’ “hit list.” Bob Casey Jr., the Democratic challenger and son of a popular former governor, was only slightly less morally conservative but he had a much milder disposition. Pundits foresaw a competitive race with Santorum expected to close an early gap in the polls as the election drew nearer. These elements put a national spotlight on the race, which Romanelli entered as a potential spoiler. Minor party candidates who are neither wealthy nor famous have a difficult time attracting media coverage, but thanks to the attention given to this particular race, Romanelli garnered considerable press interest while drawing financial support from Republicans who calculated that he would steal votes from Casey, thereby enhancing Santorum’s chances.

An eloquent speaker and self-described “fireball,” Romanelli frequently portrayed himself as the “little guy” standing up to Democratic bullies, and he spoke assuredly of his intent to get on the ballot and run a competitive campaign. Along with Marakay Rogers, the Green Party nominee for Governor, Romanelli headed a slate that

included four candidates for the U.S. House of Representatives, one for the Pennsylvania state Senate, and a dozen for the Pennsylvania House of Representatives (Green Party of Pennsylvania 2007). There were 17,762 registered Green voters in Pennsylvania by November 2006, making the Green Party the fourth largest and fastest growing party in the state (BCEL 2006b). Romanelli advocated the immediate withdrawal of American forces from the war in Iraq, an end to what he regarded as imperialist U.S. foreign policy, enactment of a single-payer health care system for all Americans, defense of women's reproductive rights, and extension of the right to marry to gays and lesbians. Each of these issues was important to some portion of Pennsylvania's voters. After Chuck Pennachio lost in the Democratic primary, Romanelli was the only Senate candidate representing any of these issue positions. Both Casey and Santorum supported American involvement in the Iraqi war, and both were "pro-life" foes of gay marriage who also opposed universal health care. Romanelli's position on the Iraqi war was particularly popular in an election cycle where many races were seen as referenda on the war. On the strength of these otherwise unrepresented issue constituencies, Romanelli may have drawn more than 10% of the vote had he remained on the ballot. It is therefore quite plausible that he could have been an effective spoiler. Indeed, it is conceivable that he could have won the election had he been included in the candidate debates.

To demonstrate the necessary "modicum of support," the party had to circulate nomination papers on which would be entered the signatures of registered Pennsylvania voters who supported inclusion of their candidates' names on the November ballot. The names of candidates for various offices were typically "stacked" on the same form, with Romanelli, Rogers, and one or more legislative candidates and their respective offices on the same sheet. Each sheet had space for up to 60 signatures. Signers were required to sign and date their signature and provide their address. They also were expected to print their names so that their identity as registered voters could be validated. The circulation process began on March 8 and continued through August 1.

Romanelli and Green Party leaders knew that the Democratic Party would challenge their submitted signatures; and based on past experience they calculated that more than 100,000 signatures might be needed to survive a Democratic challenge, even though the formal number of signatures needed to get on the ballot was 67,070.<sup>7</sup> By late May, projections suggested that Green volunteers would get only 25,000 to

30,000 signatures. About that time, Romanelli began to receive a large number of campaign contributions, which ultimately totaled over \$158,000 for the Luzerne County Green Party and \$15,000 for Carl Romanelli for U.S. Senate (Federal Election Commission 2007). Nearly all the money came from supporters of conservative causes presumably motivated not by genuine support for Green Party ideals but rather by a desire to boost a potential spoiler so as to help the conservative Santorum (Kiel 2006). Indeed, almost half of the contributions came from out of state. Romanelli used the money to hire contractors who in turn hired nomination paper circulators. Hired circulators paid on a per-signature basis have an incentive to work hastily, which may lead to sloppiness and even fraud if the contractors are unscrupulous. Using contractors and circulators exposed Romanelli to legitimate skepticism about the validity of the signatures obtained on his behalf, but without the help of these workers, Romanelli and the other Green Party candidates could not have exceeded the 67,070 signature threshold.

On August 1, the Green Party of Pennsylvania submitted to the Bureau of Commissions, Elections, and Legislation (BCEL) a total of 3,698 pages<sup>8</sup> of nomination papers with what would later be determined to be 99,965 signatures, several thousand of which had been flagged as invalid by Romanelli's own reviewers. BCEL staff reviewed the pages for face validity, ensuring that required information had been included, that each line contained a signature, and that each signer had given a Pennsylvania address. They stopped reviewing once the tally of valid signatures exceeded 67,070 by a modest margin. Romanelli and all the other Green candidates were thus on the ballot, pending a probable challenge by the Democrats.

### **The Signature Challenge**

In early August, Pittsburgh attorney William R. Caroselli and other Democrats filed suit in Pennsylvania's Commonwealth Court challenging the nomination papers of Green Party candidates Marakay Rogers, Christina Valente, and Carl Romanelli and asking the court to remove their names from the ballot (Petition to Set Aside 2006). Challenges were raised by other objectors to seven independent and minor party candidates for Congress and the Pennsylvania General

Assembly, including Green Party candidate Titus North in the State's 14<sup>th</sup> Congressional District.<sup>9</sup>

Under Pennsylvania law, a candidate who loses a signature challenge may be forced to pay court costs as well as the opposition's legal fees. Ralph Nader had been assessed over \$80,000 in such penalties after his failed Pennsylvania ballot access effort in 2004 (Brown 2007, Winger 2006b). This penalty is a deterrent few candidates are willing to risk unless they are wealthy or certain of winning a signature challenge. The major parties, for which this liability would be trivial, use it as a threat to drive otherwise qualified independent and minor party candidates off the ballot. Green Party candidates Rogers and Valente felt compelled to withdraw their nomination papers, as did most of the other candidates who had been challenged. Only North and Romanelli chose to fight the Democrats despite the risk (BCEL 2006a).

