

DISTRICT COURT, DENVER COUNTY,
COLORADO

Denver City and County Building
1437 Bannock Street, Room 256
Denver, CO 80202

DATE FILED: April 26, 2016 2:03 PM
FILING ID: 369112DFE7760
CASE NUMBER: 2016CV31500

Petitioner:

JON KEYSER, an individual

v.

Respondent:

WAYNE W. WILLIAMS, in his official capacity
as the Colorado Secretary of State

▲ COURT USE ONLY ▲

Case Number:

Division:

Attorneys for Petitioner:

Christopher O. Murray, Colo. Atty. Reg. No.
39340

Patrick B. Hall, Colo. Atty. Reg. No. 45317

BROWNSTEIN HYATT FARBER SCHRECK, LLP

410 Seventeenth Street, Suite 2200

Denver, Colorado 80202-4432

Telephone: 303.223.1100

E-mails: cmurray@bhfs.com, phall@bhfs.com

VERIFIED PETITION OF JON KEYSER

Petitioner Jon Keyser, by and through his undersigned attorneys, submits this Verified Petition for relief pursuant to C.R.S. §§ 1-4-909 and 1-1-113 against Respondent Wayne W. Williams, in his official capacity as the Colorado Secretary of State (the "Secretary") and states as follows:

INTRODUCTION

This is an action brought under the Colorado Election Code for an order requiring the Secretary to accept certain valid petition signatures in support of Jon Keyser's candidacy for United States Senator, and, because those signatures are sufficient to meet the statutory threshold of 1,500 signatures per congressional district, an order requiring the Secretary place Jon Keyser's name on the primary election ballot for United States Senator.

Undersigned counsel gave counsel for the Secretary of state notice of this action on the evening of April 25, 2016. Undersigned counsel delivered a copy of this Petition and supporting affidavits to counsel for the Secretary via e-mail just prior to filing with the court. Counsel for the Secretary has represented that the Secretary is ready to be heard on this matter immediately.

PARTIES

1. Petitioner Jon Keyser is an individual residing in Morrison, Colorado.
2. Respondent Wayne W. Williams is the Colorado Secretary of State with his offices in Denver, Colorado.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter under section 1-1-113, C.R.S.
4. Under section 1-4-909(1.5), C.R.S., this petition is timely filed within five days of the Secretary's April 25, 2016 decision not to accept certain petitions to place Mr. Keyser on the primary election ballot.
5. Venue is proper in this Court pursuant to C.R.C.P. 98(b)(2) because the Secretary resides in the City and County of Denver.

GENERAL ALLEGATIONS

6. Jon Keyser seeks the Republican Party's nomination for United States Senator in the 2016 election.
7. The Republican Party is a major political party pursuant to C.R.S. § 1-1-104(22). As a major party candidate for statewide office, Mr. Keyser was required to collect 1,500 valid signatures of registered Republican electors from each of Colorado's seven congressional districts between February 1, 2016 and April 4, 2016 pursuant to C.R.S. §§ 1-4-801(2)(II) and (5).
8. In February, 2016 circulators working for Mr. Keyser's campaign committee (the "Keyser Campaign") began collecting signatures to satisfy this requirement and thereby place Mr. Keyser's name on the primary election ballot.

9. Tyler Gonzalez worked for the Keyser Campaign as a circulator in the 3rd Congressional District in February and March, 2016. An affidavit of Mr. Gonzalez in support of this Verified Petition is submitted simultaneously herewith.

10. At all times since at least October, 2015, Mr. Gonzalez is and has been a resident of Colorado, a citizen of the United States, over eighteen years of age, registered to vote, and affiliated with the Republican Party.

11. In October 2015, Mr. Gonzalez lived at 13535 Ashbrook Heights #103, Colorado Springs, Colorado 80921 (the “Ashbrook Heights Address”). He registered to vote at this address in 2012.

