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U.S. FOURTH CIRCUIT COURT OF APPEALS UPHOLDS
SOUTH CAROLINA OPEN PRIMARIES:
COALITION OF AFRICAN AMERICAN / INDEPENDENT VOTERS HAIL DECISION

IndependentVoting.org, a national association of independent voters and a defender of South Carolina’s open primary system, applauded a decision this week by the Richmond, Virginia based Court of Appeals for the 4th Circuit affirming a decision by District Judge Mary G. Lewis from August of 2013, dismissing a lawsuit brought by the Greenville Republican Party which sought to close the state’s primary system.

The Court of Appeals ruling upheld the district court’s decision that the Greenville Republican Party did not have standing to sue to close the South Carolina primaries.

In June of 2014, the State Republican Party withdrew from the lawsuit leaving the Greenville GOP as the sole plaintiff in the case which has been pending since 2010.

IndependentVoting.org and a coalition of defendant/intervenors argued that without the state Republican Party’s involvement, the Greenville plaintiffs did not have standing.

“The Court of Appeals recognized that this issue – whether the GOP stands for open or closed primaries – is an issue that only the Republican Party as a whole can address,” said IndependentVoting.org general counsel Harry Kresky. “The Court wouldn’t allow a faction of the party – in this case the Greenville County Republican organization – to substitute its wishes for the position of the state Party.”

The ruling may have ramifications for a similar conflict that is brewing in the Mississippi GOP after African Americans participated last year in the GOP’s open primary, backing incumbent state Senator Thad Cochran – a moderate candidate - over his right wing opponent Chris McDaniel. In Mississippi, the Tea Party wing of the Party is pushing to close the party to prevent a repeat of this scenario in other intra-party contests. In one-party states like Mississippi and South Carolina, the primary of the dominant Republican Party can be the only opportunity African Americans have to cast an effective vote to protect their interests.

The 4th Circuit Court of Appeals decision came minutes before argument was heard in the 3rd Circuit Court of Appeals in Philadelphia on another case involving the rights of non-aligned voters to participate in primary elections. The lawsuit, filed by several New Jersey voters, joined by the Independent Voter Project of California and IndependentVoting.org asserted that New Jersey's closed primary violated the constitutional mandate that every voter have an equal and meaningful vote at every stage of the state-funded election process, regardless of party affiliation or non-affiliation. Litigation challenging a state's right to conduct open primaries, similar to that in South Carolina, is currently pending in Montana and Hawaii.

Jacqueline Salit, president of IndependentVoting.org which assembled the defendant/intervener coalition said, "We intervened into this lawsuit because a basic voting right was at stake, namely whether South Carolina voters would be forced to join a political party in order to vote in a primary. That's just un-American, plain and simple. Let's hope that the GOP will now give up the ghost and let freedom ring."

State Representative Joe Neal, part of the defendant/intervener coalition added, "The third time is the charm. Over and over again the court has agreed that this measure would deny SC voters, particularly minority voters, free and unfettered access to the polls. This is a moment of clarity for SC in regards to voting rights, and hopefully lead to a strengthening of the right to vote."

In addition to IndependentVoting.org, the coalition of defendant/interveners included: thirteen members of the South Carolina Black Legislative Caucus, the South Carolina Independence Party, the Progressive Network, and the Constitution Party.

"I am proud that we stopped the Greenville Republican Party from closing our state's primary elections. South Carolinians have always been fiercely independent, and our right to vote at every stage of the election process has been upheld," stated Wayne Griffin, Chair of the South Carolina Independence Party.

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