## Media

The legal challenge to Romanelli's signatures was backed by a media campaign by the Democratic Party of Pennsylvania implying that Romanelli's signature collection effort had been fraudulent. Democrats said his nomination paper showed a "pattern of forged and fictitious signatures" and "impropriety" on the part of the circulators (Petition to Set Aside 2006). Democratic press releases were rife with misinformation. The Democrats, particularly party chairman T.J. Rooney and party spokesperson Abe Amorós, falsely claimed that: (1) the Green Party had lied about submitting 95,000 to 100,000 signatures when it had submitted only "approximately 85,000," (2) the Green Party had engaged in "rampant fraud," (3) the signature collection was "the most deceitful and fraudulent exercise ever perpetrated" on the Commonwealth Court, and (4) thousands of names had been "created at random then randomly assigned either existent or non-existent addresses" (Amorós 2006). The Democrats also gained a great deal of publicity from Rooney's reference to phony names (e.g., Mickey Mouse) that appeared in the nomination paper, suggesting that there were many fictitious signatures even though their own petition to the court documented only two dozen allegedly fake names, a few of which were later shown to belong to valid voters who shared a celebrity name. Given the propensity of some people to sign a silly or lewd name as a joke, it is almost inevitable that in any large collection of public signatures some tiny fraction will be bogus. Rooney also advanced the unlikely contention that Romanelli was actually a

“puppet candidate created” by the Santorum campaign (Amorós 2006, Fudge Report 2006, Petition to Set Aside 2006).

The Democrats’ defamation of Romanelli largely succeeded because while the media readily relayed the allegations of Democratic Party press releases, they mostly ignored Green Party statements delivered to them rebutting Democratic allegations. The major newspapers in Philadelphia and Pittsburgh published allegations that as many as 70,000 of the collected signatures were “forgeries, false signatures, and voter fraud” (Barnes 2006). None of the media appeared to have investigated these allegations, even though the filed nomination papers were open to public inspection. Media complacency and outright bias in favor of the major parties is another means by which ballot access is effectively restricted.

### **Types of Challenges**

The signature challenges consisted of two types: *global challenges* in which objectors sought to strike one or more pages of the nomination paper because of alleged problems with the page, its notarization, or its circulator, and *line challenges* of specific signatures. Global challenges were made against 1,782 pages alleged to contain 45,918 signatures. There were 24 bases for such challenges. Most involved technical infractions, such as signers failing to fill in one of the lines on the page, notaries pressing the page with their seal rather than with their ink stamp, and nonsignature portions of the form being illegible or containing misspellings. These challenges also alleged forgery or malfeasance on the part of the circulator. Some circulators did in fact commit fraud, as evidenced by use of the same hand to complete an entire sheet and a rate of signature validity that was approximately random. Yet, the number of such nomination papers was only a couple dozen pages—a fraction of 1% of all those collected—and not remotely near the level of fraud alleged by the Democrats (Petition to Set Aside 2006). A small amount of fraud can be expected in almost any large signature effort using paid signature contractors. When circulators are hired off the street, paid on a per signature basis, and subject to little quality control oversight (as is typical of signature contractors), there is going to be sloppiness and, if enough people are involved, some few who are motivated to cheat by forging signatures.

Line challenges were made independently of whether the page was also subject to global challenge. There were 13 bases for line challenges. These included legal technicalities for disqualification, such as signatures



and printed names that were not legible, use of a nickname or initial instead of the name used on the voter registration record, use of ditto marks in the address or date field, incomplete address, and incomplete date. They also included substantive violations, such as multiple signatures, not being a resident of the proper county, and having someone other than the signer write the information. Other bases for challenge were either substantive or technical, such as the address or signature varying from the one on the voter registration card and signatures alleged not to be cursive. The Democrats claimed they made 69,692 line challenges, of which 33,494 belonged to people allegedly “not registered in county” (Petition to Set Aside 2006). There was considerable overlap in the signatures subject to each type of challenge (see *In re Nomination Paper of Rogers et al.* 2006a).

### **A Little Room in Harrisburg**

Given the availability of the Pennsylvania Department of State’s recently created Statewide Uniform Registry of Electors database of registered voters (SURE), and recognizing the strain that signature challenges place on courts, Commonwealth Court Judge James Gardner Colins issued an order on August 9 that in effect created a new requirement and burden for candidates seeking public office. His order required each side to field teams consisting of counsel and at least nine staff members to work together in Conference Room 303 of the North Office Building in Harrisburg from 8:30 a.m. to 4:30 p.m. (or from 8 a.m. to 8 p.m., if necessary) Monday through Friday (and Saturday, if needed) for a period of several weeks, beginning August 14, until the validity of enough signatures was established to determine whether Romanelli’s name would appear on the ballot. The process took six weeks. Under court supervision, pairs of Democrats and Greens “diligently and expeditiously” checked the validity of each signature line challenge using the SURE electronic database of registered Pennsylvania voters. Each signature was stipulated as being “valid,” “invalid,” or “disputed” (see *In re Nomination Paper of Rogers et al.* 2006a). The review of signatures for Titus North, whose signatures were a subset of the Romanelli signatures, was merged into the Romanelli review.

This new obligation was far more burdensome for Romanelli and the Green Party than it was for the Democrats who typically had a lawyer (Shawn Gallagher), a database manager, and nine staff members in the room, along with a separate group of lawyers to argue in the courtroom.

Most of these people were either regular staff members or interns who would otherwise have been working in Harrisburg, or they were local volunteers. On any given day, most of the Democratic staff consisted of people with experience from prior days. By contrast, Romanelli had only one lawyer (Larry Otter) who often could not be in the conference room because he also had to attend to matters in the courtroom. In addition, Romanelli struggled to find nine people to staff the computer stations. The Green Party thus faced a serious challenge, given that its small size precluded the hiring of paid staff or interns. It had to rely instead on volunteers, many of whom had to travel a considerable distance from either Philadelphia or Pittsburgh. Furthermore, the business hours all but precluded working people from participating. When fewer than nine Greens were in the room, the Democrats sometimes accused Romanelli of contempt of court and motioned to have his name summarily removed from the ballot, a tactic the court rejected. To ensure the ongoing presence of sufficient staff, Romanelli had to hire several workers from temporary employment agencies. Paying them full-time salaries for six weeks essentially added an extra "fee" of several thousand dollars to the ballot access requirements. There were few regulars on the Green team, which meant that on any given day several of the Greens might be rookies in the review process. Because of errors caused by staff inexperience, the signatures of registered Pennsylvania voters who should have been recognized as valid signers were erroneously stipulated as invalid, which resulted in the disenfranchisement of people who had signed the Green Party nomination papers in good faith.

The stakes were high. Events in the conference room might determine the outcome of the election, garner or deny publicity for the Green Party, or be crucial to its continued status as a minor party in Pennsylvania. The Democrats saw Romanelli as a candidate who in the absence of Republican backing would not have had a modicum of support and whose chief purpose was to spoil the contest by helping to reelect one of the most hated politicians in the country, Senator Santorum. The Greens viewed Democrats as hypocrites willing to subvert fundamental democratic values out of naked self-interest. Arguments arose frequently, occasionally escalating into shouting matches or other forms of disruptive behavior, including one shoving incident that required the intervention of the Court Officer and Capitol Police who removed the combatants from the scene.

