

Supreme Court refuses to hear SEP challenge to Michigan ballot access denial

By Kevin Reed
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The Socialist Equality Party's (SEP) fight for ballot status in Michigan came to an end on Friday when state election officials began printing ballots and excluded the party's candidates Joseph Kishore for US president and Norissa Santa Cruz for US vice president.

The three-month legal battle came to a close as Supreme Court justice Sonia Sotomayor refused to hear the candidates' emergency application for a writ of injunction—their last effort to challenge the denials in the US District Court for the Eastern District of Michigan and the Sixth Circuit. The emergency application would have forced the state to postpone ballot printing until the Supreme Court had ruled on the merits of Kishore and Santa Cruz's appeal of the Sixth Circuit's August 24 ruling. The candidates filed their appeal to the US Supreme Court on Monday, August 31.

Judge Sotomayor's refusal to even consider the injunction request is significant, and once again shows the bipartisan effort to keep Kishore and Santa Cruz off the ballot. The district court judge who denied Kishore and Santa Cruz's initial injunction request—Sean Cox—was a Republican, as were all three Sixth Circuit panelists who affirmed Cox's ruling against the SEP candidates. Sotomayor was appointed by President Barack Obama, a Democrat.

Sotomayor's reasoning, explained by court staff to Kishore and Santa Cruz's attorneys, is that Sotomayor could not accept the filing because Kishore and Santa Cruz had not asked for the exact same type of relief—an injunction pending determination of the writ of certiorari (i.e., pending the outcome of their Supreme Court appeal)—at both the district court and court of appeals level.

But Kishore and Santa Cruz did request injunctions at every level, as this was the entire basis of their lawsuit.

They could not have asked for an injunction pending the outcome of their Supreme Court appeal, because they could not have had a pending appeal until the lower courts denied their case. The only way to resolve this extreme technicality, the court explained, was for Kishore and Santa Cruz to go back to the lower courts and ask them both for injunctions pending the appeal to the Supreme Court. Since this would have required another set of legal briefs, it would have run out the clock before last week's printing deadline. Kishore and Santa Cruz explained in their request that Sotomayor grant an emergency injunction that they needed a decision by September 4 or the case would be moot.

Thus concludes the SEP's legal battle in the federal courts arguing that Michigan's ballot access requirement of collecting thousands of physical signatures of registered voters on petitions during the coronavirus pandemic was impossible and, therefore, unconstitutional.

The final outcome of this legal fight reinforces the basic position taken at every level of the US courts: any challenge to the political monopoly of the capitalist two-party system by the working class and the SEP on the basis of appeals to fundamental democratic rights, even in the midst of the deadly pandemic, must be rejected at all costs.

On June 18, the SEP filed a lawsuit in the US District Court for the Eastern District of Michigan against Michigan's Democratic Party Governor Gretchen Whitmer, Secretary of State Jocelyn Benson and Director of the Michigan Bureau of Elections Jonathan Brater stating that it was unconstitutional for the state to force voters and candidates to risk their lives in the exercise of their democratic rights to put a socialist on the ballot.

The request for an injunction was first denied by

District Judge Sean F. Coxand then again by the Sixth Circuit Court of Appeals—in rulings that stated the SEP should have been gathering voter signatures during the height of the pandemic in Michigan. On the basis of the specious argument that the SEP did not exercise “diligence” in signature gathering, the courts, along with the Michigan Democratic Party defendants, made it clear that they had no interest in the health and lives of SEP members, supporters and the voting public.

As the SEP explained throughout the ballot access court battle, whatever the differences between the Democrats and Republicans, they are united in their hostility to the struggle of the working class and the fight for socialism. This basic truth was exposed in the course of the court rulings.

SEP presidential candidate Kishore said of the Supreme Court’s refusal to hear the appeal:

“The orientation of our campaign is not to the elections but to the growth of the class struggle in the US and around the world. The elections are being held under conditions of extreme crisis. The expanding coronavirus pandemic could claim more than 400,000 lives in the US by the end of this year, and there is a massive social crisis developing, with tens of millions unemployed a reality of hunger and widespread evictions.

“The election between Biden and Trump marks a breakdown of democratic forms of rule, with Trump making open appeals to fascist violence and Biden denouncing ‘rioters’ and ‘looters.’ The solution to this crisis is the development of the social consciousness of the working class. This is the social force to which we are oriented and we are using our election campaign to organize and arm workers with a socialist perspective.”

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