12. In October, 2015, while at the Ashbrook Heights Address, Mr. Gonzalez affiliated with the Republican Party.

13. Thereafter, Mr. Gonzalez moved to 6586 Many Moon Drive, Colorado Springs, Colorado, 80923 (the “Many Moon Address”).

14. After moving, Mr. Gonzalez did not update his voter registration to reflect his new address.

15. In February and March 2016, Mr. Gonzalez gathered 14 petitions in support of Mr. Keyser’s candidacy in the third congressional district. He also gathered four petitions in the fourth congressional district and six petitions in the fifth congressional district.

16. According to the Secretary of State’s office, the petitions gathered by Mr. Gonzalez in the third congressional district included a total of 186 valid signatures from residents of the third congressional district.

17. In connection with each petition, Mr. Gonzalez completed and signed notarized affidavits complying with C.R.S. § 1-4-905(2). These affidavits were witnessed and notarized by Ryley Johnson and Jason Cogzell who were Mr. Gonzalez’ supervisors during the petition gathering effort. Affidavits of Mr. Johnson and Mr. Cogzell in support of this Verified Petition are submitted simultaneously herewith.

18. In particular, the affidavits included the Many Moon Address—the address at which the Mr. Gonzalez resided while circulating the Keyser petitions.

19. On March 31, 2016, the Keyser Campaign submitted petitions, including Mr. Gonzalez's petitions, to the Secretary.

20. On April 25, 2016, the Secretary announced that the Keyser Campaign's signatures were insufficient to place Mr. Keyser's name on the primary election ballot. In a letter announcing the decision, the Secretary specified that Mr. Keyser had enough valid signatures to qualify for the ballot in every congressional district except the third congressional district, where Mr. Keyser was 86 signatures short of the required 1,500. A copy of this letter is attached as Exhibit 1 to this Verified Petition.

21. Among the signatures the Secretary rejected from the third congressional district were the 186 otherwise valid signatures collected by Mr. Gonzalez. In a spreadsheet accompanying the letter, the Secretary specified that these signatures were rejected because Mr. Gonzalez was allegedly not registered with the Republican Party as required for a circulator of a political party nominating petition under C.R.S. § 1-4-905(1).

22. The sole basis for the Secretary's decision was that the Many Moon Address given in Mr. Gonzalez's affidavits did not match the Ashbrook Heights Address listed in Mr. Gonzalez's voter registration records. As a result, the Secretary determined he was unable to verify that Mr. Gonzalez met the requirement of section 1-4-905(1) of being affiliated with the political party mentioned in the petition at the time he circulated the petitions on behalf of the Keyser Campaign.

23. As a result of the Secretary's rejection of Mr. Gonzalez's petitions bearing 186 otherwise valid signatures, Mr. Keyser's name was not placed on the primary election ballot for United States Senator.

24. Indeed, the Secretary concedes that, but for his rejection of Mr. Gonzalez's petitions, Mr. Keyser's name would have been placed on the primary election ballot.

25. Mr. Gonzalez's petitions should be accepted, and Mr. Keyser's name placed on the primary election ballot, because Mr. Gonzalez substantially complied with the requirements Colorado Elections Code, specifically that he be registered to vote and affiliated with the Republican Party pursuant to C.R.S. 1-4-905(1). *See Loonan v. Woodley*, 882 P.2d 1380, 1384-85 (Colo. 1994).

26. The Keyser campaign continues to evaluate the signatures rejected by the Secretary in the third congressional district. On information and belief, there were many other signatures wrongfully rejected in this congressional district.

FIRST CLAIM FOR RELIEF

(For an Order Pursuant to C.R.S. §§ 1-4-909 and 1-1-113)

27. Petitioner incorporates by reference the allegations in the preceding paragraphs of this Petition as if fully incorporated herein.

28. At all relevant times, Mr. Gonzalez was a resident of Colorado, a citizen of the United States, over eighteen years of age, registered to vote, and affiliated with the Republican Party, satisfying the requirements of section 1-4-905(1), C.R.S.