## Bases for Invalidation

In light of the “modicum of support” language used in state ballot access law, it might be supposed that the signature challenge was fundamentally a process intended to ensure that the signatures on Romanelli’s nomination paper represented real, registered Pennsylvania voters who had signed the nomination paper in good faith to support the inclusion of Romanelli and the other Green Party candidates on the ballot. That is what the law and the principle of “modicum of support” imply. That is also the rhetoric the Democratic Party used—both before the Commonwealth Court and in the media—to explain why it was challenging the signatures. Such a supposition would be naïve. In hundreds, if not thousands, of specific instances in the Harrisburg conference room it was evident beyond reasonable doubt that a signature represented a real, registered Pennsylvania voter who presumably signed in good faith, but the Democrats nevertheless succeeded in having the signature invalidated. On many occasions when confronted with this point, the Democrats’ lawyer, Shawn Gallagher, would reply, “I do not doubt that [X] is a registered Pennsylvania voter who signed with intent [to support Romanelli], but that’s not our responsibility.”<sup>10</sup>

The Democrats’ interest was in using the letter of the law and past court decisions to strike as many signatures with “facial defects” as they could in hopes of removing Romanelli from the ballot. They had no qualms about deliberately disenfranchising voters to achieve their goal. Drawing on past legal precedent and supported by the courts, the Democrats were able to apply to many signatures a number of narrow legal requirements in such a way as to pervert the spirit of the law. Many of these requirements were embodied in a Protocol for Signature Review (2006), which was part of the stipulation process between Democrats and Greens as directed by the Commonwealth Court.

One of the more egregious of these requirements was that if a scanned image of a signer’s signature was not on file in the electronic SURE database, then the petition signature would be summarily invalidated. The Commonwealth Court later indicated that these signatures should have been marked as “disputed” rather than “invalid” (see *In re Nomination Paper of Rogers et al.* 2006c). There were at least 162 such instances.<sup>11</sup>

Another onerous requirement was that the address on the form had to match exactly the one listed in the electronic SURE database. If the

digits of the house number were transposed (e.g., 134 for 143), or if there was a missing or extra digit or letter, the signature would be summarily invalidated, regardless of whether the mistake was on the nomination paper, on the voter registration form, or in voter registration data entry. Most, if not all, of the entries with minor address inconsistencies likely represented legitimate registered voters. There were 103 instances in the review in which the house number was the only error. In most of these cases the problem appeared to be transposed, missing, or added digits.

The city, borough, or town listed on the nomination paper had to match the one in the SURE system. The instructions from BCEL to circulators of nomination papers indicated that the municipality listed was to be the voter's *political* municipality, which is not necessarily the same as the municipality used in their mailing address; but the SURE system screen used for the review process showed only the mailing address. At least 42 cases in the review were found to have been erroneously invalidated on this basis. More than a week passed before it was made clear that this kind of error would not be grounds for invalidation, by which time possibly thousands of signatures had been invalidated. Even after this problem was discovered, some reviewers continued to void signatures on this basis.

At one point, Democrats sought to invalidate about 50 signatures on a page from a rural county because the addresses were listed in SURE as "HCR" (Highway Contract Route) but the signers had used "RR" (Rural Route) in their addresses, another name for the same concept. All other aspects of the address and signature matched perfectly. Those signatures were ultimately validated after much contention, but a few others of this sort were not. In the review, 18 signatures were improperly invalidated on the erroneous grounds that "RR" was not the same as "HCR."

Initially, any signature that used a nickname or substituted an initial for a name was invalidated. Later this rule was relaxed so that obvious nicknames like "Bob" or "Rob" for Robert were allowed (although for awhile the Democrats challenged the use of "Peggy" as a nickname for Margaret). Signatures using initials for names were always invalidated. There were at least 221 such cases in the reviewed subset. It is not certain what portion of these challenges were noted, but it is likely that at least 400 signatures may have been lost in this way.

If portions of the name were added or omitted, the name would be invalidated, even if it obviously referred to the correct person. Mary

Colleen Mullen, as she was listed in SURE, signed the nomination paper as Colleen Mullen. The address was correct and the signature was a distinctively clear match of handwriting; only the first name of “Mary” was missing. Yet, the Democrats insisted that her signature was invalid because the legal precedent did not permit any discrepancy in name. Similarly invalidated were the names of several hundred people, mostly women, who had hyphenated surnames in the SURE database but who used only one of their two surnames (e.g., Tina Smith-Jones signing as Tina Jones) or who had only one surname in SURE but signed the nomination paper with a hyphenated compound surname. There were at least 120 instances in which the name of the signer substantially varied from a registered voter in the SURE system but the signer nevertheless appeared to be that registered voter. If the reviewed subset had covered all noted lines and if the Harrisburg review had been completed, it is likely that there would have been at least 330 substantial name variations with at least 20 hyphenated surnames. Had the people involved in these instances tried to vote, they almost certainly would have been allowed to do so. Even people who relocate to a new address within the same election district are typically able to vote despite their address change. Nonetheless, such signatures for Romanelli were invalidated.

A more ambiguous situation concerns married women who change their surnames. Numerous instances were found of women whose address information, first name, and handwriting matched that in the SURE system but whose last name was incorrect. Often there would be a male registered voter living at the same address who had the surname that the woman had used in signing the nomination paper. Such people apparently are married couples who had registered to vote prior to marrying, but after the marriage the wife failed to update her voter registration to reflect the surname change. Chances are these women are able to vote under their maiden name, but their petition signatures were nevertheless invalidated by virtue of the inconsistent surname. The review found 49 cases of women using a maiden name who otherwise appeared to be the correct registered voter. If the reviewed subset had covered all noted lines and if the Harrisburg review had been completed, it is likely there would have been at least 130 such cases.

