

SEP presidential candidates Kishore and Santa Cruz file federal lawsuit challenging ballot access restrictions in California

By Norissa Santa Cruz—SEP Vice Presidential Candidate
2 July 2020

On Tuesday, the Socialist Equality Party's candidates for United States president and vice-president filed a federal lawsuit in California challenging the state's continued enforcement of a requirement to gather nearly 200,000 signatures in order gain access to the November statewide ballot during the ongoing coronavirus pandemic.

The lawsuit was filed as the number of infections continues to surge in California and the southwestern United States. Last week, California recorded its highest daily count for new COVID-19 cases, over 7,000, while its total death count surpassed 6,000.

SEP presidential candidate Joseph Kishore and vice presidential candidate Norissa Santa Cruz are the plaintiffs, and California's Democratic Governor Gavin Newsom and Secretary of State Alex Padilla are the defendants.

The complaint, filed in the United States District Court for the Central District of California, argues that the state's requirement that independent candidates collect close to 200,000 physical signatures between April 24, 2020 and August 7, 2020 is "effectively impossible" to meet "in light of the ongoing global COVID-19 pandemic and the state's countermeasures to it."

At the time of the filing, the number of confirmed cases of the virus in California had climbed above 230,000. Under conditions of a rising rate of infections and deaths, the candidates argued, "enforcing the existing ballot access requirements. .. would be tantamount to voter suppression, thereby violating the fundamental democratic rights of the candidates as well as those of California voters."

The lawsuit argues that the candidates launched their campaign in late January, but in early March they "determined that the outbreak of the coronavirus left them no choice but to cancel all subsequent public events and campaign activity, including ballot gathering initiatives, so as to protect volunteers, staff and the public at large from spreading the coronavirus."

Meanwhile, statewide, county and municipal orders "restricted travel and public interaction... ordering an end to all non-essential public travel or work or other social interactions." Some orders outright prohibited "all public and private gatherings." Violations of these orders were in many cases made subject to criminal prosecution.

Had the candidates and their supporters attempted to publicly petition to obtain signatures for ballot access, they would have

severely jeopardized not only their own health and lives, but those of the public as well. "Gathering signatures under these conditions requires close physical proximity to hundreds of thousands of prospective petition signers, as well as physically exchanging petition documents with them, the very hallmarks of high infection risk," the lawsuit states. "Had Plaintiffs pursued such petition activity, campaigners would not only have risked death and illness to themselves and the public at large, they would have faced arrest, loss of their liberty and fines and punishment."

The candidates submitted the declaration of a veteran SEP campaigner in Los Angeles, who pointed out that "exposing myself to significant numbers of people, even with masks, would involve placing my life in danger. In addition, I would risk not only my own life, I would risk spreading the deadly infection to others."

Meanwhile, the lawsuit explains: "Throughout the long progression of the deadly pandemic, officials of the State of California deliberately chose to leave the existing ballot access laws for independent candidates in place, which are disproportionately onerous and restrictive even under ordinary circumstances. No action was taken to develop alternative means of ballot access, despite months of stay-at-home and shelter-in-place orders."

The SEP's court filing also includes the testimony of ballot access specialist Richard Winger, the editor of *Ballot Access News*, who has compiled extensive historical statistics and data on US elections. He pointed out that some states do not have signature requirements at all, while other states that have requirements of 5,000 signatures almost never have more than eight total candidates on the ballot, including the Democratic and Republican candidates.

In his expert opinion, he wrote, California's "figure of 200,000 looms as disproportionate, excessive, and unreasonable."

In their lawsuit, the SEP candidates point to the broad public dissatisfaction with the official political parties. "Nationwide, nearly half of eligible voters (46.9 percent, according to the United States Election Project) did not vote in the 2016 presidential election, and turnout was poor for both major party candidates. This fact suggests that a substantial section of the electorate is not satisfied with the narrow range of choices that are commonly available on the ballot."

The SEP candidates point out in their filing that while no effort has been made to make the ballot accessible for socialist, independent, or third-party candidates, the state did modify the procedures for the primary elections.

Specifically, an order by Governor Newsom in March pointed out that “in-person voting presents risks to public health and safety in light of the COVID-19 pandemic, and could risk undermining social distancing measures imposed by the State Public Health Officer.” The order declared that “our elections must be accessible, secure, and safe” and concluded that voting may take place by mail-in ballot, suspending several sections of the Elections Code.

