

SUPREME COURT OF NEW JERSEY

New Jersey Democratic Party, Inc. v. Samson, 175 N.J. 178

814 A.2d 1028 (2002) · Decided October 8, 2002

SUMMARY

The Supreme Court of New Jersey held that the New Jersey Democratic State Committee could replace Senator Robert Torricelli as its 2002 United States Senate candidate after his withdrawal, despite the vacancy occurring outside the statutory time period. The court interpreted the election law in light of the competing interests of voter choice and orderly election administration and ordered revised ballots, subject to administrative feasibility.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Chief Justice Poritz; Justice Coleman; Justice Long; Justice Verniero; Justice LaVecchia; Justice Zazzali; Justice Albin
JURISDICTION	New Jersey
DECIDED	October 8, 2002
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs filed a Complaint in Lieu of Prerogative Writs and Order to Show Cause in the Superior Court, Law Division, Middlesex County, and simultaneously sought direct certification in the Supreme Court of New Jersey. The Supreme Court directly certified the matter, rendered the lower-court application moot, and granted relief permitting substitution of a Democratic Senate candidate on the November 2002 general-election ballot.
STANDARD OF REVIEW	The Court interpreted N.J.S.A. 19:13-20 in light of legislative purpose, the statutory text, and the fundamental right of voter choice, while assessing whether the requested substitution was administratively feasible and would preserve an orderly election.
PRECEDENTIAL VALUE	Published New Jersey Supreme Court opinion; precedential
PARTIES	New Jersey Democratic Party, Inc., New Jersey Democratic State Committee, Bonnie Watson Coleman, in her official capacity as Chair of the New Jersey Democratic Party and New Jersey Democratic State Committee, John or Jane Doe, yet to be selected Democratic Party Candidate for the Office of United States Senator, State of New Jersey

v. David Samson, Attorney General, State of New Jersey, Regena Thomas, Secretary of State of the State of New Jersey, Ramon de la Cruz, Director of New Jersey Division of Elections, The twenty-one county clerks named in the caption, Douglas Forrester, Ted Glick, Elizabeth Macron, Norman E. Wahner

TOPICS

election law

ballot access

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PRACTICE AREAS

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Constitutional law

QUESTIONS PRESENTED

1. Whether N.J.S.A. 19:13-20 permits a political party's State Committee to select a replacement candidate for a vacancy caused by a major-party candidate's withdrawal less than forty-eight days before the general election.
2. Whether candidate substitution could be ordered on the record presented without disenfranchising voters or disrupting the orderly administration of the election, particularly military and overseas absentee voting.
3. Whether the Court could grant relief requiring revised ballots, expedited mailing, supervision of the process, and payment of associated costs.

HOLDINGS

1. N.J.S.A. 19:13-20 does not expressly prohibit filling a vacancy created after the statutory forty-eight-day period. When the statute is silent, it must be interpreted according to its fundamental purpose and probable legislative intent, which favor preserving voters' opportunity to choose among candidates.
2. A replacement candidate could be substituted for Torricelli because the record showed sufficient time to prepare revised ballots and conduct the election in an orderly manner without adversely affecting qualified voters' ability to participate.
3. The Court could require the Attorney General to oversee revised-ballot preparation and voter notification, place priority on military and overseas ballots, require plaintiffs to pay implementation costs, and authorize Judge Linda R. Feinberg to supervise the statewide process.

KEY QUOTATIONS

"Election laws are to be liberally construed so as to effectuate their purpose. They should not be construed so as to deprive voters of their franchise or so as to render an election void for technical reasons." (*1033)

"This Court has never announced that time limitations in election statutes should be construed to bar candidates from the ballot when that makes no sense and when it is obviously not the Legislature's intent." (*1036)

*“In the absence of explicit direction from the Legislature, we have construed the relevant statutory provision, N.J.S.A. 19:13-20, to promote the goals underlying our election laws—to ensure an opportunity for voters to exercise their right of choice in the November 2002 senatorial election consonant with an orderly process for the handling of ballots.” (*1042)*

FACTUAL BACKGROUND

Senator Robert G. Torricelli withdrew on September 30, 2002, after winning the Democratic nomination for the United States Senate. The withdrawal occurred thirty-four days before the November 5 general election, outside the statute's express forty-eight-day deadline for selecting a replacement candidate. As of October 2, approximately 19,000 absentee ballots had been authorized, approximately 1,700 had been mailed, and few had been returned; the Court was informed that expedited replacement ballots could be prepared and mailed within approximately five business days.

PROCEDURAL HISTORY

After Senator Robert G. Torricelli withdrew as the Democratic candidate on September 30, 2002, plaintiffs sought to remove his name from the ballot and substitute a candidate selected by the Democratic State Committee. The Law Division stayed ballot printing, but the Supreme Court directly certified the matter on October 1, 2002. Following oral argument on October 2, the Court unanimously granted the requested relief and issued this opinion explaining its order.

DISPOSITION

other

CASES CITED

- New Jersey Democratic Party v. Samson, 175 N.J. 172, 814 A.2d 1026 (2002)
- Kilmurray v. Gilfert, 10 N.J. 435, 91 A.2d 865 (1952)
- Gangemi v. Rosengard, 44 N.J. 166, 207 A.2d 665 (1965)
- Wesberry v. Sanders, 376 U.S. 1, 84 S. Ct. 526, 11 L. Ed. 2d 481 (1964)
- Reynolds v. Sims, 377 U.S. 533, 84 S. Ct. 1362, 12 L. Ed. 2d 506 (1964)
- Powell v. McCormack, 395 U.S. 486, 89 S. Ct. 1944, 23 L. Ed. 2d 491 (1969)
- Hand v. Larason, 163 N.J. Super. 68, 394 A.2d 163 (Law Div. 1978)
- Wene v. Meyner, 13 N.J. 185, 98 A.2d 573 (1953)
- Clemency v. Beech, 306 N.J. Super. 244, 703 A.2d 399 (1997)
- Catania v. Haberle, 123 N.J. 438, 588 A.2d 374 (1991)
- Fulbrook v. Reynolds, 304 N.J. Super. 125, 698 A.2d 564 (Law Div. 1997)
- State, Township of Pennsauken v. Schad, 160 N.J. 156, 733 A.2d 1159 (1999)
- Hubbard ex rel. Hubbard v. Reed, 168 N.J. 387, 774 A.2d 495 (2001)
- AMN, Inc. v. Township of South Brunswick Rent Leveling Board, 93 N.J. 518, 461 A.2d 1138 (1983)

- Aponte-Correa v. Allstate Insurance Co., 162 N.J. 318, 744 A.2d 175 (2000)
- Sharrock v. Keansburg, 15 N.J. Super. 11, 83 A.2d 11 (App. Div. 1951)
- Brewer v. Porch, 53 N.J. 167, 249 A.2d 388 (1969)
- Fields v. Hoffman, 105 N.J. 262, 520 A.2d 751 (1987)
- Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Commission, 114 N.J. 33, 552 A.2d 612 (1989)
- Harris v. Florida Elections Canvassing Commission, 122 F. Supp. 2d 1317 (2000)
- United States v. Wisconsin, 771 F.2d 244 (7th Cir. 1985)

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