The category with the most line challenges was “Not Registered in County” (Code 33), followed by “Signature Illegible.” Many of these challenges were valid, particularly in Philadelphia and the surrounding counties where signatures were collected by paid circulators who appear

to have frequently failed to confirm the county of residence of their signers. At least a large minority of these challenges, however, were cases in which the objectors apparently misread the name of the individual and thus were unable to find them in the SURE database. Roughly a third of line challenges of this type were found in the SURE system and validated by the Harrisburg reviewers. Many that should have been found were not, thanks to the “expeditious” nature of the search, the inexperience of the reviewers, or problems with the SURE database. Subsequent review by Green volunteers of 6,720 of the invalidated and disputed signatures found 4,729 to belong to identifiable registered voters in the SURE registry who had been overlooked.<sup>12</sup> Almost 3,000 (44%) of the 6,720 flagged invalidations were Code 33 cases; and of these, 2,032 (69%) were found to belong to registered voters subject to no other challenge. These cases alone represented more than 6% of all Code 33 challenges made by the Democrats. If the reviewed subset had included all the noted lines and if the Harrisburg review had been completed, these cases would have represented about 5,300 (or nearly 16%) of the Democrats’ “Not in County” challenges. Combined with the one-third of these challenges that were validated in the Harrisburg review, nearly half of the Democrats’ Code 33 challenges (about 16,000 out of 33,494) lacked merit. They might have been only slightly less accurate had they flipped a coin to determine whether to challenge a signature.

The SURE database had become fully operational less than a year prior to the Romanelli signature review. As an attempt to track over eight million registered voters by integrating into a uniform format the many formats previously used by different Pennsylvania counties, the SURE system could not have been expected to be flawless. In addition to the lack of scanned images of signatures for a significant number of registered voters (which may or may not have been an error on the part of SURE), several other problems were encountered. One of these concerned abbreviations in street directions that appeared in some places after the street name (e.g., “Washington St E”) and in other places before the street name (e.g., “N 17<sup>th</sup> St”). There were even a few places where the direction was spelled out (e.g., “South East St”). These directions hampered address searches because addresses in Philadelphia, unlike those in other counties, were required to include a directional if it appeared at the beginning of the street name in the SURE database. Compounding the problem, many signers did not include the directional

in their address information. Similarly, the name of single digit streets might appear as “5 Ave,” “5<sup>th</sup> Ave,” “05 Ave,” or “05<sup>th</sup> Ave,” and even with the use of wildcard search terms a reviewer might have to search two or three times to find the right listing, a task made even more onerous when street addresses included directionals. These problems led to the wrongful invalidation of the signatures of an unknown number of registered voters.

Some portion of those lines challenged as “No Cursive Signature” (Code 24) and “Illegible Signature” (Code 25) likely represented legitimate voters. Arthritic voters in particular often found it difficult to sign their names in the small spaces provided on the nomination paper. At least 138 of the signatures in the reviewed subset invalidated on the basis of Code 24 were specifically identified as belonging to registered voters, as were 257 signatures invalidated on the basis of Code 25. At least 34 other signatures of identified voters were improperly invalidated because the signature and printed name were transposed (i.e., in the wrong boxes). Invalidations of this type were supposed to have ceased in the second week of the review.

## Accounting

The adversarial accounting system established by the Commonwealth Court also worked against Romanelli. He had volunteers count the total number of signatures on the submitted nomination paper, but he had no systematic accounting process to track the signature stipulations (i.e., “valid,” “invalid,” or “disputed”) as they were being reviewed. His lawyer was thus less than fully prepared to make effective court motions or to try to thwart the Democrats’ tactics (see *In re Nomination Paper of Rogers et al.* 2006c). Nor did the court make an independent accounting. Accordingly, both Romanelli and the Commonwealth Court were dependent upon the Democrats’ numbers, which proved to be substantially flawed.

One large Democratic accounting error discovered and corrected during the review concerned the gross number of signatures submitted. Neither side had an accurate figure. The Greens knew they had submitted over 99,000 signatures, of which at least 5,400 had been struck as invalid by the Green signature team prior to filing; but because several pages were missing from their photocopies, they did not know exactly how many more signatures there were. Nor did they know how many signatures had been invalidated by the BCEL initial review. Hence, after

the Code 30 (“pre-struck”) signatures were set aside, they could only estimate the number of presumptively valid signatures to be approximately 94,000. The Democratic count of gross and net signatures was several thousand signatures lower than the Green count. The Democrats had started with a gross count that had already factored out the pre-struck lines. They then subtracted the number of pre-struck lines, thereby effectively discounting the pre-struck lines twice. The discovery of this error embarrassed the Democrats who for two days had adamantly insisted that such an error could not possibly explain the count discrepancy.

The Commonwealth Court easily could have ordered a neutral count to eliminate accounting errors. Since both the Democrats and the Greens had spreadsheet records for each page of the nomination paper, it would have been a simple task to merge the two counts of gross, pre-struck, and net signatures for each page, then flag the discrepancies and cross-check them against the actual nomination paper pages to determine accurate numbers.<sup>13</sup> It might also have expedited the review process. Yet, the Commonwealth Court apparently never considered this possibility.

Another signature accounting issue arose when the specific challenges against a given signature were unsubstantiated and the Democrats sometimes found a new basis for objection, most commonly an address discrepancy. They sought the permission of the Commonwealth Court to amend their challenges, which the court granted (see *In re Nomination Paper of Rogers et al.* 2006b). The Democrats then went through the signatures already reviewed and unilaterally declared invalid many of those that had been previously stipulated as either valid or disputed. They did so without any independent review of whether there was a legitimate basis for amending these prior signature determinations.

The accounting began with the premise that there were 3,702 pages of nomination paper containing 99,802 gross signatures, as both sides had stipulated, and that 5,973 of these were “Code 30s,” pre-struck by either the Romanelli volunteers or the BCEL reviewers prior to the challenge, leaving a net of 93,829 signatures. A later audit of the Democratic and Green numbers found only 3,698 pages of nomination paper containing a nominal 99,965 signatures. With a stipulated 5,973 pre-struck, the base number of presumptively valid signatures prior to review should have been 93,992. Romanelli lost 163 signatures there.<sup>14</sup>



From the 93,829 base the Commonwealth Court subtracted the stipulated invalid signatures and added a “Code 30 Adjustment” that reduced the nominal number of invalid signatures by 1,081 to correct for the Democrats’ double-counted Code 30s and to adjust for the unilaterally amended challenges. Except for these adjustments, the court basically accepted as accurate the stipulated invalid signatures; and finding these sufficient to dismiss Romanelli from the ballot, the court effectively gave him the benefit of the doubt on disputed signatures by disregarding them. The adjusted number of invalid signatures was 35,690 in the court’s final count, which gave Romanelli 58,139 presumed valid signatures, an official deficit of 8,931.