The court papers filed Tuesday conclude that the operation of California’s ballot access laws, in conjunction with the dangers of petitioning during the pandemic and the governmental restrictions on such activity, impose a “severe burden on Plaintiffs’ ability to seek elected office, in violation of their First and Fourteenth Amendment rights to freedom of speech, freedom of association, equal protection, and due process of the law.”

The lawsuit also establishes that the intense political work carried out by the Socialist Equality Party in California over a period of decades has built up a solid political base in the state. In 2018, David Moore was the SEP’s candidate for US Senate, winning 24,614 votes, more than any other candidate who was not a Democrat, Republican or Libertarian. That same year, SEP candidate Kevin Mitchell, running for the state’s 51st Congressional District, won nearly two percent of the vote.

The lawsuit also points to the numerous campaigns the SEP has carried out in the state over important social and economic issues, including organizing resistance to wage cuts and deteriorating working conditions for K-12 teachers, nurses, grocery workers, university workers, and other sections of the working class.

The candidates point out that the political organ of the SEP and its sister parties worldwide, the *World Socialist Web Site*, is the most widely read socialist publication on the Internet. A growing readership of around 1.5 million people read the website each month, including many thousands of daily readers in California.

The lawsuit is supported a number of affidavits submitted by California voters and SEP supporters. Sebastian Ayala, a student at the University of California, Berkeley who worked for 12 years as a butcher at a Sprouts Farmers Market, stated: “If Joseph Kishore and Norissa Santa Cruz are on the ballot, I plan on voting for them. If they do not, I do not intend to vote.”

“I believe in the correctness of Joseph Kishore and Norissa Santa Cruz’s positions—they are rooted in Marxism and Trotskyism,” he added. “They are fighting for an egalitarian and democratic society. I want a society that can provide medical care for all, that can end war and poverty and corruption from businesses.”

“I believe that Joseph Kishore and Norissa Santa Cruz are the only ones with a realistic program directed towards those objectives,” he continued. “While many candidates claim to represent the interests of the working class, Joseph Kishore and Norissa Santa Cruz are the only candidates who genuinely do.”

Amy Castillo, a registered nurse, filed a declaration stating, “In the 2020 general election, I feel like we are being presented with

only two choices, and they are both horrible. I would definitely never vote for Trump, and I am disgusted that we only have Biden as the Democratic choice.”

“I believe that I should be able to vote for the candidates I want to support,” she said. “What interests me about Kishore and Santa Cruz is that they are for the working class. They have been fighting for a long time to try to educate the working class on its history and rights. They are also an international party, fighting in places like Mexico and all over the world. That is very important to me because we are all connected internationally, and we are all fighting against capitalism.”

“As a nurse,” she added, “I think that requiring people to gather signatures under these circumstances is irresponsible and dangerous. It put people’s lives at risk. I do not agree with forcing Kishore and Santa Cruz and their supporters to risk their lives to gather signatures.”

Amy Ellevold, a middle school science teacher who was laid off in June 2020 due to budget cuts, also filed a declaration in support of the campaign.

“I want to vote for Joe Kishore and Norissa Santa Cruz in this election,” she wrote. “Over the past 10-15 years I have felt that there has not been a candidate that represented my political values. The Democrats that usually end up getting elected always betray my values, and they have gotten my past vote only by lying to me about who they are and what they will do if elected.”

“When a number of Sweetwater teachers were fighting against the layoffs in our district,” she stated, “the Socialist Equality Party was the only organization that stood up for us and opposed the teachers union, which refused to defend us against the district. The union stopped us from protesting and the SEP was calling for the whole working class to mobilize to defend the right to public education.”

The case has been assigned to federal district judge Dolly M. Gee, who was appointed by President Barack Obama in 2010. Late in the day Wednesday, the California Attorney General’s office, representing Governor Newsom and Secretary Padilla in their official capacities, filed a request asking to be allowed until July 13 to file a response.

The Socialist Equality Party calls for readers and supporters to support the Kishore/Santa Cruz campaign by signing up for our newsletter, joining the Socialist Equality Party, pledging to be a campaigner, and for US citizens to donate to support the campaign.

Support our campaign and our legal fight to put the SEP on the ballot!

To contact the WSWS and the
Socialist Equality Party visit:

<http://www.wsws.org>