

The politics of oligarchy: Federal appeals court blocks SEP challenge to anti-democratic ballot access laws in California

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The American government has a lot to say about “democracy,” the “rule of law,” and “fair elections” abroad when one or another state has gotten in the way of the interests of Wall Street. However, the United States is not a democracy in any meaningful sense of the word. It is an oligarchy, with a political system controlled by two parties, the Democrats and Republicans, that represent this oligarchy.

This basic political fact is thoroughly exposed by the ruling of the Ninth Circuit Court of Appeals this week, effectively ending the Socialist Equality Party election campaign’s legal challenge to California’s undemocratic ballot access laws in the midst of the coronavirus pandemic.

On June 30, my running mate Norissa Santa Cruz and I filed a lawsuit against California Governor Gavin Newsom and Secretary of State Alex Padilla, both Democrats, challenging the state’s decision to require us to collect nearly 200,000 physical signatures to appear on the ballot. Given the pandemic that has raged throughout the period when signature-gathering is allowed, any attempt by us to fulfill this requirement would certainly have contributed to spreading COVID-19 and significant deaths.

On July 20, California District Judge Dolly M. Gee, nominated by former President Barack Obama, ruled against our challenge, siding with the position of the Newsom administration that we should have risked life and limb to fulfill this requirement. We appealed this decision to the Ninth Circuit, which set a timetable that would have concluded the case well after ballots—without our names on them—were already printed.

On July 27, a three-judge panel on the court—comprised of judges appointed by both Democrats and Republicans—denied a request that the appeal be heard on an expedited basis. Our motion for reconsideration of this decision was denied by the same panel on Wednesday, August 5. This effectively ends the SEP’s legal case, since any decision would be made after the state already took the action that the lawsuit was aimed at preventing.

The appeals court’s decision is a political, not a legal ruling based on the merits. There is ample precedent for expedited hearings involving cases of this character, and there are

absolutely no defensible legal grounds for denying the request.

The panel of judges announced its decisions with one-paragraph rulings that did not address any of our arguments. In essence, it is saying: We do not want to hear the case on its merits, as the legal issues are clear, so we will prevent the case from being heard in time.

The entire response of the ruling class and its state to the SEP challenge has been determined by one political motive: Keep socialists off the ballot! The decision of the Ninth Circuit judges not to decide our case until after ballots are printed was determined by this overriding political necessity.

A similar decision was made in July against the SEP in its challenge to ballot access requirements in Michigan, also controlled by Democrats. We are currently appealing that decision.

To call the situation Kafkaesque would be a gross understatement. A deadly pandemic is raging throughout the country. More than five million people in the US have been infected by COVID-19, and more than 163,000 people have died, with more than 1,000 added to this horrific toll every day. The latest estimates are that 300,000 people will have died by the beginning of December.

California currently has one of the highest daily infections of any state (at more than 6,000) and one of the largest daily death counts (at over 140). Yet the state would have the SEP and its supporters physically interact with hundreds of thousands of people, sharing clipboards and pens, and overall creating the best conditions for spreading the disease!

Some of the arguments advanced by the state are particularly grotesque and absurd. In his initial opposition to our lawsuit, the California attorney general argued that if we won it would cause “an unmanageable and overcrowded ballot” that would create “voter confusion” and “frustration of the democratic process.”

The voters of California are, apparently, too ignorant to be able to choose between more than a handful of candidates sanctioned by the state. In fact, the only “frustration” that would result would be the frustration of the ruling class that voters would have options outside of the representatives of the ruling class itself. In 2003, the specific circumstance created by

a recall election created conditions in which 135 candidates were on the ballot, with no “confusion” or “frustration.” The SEP candidate in the election, John Burton, won a substantial vote.

The state also argued that we should have gathered signatures over social media—on which socialist politics is heavily censored—and by mail. This would require sending individual signature forms to 200,000 people, who would have to print the forms, sign them, physically meet with a notary public to have them notarized, and mail them back. Even if such a byzantine procedure were possible, it would cost something on the order of \$20 million for the notarizations alone.

Then you have the fact that the Democrats have announced in their own election campaign for Joe Biden that they will be doing no door-to-door campaigning ... because of the pandemic. The Democrats are planning to hold their convention later this month virtually, again because of the pandemic. In other words, socialists should risk their lives and the lives of the public at-large just to get on the ballot—a task that the Democrats and Republicans need not perform because they are on the ballot automatically.

The entire system of ballot access in the United States is grossly undemocratic. For decades, states have attacked that right to vote by putting up increasingly onerous restrictions and requirements: early deadlines, signature-gathering requirements and other limitations designed to make it as difficult as possible to participate. Many of these requirements are flagrantly discriminatory. They make it easy for Democrats and Republicans and difficult for everyone else. These barriers have been repeatedly upheld by the courts as serving “state interests.”

With these two lawsuits in Michigan and California, the SEP has completely exploded these rationales. Under conditions of the pandemic, these requirements are being enforced when it is as clear as day that they are effectively impossible to satisfy. This proves that these ballot access restrictions are designed for one purpose only: to exclude opposition from the electoral process, and specifically to exclude socialist opposition.

The Ninth Circuit's refusal to hear our appeal is not made from a position of strength but from a position of weakness. Our arguments were irrefutable, and the state's arguments were absurd, so the judges decided to run the clock out in order to avoid having to make any decision at all.

The representatives of the ruling class, Democrat and Republican, are terrified of the growth of social opposition. The policy the oligarchy has implemented has produced mass death and devastation.

While the rich have used the pandemic to amass even greater wealth, they stand atop a powder keg. There is growing support for socialism and opposition to capitalism.

In the resolution adopted by the Socialist Equality Party at its Congress last month, we wrote, “The first half of the year has been dominated by the response of the ruling class to the

pandemic. The response of the working class will come to the forefront in the second half. The disastrous consequences of the ruling class' policies have delivered a staggering blow to the legitimacy of the capitalist system.”

This is already happening. There is mounting anger among teachers and parents to the back-to-school campaign. Workers are beginning to organize and fight back against the efforts to force them to sacrifice their lives and the lives of their loved ones to pump out profits for the rich. The cutoff of federal unemployment benefits, leaving tens of millions impoverished and in danger of eviction, is producing a social explosion.

In the upcoming elections—if they are even held—the Democrats and Republicans are offering a “choice” between two right-wing representatives of the oligarchy, Trump and Biden.

The decision of the Ninth Circuit Court of Appeals is a further demonstration of the basic truth of Marxism: the state is not a neutral body. It is an instrument of class rule. Real social change will not come through this corrupt and antidemocratic apparatus, but from the development of a mass, revolutionary movement of the working class. And this is coming.

Norissa and I will continue to wage a determined fight in the elections. The SEP will be on the ballot in a number of states that do not require in-person signature gathering. In other states, we will have write-in status, including in California. In the coming weeks, we will be holding online campaign meetings to explain the perspective of socialism.

The central aim of this campaign is to build a socialist leadership in the working class. We call on all workers and youth to make the decision that flows inexorably from the reality of the pandemic and the nature of class rule: Join the SEP and take up the fight for socialism!

Joseph Kishore—Socialist Equality Party candidate for US President

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