The review was not completed, however, before it was ended. Only 71,662 (72%) of the total 99,965 lines and 49,266 (78%) of the 63,557 alleged challenges (after removing the Code 30 lines) had been reviewed. If the rate of successful challenges up to that point (65%) would have applied to the 14,291 challenges allegedly remaining, then the number of stipulated invalid signatures would increase by 9,300 to 44,990, thereby giving Romanelli a nominal deficit of 18,230 signatures. It is doubtful, though, that the 65% rate would have pertained. The review had gotten the highest rate of invalidation in Philadelphia, which was completed by the end of the review. The remaining challenges were overwhelmingly in other counties on pages that had been circulated mostly by volunteers. Among these, only about 43% of challenged lines had been invalidated.<sup>15</sup> Had that rate prevailed on the remaining 14,291 challenges, Romanelli would have picked up 6,135 signatures, for a total of 41,825. Finally, had the Commonwealth Court accurately counted base lines, Romanelli would have been left with a total of 52,167 signatures, for a deficit of 14,903. In virtually any other election year 52,167 signatures would have been far more than sufficient to qualify him for the ballot.

In addition to this projected number of signatures that the Commonwealth Court would have recognized as valid had accounting errors been remedied and the review concluded, it is important to consider the number of signatures erroneously invalidated by the court due to human error or flaws in the SURE system. No firm estimate of these numbers is available, but a rough estimate can be made. During the review process, Green reviewers noted instances where names had been marked as invalid or disputed but the reviewer believed the signer to be a valid registered voter. Experienced Green volunteers often noted as many as half the invalidated signatures on a given page, but some of the

temporary reviewers did not note any signatures. The vast majority of these had been stipulated invalid (they also included some disputed lines). Green volunteers were able to verify several thousand of these lines before the court's decision, thereby double-checking the Harrisburg review in hope of rehabilitating some of the signatures. Still, thousands more were never verified. Of the 6,720 names looked up in SURE by Green volunteers, 4,729 (70%) were found to be valid, identifiable registered voters who should not have been challenged.

Hence, at least 13% of invalidated signatures in the court accounting were legitimate, registered Pennsylvania voters. Just under half of them were simply missed by Harrisburg reviewers, and the rest had been invalidated on legal grounds that probably would not have prevented them from voting. An attempt to rehabilitate these signatures in court was denied on several grounds (see *In re Nomination Paper of Rogers et al.* 2006c). If sufficient time had been available to review all the noted signatures, it is likely that the total number found to belong to identifiable registered voters would have been twice as great as thought, perhaps a quarter of all the invalidated signatures, or between 9,000 and 10,000 names. If the Harrisburg review had been completed, this number may have grown proportionately to between 12,000 and 13,000 signatures. If note-taking had been more thorough, the number could have exceeded 15,000 signatures.

The portion of these signatures erroneously invalidated under the existing law would not by itself have been enough to put Romanelli past the 67,070 signature threshold. Under the law—arbitrary and unfair as it was—the “right” decision most likely was reached. Yet, the overall estimate, including both the outright errors and the signatures of legitimate voters invalidated on technical grounds, suggests that Romanelli likely satisfied the principle of a “modicum of support,” even when the hurdle was set at 67,070 signatures. More than 70,000 registered Pennsylvania voters may have signed his nomination paper in good faith. Thus, there is a substantial probability that he may have been effectively removed from the ballot mainly by challenges sustained on legal technicalities. If so, the *spirit* of the law—a law at the very heart of our democratic ideals—was subverted by the Democrats’ rigid invocation of the *letter* of the law.<sup>16</sup>

## Repercussions

As a result of the signature challenge, Carl Romanelli was removed from the ballot as a candidate for the U.S. Senate. His name had been printed on a number of absentee ballots, but subsequent to his loss in the signature challenge the Commonwealth Court instructed county election offices to cross his name off any absentee ballots on which it appeared. In the general election he received fewer than 1,000 votes as a write-in candidate. The exact number of votes is uncertain since a few counties, most significantly Philadelphia, certified write-in ballots as a group without distinguishing the particular candidates. But his vote share clearly was far below the 2% of the total vote that the Green Party of Pennsylvania needed to retain its status as a minor party (Pennsylvania Election Code, § 2831). Moreover, the Greens lost a special opportunity to garner publicity and dramatically influence an election that had attracted national attention. The Libertarian and Constitution parties also lost minor party status as a result of the ballot access barrier and petition challenges from opponents. As a result, Pennsylvanians may find it difficult to register to vote as members of the Green Party or other minor parties.

During the signature review Romanelli petitioned the courts for relief from the 67,070 signature requirement, arguing that the rule setting the threshold was unconstitutional, that by the plain language of the law the election that should have been used to set the threshold was the judicial election of 2005 rather than the statewide election of 2004, and that the “qualified elector” language in the law should mean any individual who is eligible to register to vote rather than be restricted to those who are in fact registered to vote. These arguments were rejected by the state Supreme Court, although Romanelli’s “qualified elector” argument won support in a dissenting opinion by Justice Thomas G. Saylor [*In re Nomination Paper of Rogers et al.* 2006d]. Because Romanelli lost the signature challenge, the Commonwealth Court assessed him and his attorney, Larry Otter, more than \$80,000 for court costs and their opponents’ legal fees. The fine against legal counsel was unprecedented and thought by many observers to be unconstitutional. Romanelli and Otter pursued a series of legal appeals for relief from these penalties. Their appeals had been headed to the U.S. Supreme Court (see *Rogers et al. v. Cortes* 2006), but in 2008 Romanelli and Otter decided to petition the Pennsylvania Supreme Court to rehear the case (Brown 2007, Green

Party of the United States 2006, Moulton 2006, Skrapitz 2007, Winger 2006b and 2007). About that time the 2008 “Bonusgate” indictments were issued, charging Democratic Party leaders with having criminally diverted state funds to pay staffers for various party activities. Two of the major activities at the heart of the indictments concerned the signature challenge teams that removed Romanelli from the ballot and had removed Ralph Nader from the ballot in 2004. Democratic use of taxpayer money to fund these efforts not only was a crime, but it also gave Democrats an unfair advantage with an essentially free challenge against Romanelli. If the money had to come out of party coffers, the Democrats might have opted not to incur the expense. Romanelli and Otter amended their appeal to the state Supreme Court based on the “Bonusgate” revelations.<sup>17</sup> Although a federal district judge did criticize Pennsylvania’s ballot access rules for being unnecessarily restrictive (see *Rogers et al. v. Cortes* 2006), no court found them to be unconstitutional.<sup>18</sup>

In the wake of these judicial rulings, various voting reform groups, such as the Pennsylvania Ballot Access Coalition, called for new state legislation to ease ballot access for independent and minor party candidates (see PABAC). The state legislature made a few efforts in this direction. In 2006, spurred in part by the Romanelli case, House Bill 2830 sought to cap the number of signatures required for ballot access:

The number of qualified electors of the State signing such nomination paper shall be at least equal to two per centum of the largest entire vote cast for any elected candidate in the State at large at the last preceding election at which State-wide candidates were vote for and shall not exceed forty-five thousand signatures (General Assembly of Pennsylvania 2006).

This amendment may have been intended as a form of mild ballot relief that would prevent the signature threshold from exceeding 45,000 signatures. Nonetheless, the wording actually limits the *number* of signatures collected rather than the necessary *threshold*. As worded, the amendment would deny ballot access to independent and minor party candidates when they submit the necessary number of signatures if the 2% threshold exceeds 45,000.

A bill introduced in 2007 sought to disqualify entirely the votes of people who cast them for candidates like Romanelli:

On any ballot indicating a vote for any person whose name is not printed on the ballot because the name of such person was removed from the ballot according to law for any reason, the entire vote in said office shall be rendered void (General Assembly of Pennsylvania 2007).

Two more ballot access proposals were introduced in the state legislature the following year. One would have allowed candidates to pay a fee in lieu of filing signatures at a price of \$1 per required signature (Benninghoff Bill 2008). Because it did not change the threshold level, this bill would have allowed independent and minor party candidates to buy their way onto the general ballot at a cost of tens of thousands of dollars, while Republicans and Democrats would be able buy their way onto the primary ballot for no more than \$2,000. Such an arrangement would provide little, if any, improvement to the unequal ballot access problem. Near the end of the 2008 legislative session, Republican Senator Mike Folmer introduced a bill to adopt the Voter's Choice Act (VCA) that the Pennsylvania Ballot Access Coalition (PABAC) had been proposing (Folmer 2008). This bill offers exactly the kind of ballot access reform that Pennsylvania needs. It would put independent and minor party candidates on an almost equal footing with Republicans and Democrats by requiring all statewide candidates to obtain just 2,000 signatures to appear on the ballot. When the bill was not adopted in 2008, Folmer reintroduced it in 2009. It now awaits committee action.

If something like Folmer's bill is not enacted, the biggest impact of the Romanelli signature challenge may be on future independent and minor party candidates. The challenge showed that it is not sufficient for such candidates merely to overcome the arbitrarily fluctuating and often extraordinarily high signature requirement necessary to show a "modicum of support." Rather, they must be prepared to obtain perhaps twice that number of signatures. Then they must field a legal team and staff of reviewers to defend their signatures in a system almost rigged to bar independent and minor party candidates from getting on the ballot by permitting the invalidation of a substantial number of their signatures on legal technicalities. Finally, they must be prepared to pay a financial penalty on the order of \$1,000,000 should they lose the signature challenge.

## Conclusion

The analysis here leads to several conclusions. First, Carl Romanelli likely had the “modicum of support” among Pennsylvania voters necessary to qualify for access to the ballot. Second, the standards imposed in validating signatures are far more stringent than the rhetoric of a “modicum of support” among registered voters suggests. Third, the numbers used by the Commonwealth Court were in error because the process by which the Court calculated them was fundamentally flawed, given its tendency to undercount valid signatures. Fourth, the Democrats (and by extension probably also the Republicans) did not act in good faith in the signature review since they willfully disenfranchised voters they knew to be valid and then dissembled about doing so. Finally, these factors combine to force candidates to obtain a number of signatures that is in fact substantially greater than the already high barrier set in state law. It would be surprising if these factors did not have a significant chilling effect on some people considering running for state office in the future, one that is ultimately harmful to the interests of all Pennsylvanians.

## Notes

<sup>1</sup>Although the author is a sociologist by training, he has written this article not simply as a social scientist but as a person perhaps uniquely qualified to comment on the events related herein by virtue of the roles he performed on the Romanelli team in the signature review process. The author makes no pretense of political neutrality. As an officer of the Green Party of Pennsylvania, he is an ardent supporter of minor parties and of election reforms, including more open ballot access and Instant Runoff Voting (IRV).

<sup>2</sup>While a full defense of this supposition is beyond the scope of this article, the general principle that the value of the best candidate in the pool should be expected to improve systematically with an increased number of candidates reflects basic probability theory. Consider a random process such as die rolls or drawing playing cards from a deck. If the goal is to get the highest possible value on any one die or card, then throwing more dice or drawing more cards is an advantage (although the marginal benefit of each additional die or card declines as the number of dice or cards increases). For instance, the probability of getting a six on one die is 1:6, on two dice 11:36, on three dice 91:216, etc. The same tendency should also apply to drawing a pool of candidates, even though candidate nominations never approach the pure randomness of dice rolls. A better analogy might be to imagine a deck of cards randomly shuffled into four hands. Even if the best card is selected from each of two hands, there is a

chance that the better of those two cards could be bested by a card drawn from either of the two other hands, even if the latter are drawn randomly. The likelihood of additional candidates improving the field is, of course, dependent upon the quality of the candidates already in the race as well as the process by which candidates enter the race. If the political process already tends to provide highly qualified candidates, then there may be little gain from adding candidates. Indeed, where the race already consists of the two best possible candidates, adding more candidates gives no benefit. Yet, actual elections rarely approach this scenario. Also see note 4.

<sup>3</sup>Most people likely would agree that the 2003 California Gubernatorial recall election with 135 candidates reflected ballot clutter (*California Secretary of State* 2003). The U.S. Supreme Court has suggested that a cluttered ballot is one with an excess of twelve or even eight candidates (see *Lubin v. Panish* 1974, and *Williams v. Rhodes* 1968, as cited in Winger 2006a). Yet, the rhetoric of Pennsylvania's Democratic Party suggests that having more than two candidates means ballot clutter (although the party rarely complains when its own primary elections contain several candidates).

<sup>4</sup>It might be argued that Pennsylvania already benefits from multiple candidate fields for legislative offices with primary elections serving as the first of two stages and the general election being in effect a runoff between the best candidates offered by each of the two major political parties. This argument overlooks the ineligibility of "independent" voters to participate in Pennsylvania's "closed" primaries, and it presumes that the criteria by which each party evaluates candidates for its nomination align with the criteria by which the electorate evaluates candidates. Having subsets of the population winnow a handful of choices down to one candidate for each party is not the same as having the full electorate make that choice.

<sup>5</sup>According to November 2006 voter registration data, one party outnumbered the other by more than 10% of the population of registered voters in 40 of Pennsylvania's 50 Senate districts. In 15 of those districts the dominant party accounted for at least 60% of all registered voters, outnumbering the other party by a ratio of at least 3:2. Similarly, one party outnumbered the other by more than 10% of registered voters in 14 of 19 Congressional Districts. In four of those districts the dominant party accounted for over 60% of the voters.

<sup>6</sup>In 2006, minor party and unaffiliated voters accounted for 12% of Pennsylvania registered voters, or just under a million people (BCEL 2006b). Yet, the number of people identifying as independent or with a minor party is probably higher because many of these voters register as Democrats or Republicans in order to be eligible to vote in a party primary. In the 2004 National Annenberg Election Survey (2005), 18% of Pennsylvanians identified as independent, while most states had percentages from 23-30%. Over 26% of Pennsylvania residents in the American National Election Survey (2000) identified as independent, with another 13% indicating they had no preference between the two major parties.

<sup>7</sup>In 2004, the party struggled to get ballot access with just over 30,000 signatures. The 2006 goal was three times as great. Many Greens were daunted

by the task and chose not to “waste” effort collecting signatures. Some participated only half-heartedly. Other minor party candidates had a similar view. Ken Krawchuk, the Libertarian candidate for U.S. Senate in 2006, testified that collecting 100,000 signatures was in his estimation virtually impossible. Consequently, he discontinued his campaign (Krawchuk (2006)). Russ Diamond, founder of the PA Clean Sweep movement and an independent candidate for Governor in 2006, tried but came up short with about 38,000 signatures.

<sup>8</sup>The largest number of pages was 3,704, but it was later determined that one page number had been duplicated and seven page numbers had been skipped in the enumeration of pages.

<sup>9</sup>One of the main factors driving the major parties to try to limit ballot access to two candidates is the constraint of winner-take-all elections. Such contests tend to create “spoiler” election dynamics, where minor party candidates siphon off votes from the more similar of the two lead candidates, thereby effectively helping the less similar candidate. It was the spoiler issue, rather than the principle of ballot clutter per se, that motivated Democrats to try to remove Romanelli from the ballot. The spoiler issue could be virtually eliminated by adopting Instant Runoff Voting (IRV) in elections.

<sup>10</sup>Statement made in the doorway of the North Office Building Conference room in August of 2006 during the review process. Other participants in the process heard Gallagher make similar remarks at various times during the review.

<sup>11</sup>These cases were found in a subsequent review by Green volunteers of 6,720 of the invalidated and disputed signatures that had been flagged as likely to be valid despite being labeled as invalid. This review is the basis for counts of other invalidations reported in this section. Most cases missing SURE signatures were probably flagged, but the subset covers only about half of all notes made; and roughly one quarter of the lines were never reviewed, so there are no notes for those lines. A few hundred signatures may have been lost in this way. Between 0.1% and 0.5% of SURE records have this omission.

<sup>12</sup>Although at least 4,729 signatures were improperly invalidated, the 70% rate of false invalidations is not representative of the likely rate across all invalidated signatures. A strong selection bias toward legitimate voters was likely since the reviewed signatures were drawn from a pool that Green volunteers in the Harrisburg review had flagged for review in the belief that they probably belonged to valid registered voters even though the stipulation process required that they be marked as invalid. That also may make them somewhat dependent upon the propensity of individual reviewers to make such notes. Some reviewers noted many such cases; some noted none.

<sup>13</sup>This author later performed the crosscheck and found several other accounting errors made by the Democrats.

<sup>14</sup>The number lost at this point was probably a bit more. The stipulation of Code 30s split the difference between the numbers of the two teams. The Green figure took into account only a few of the BCEL pre-strikes, which must have numbered several hundred. So on the face of things, splitting the difference



helped Romanelli. Yet, spreadsheet comparison showed the Democrats had miscounts on 195 pages, with all of the errors in their favor—an undercount of 1,686 signatures—while the Greens had errors on fewer than a dozen pages, including the four overlooked in the copying process. It therefore seems likely that Romanelli would have fared better if there had been an accurate count of Code 30s. The Democrats had also duplicated accounting for a few dozen pages, which inflated the count of invalid signatures. The Commonwealth Court denied a motion to remove these duplicated invalid signatures because the matter had not been brought to the court’s attention earlier (see *In re Nomination Paper of Rogers et al.* 2006c).

<sup>15</sup>Signatures from the Philadelphia area differed greatly from those obtained in other counties because the signature contractors operated almost exclusively in southeastern Pennsylvania, whereas signatures from other counties were collected largely by Green volunteers. The nomination paper pages suggest that Green volunteers were careful to ensure that their signers were registered voters and residents of the proper county. The higher rate of invalidations for contractors suggests that they often did not ask signers the necessary questions. Furthermore, contractors collected signatures on a convenience basis. Many volunteers did so too, but some of them used street lists to target signers. These workers had validity rates above 90%, which generally was better than that of the volunteers.

<sup>16</sup>Titus North’s signature review fared significantly better than Romanelli’s. North committed to a diligent review and zealous defense of his signatures. That review ultimately demonstrated that North had received a sufficient number of valid signatures to qualify for the ballot in the 14<sup>th</sup> Congressional District. He was the only candidate challenged in Pennsylvania in 2006 to prevail. He went on to win 9.9% of the vote in November (BCEL 2006c).

<sup>17</sup>On October 21, 2008, the Pennsylvania Supreme Court refused to reconsider their case on the grounds that the new appeal should have gone first to the Commonwealth Court. On January 15, 2009, Romanelli and Otter asked the Commonwealth Court to rehear their case in light of the July indictments. That court refused on January 23. Romanelli and Otter then appealed again to the Pennsylvania Supreme Court, which has yet to rule.

<sup>18</sup>The Green, Constitution, and Libertarian parties have filed a federal suit against Pennsylvania’s ballot access scheme. See *Constitution Party of Pennsylvania et al. v. Cortes et al.* (2009).

## References

- ACLU. 2006. Press Release: *ACLU of Arkansas and State Green Party Win in Third Party Ballot Access Case*. [www.aclu.org/votingrights/access/26516prs20060823.html](http://www.aclu.org/votingrights/access/26516prs20060823.html).
- American National Election Survey. 2000. *Pre- and Post-Election Survey Data, 2<sup>nd</sup> ICPSR Version*. Ann Arbor, MI: University of Michigan, Center for Political Studies.

- Amorós, Abe. 2006. "Rooney: Rampant Discrepancies in Green Party Signature Gathering." Press Release of the Pennsylvania Democratic Party. August 4.
- Barnes, Tom. 2006. "Dems: Green Party Petitions Fake." *Pittsburgh Post-Gazette*, August 10.
- Benninghoff Bill. 2008. [www.lppa.org/documents/legislation/benninghoff\\_bill\\_070108.pdf](http://www.lppa.org/documents/legislation/benninghoff_bill_070108.pdf).
- Brown, Mark. 2007. "Political Peril in Pennsylvania: Ballot Access Penalties Create Chilling Effect." Green Institute. February 19. [http://www.greeninstitute.net/subpages/brown\\_ballot.asp](http://www.greeninstitute.net/subpages/brown_ballot.asp).
- BCEL. 2006a. Bureau of Commissions, Elections, & Legislation. Pennsylvania Department of State. *2006 Nomination Paper Objections Cases*. October 5.
- BCEL. 2006b. Bureau of Commissions, Elections, & Legislation. Pennsylvania Department of State. *Commonwealth of Pennsylvania 2006 Voter Registration Statistics*. November 7.
- BCEL. 2006c. Bureau of Commissions, Elections, & Legislation. Pennsylvania Department of State. *2006 General Election Official Returns*. <http://www.electionreturns.state.pa.us/>.
- California Secretary of State. 2003. *Certified List of Candidates: October 7, 2003 Statewide Special Election*. [http://www.sos.ca.gov/elections/2003\\_cert\\_list.pdf](http://www.sos.ca.gov/elections/2003_cert_list.pdf).
- Constitution Party of Pennsylvania et al. v. Cortes et al.* 2009. (No. 09-1691, E.D. Pa.).
- Federal Election Commission. 2007. <http://www.fec.gov/finance/disclosure/srssea.shtml>.
- Folmer, Mike. 2008. <http://www.senatorfolmer.com/press-2008/072408.htm>.
- Fudge Report. 2006. "PA Democratic Party Files Office Challenge of Green Party Petitions." August 8. [http://www.fudgereport.net/pa\\_080806.htm](http://www.fudgereport.net/pa_080806.htm).
- General Assembly of Pennsylvania. 2006. House Bill No. 2830.
- General Assembly of Pennsylvania. 2007. House Bill No. 48.
- Green Party of Pennsylvania. 2007. Press Release: "Green Party of Pennsylvania Nominates Romanelli, Rogers For 2006 Campaigns." February 27.
- Green Party of the United States. 2006. Press Release: "Pennsylvania Court Upholds Rigged Election, Bumps Green Party Candidate Running for Senate." October 9. [http://www.gp.org/press/pr\\_2006\\_10\\_09.shtml](http://www.gp.org/press/pr_2006_10_09.shtml).
- In re Nomination Paper of Rogers et al.* 2006a. \_\_ A.2d \_\_ (Pa. Cmwlth. No. 426 M.D.).
- In re Nomination Paper of Rogers et al.* 2006b. \_\_ A.2d \_\_ (Pa. Cmwlth. Sept. 1).
- In re Nomination Paper of Rogers et al.* 2006c. 914 A.2d 457 (Pa. Cmwlth. Sept. 26).
- In re Nomination Paper of Rogers et al.* 2006d. 907 A.2d 503 (Pa. S.Ct. Oct. 4).
- Jeness v. Fortson*. 1971. 403 U.S. 431.
- Kiel, Paul. 2006. "GOP Donors Funded Entire PA Green Party Drive." *TPM Muckraker*. August 2. <http://tpmmuckraker.talkingpointsmemo.com/archives/001256.php>.

- Krawchuk, Ken. 2006. Testimony given before the U.S. District Court for the Middle District of Pennsylvania in hearing of *Marakay J. Rogers et al. v. Pedro A. Cortes, Secretary of the Commonwealth of Pennsylvania*. February 2.
- Lubin v. Panish*. 1974. 415 U.S. 709.
- Maryland Green Party et al. v. Maryland Board of Elections et al.* 2003. 377 Md. 127.
- Moulton, Chuck. 2006. "Ballot Access Update." *The Libertarian Penn*. October 28. [http://libpenn.blogspot.com/2006\\_10\\_01\\_libpenn\\_archive.html](http://libpenn.blogspot.com/2006_10_01_libpenn_archive.html).
- National Annenberg Election Survey. 2005. *Party Identification by State*. February 15. [www.annenbergpublicpolicycenter.org/naes/2005\\_03\\_party-identification-by-state\\_02-15\\_pr.pdf](http://www.annenbergpublicpolicycenter.org/naes/2005_03_party-identification-by-state_02-15_pr.pdf).
- PABAC. Pennsylvania Ballot Access Coalition. *Voter's Choice Act*. [http://www.paballotaccess.org/voters\\_choice\\_act.html](http://www.paballotaccess.org/voters_choice_act.html).
- Pennsylvania Election Code. Pennsylvania Statutes. Title 25.
- Petition to Set Aside the Nomination Papers of Marakay Rogers, Christina Valente, and Carl J. Romanelli as Candidates of an Independent Political Body for Governor, Lt. Governor, and U.S. Senator of the United States. 2006. August.
- Protocol for Signature Review. 2006. August 24.
- Rogers et al. v. Corbett et al.* 2006. 468 F.3d 188 (3<sup>rd</sup> Circ.).
- Rogers et al. v. Cortes*. 2006. 426 F. Supp. 2d 232 (M.D. Pa.).
- Skrapitz, Elizabeth. 2007. "High court rules against Romanelli." (Wilkes-Barre) *Citizens Voice*, February 25.
- Williams v. Rhodes*. 1968. 393 U.S. 23.
- Winger, Richard. 2006a. "Court Says Qualified Parties Can Be Kept Off Ballot." *Ballot Access News*. September 1. <http://www.ballot-access.org/2006/090106.html>.
- Winger, Richard. 2006b. "PA. Court Imposes \$82,102 'Unfiling Fee.'" *Ballot Access News*. September 1. <http://www.ballot-access.org/2006/090106.html>.
- Winger, Richard. 2007. "Pennsylvania Demands Big \$\$ from both Nader and Romanelli for Removing Each from the Ballot." *Ballot Access News*. February 1. <http://www.ballot-access.org/2007/020107.html>.