29. In February and March 2016, Mr. Gonzalez circulated 24 petitions for the Keyser Campaign with 14 of these circulated in the third congressional district.

30. According to the Secretary of State's office, the 14 petitions circulated in the third congressional district included 186 signatures which would be valid but for the Secretary's determination that Mr. Gonzalez was not affiliated with the Republican Party at the time he circulated the petitions.

31. With each Keyser petition, Mr. Gonzalez attached a signed, notarized, and dated affidavit complying with the requirements of 1-4-905(2), C.R.S.

32. Although Mr. Gonzalez complied with the provisions of 1-4-905, C.R.S., the Secretary refused to accept Mr. Gonzalez's Keyser petitions because he determined that Mr. Gonzalez was not affiliated with the Republican Party at the time he circulated the petitions

33. Mr. Gonzalez is registered as a Republican; however the address on his voter registration does not match the address on his petitions because Mr. Gonzalez did not update his voter registration when he moved to the Many Moon Address.

34. Despite his failure to update his address, Mr. Gonzalez substantially complied with all relevant requirements of the Colorado Elections Code when he circulated petitions for the Keyser Campaign.

35. Because Mr. Gonzalez substantially complied with the Colorado Elections Code in gathering and submitting the Keyser petitions, the Secretary's refusal to accept the otherwise valid signatures collected by Mr. Gonzalez constitutes a breach/neglect of duty or other wrongful act under C.R.S. §§ 1-4-909 and 1-1-113.

36. Due to the Secretary's breach/neglect of duty or other wrongful act, Mr. Keyser was wrongfully deprived of a place on the primary election ballot for the Republican Party's nomination for United States Senator.

37. Good cause therefore exists to order the Secretary to comply with the Colorado Elections Code by accepting Mr. Gonzalez's petitions and, because they are sufficient to allow Mr. Keyser to meet the 1,500 valid signatures per congressional district threshold, place Mr. Keyser's name on the primary election ballot.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays for judgment and relief as follows:

- A. For an order requiring the Secretary to comply with the Colorado Elections Code by accepting the Keyser petitions circulated by Tyler Gonzalez and all otherwise valid signatures thereon;
- B. For an order requiring the Secretary to place Jon Keyser's name on the Republican primary election ballot for United States Senator;
- C. In the absence of an order requiring the Secretary to accept the Keyser petitions circulated by Tyler Gonzalez, an order continuing the proceeding on this Verified Petition for no longer than four business days to allow the Keyser Campaign to supplement this Verified Petition on the basis of additional wrongfully rejected signatures before the deadline under C.R.S. §§ 1-4-909 and 1-1-113; and
- D. For such other and further relief as the Court deems just and proper.

Dated April 26, 2016.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

s/ Christopher O. Murray

Christopher O. Murray, Colo. Atty. Reg. No. 39340

Patrick B. Hall, Colo. Atty. Reg. No. 45317

Attorneys for Petitioner Jon Keyser

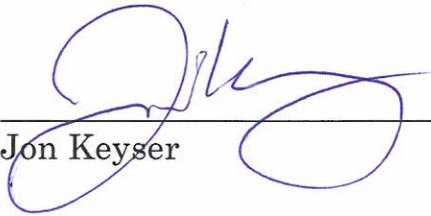
Petitioner's address:

8547 E. Arapahoe Rd. Ste. J # 592

Greenwood Village, CO 80112

VERIFICATION

I, Jon Keyser declare under penalty of perjury under the laws of the United States and Colorado that the foregoing is true and correct to the best of my knowledge.



Jon Keyser

SUBSCRIBED AND SWORN TO BEFORE ME this 26th of April, 2016
by Jon Keyser.

Witness my hand and official seal:



Notary Public

My Commission expires:

03/09/2020



RAFAEL DELLO STROLOGO
MY COMMISSION # FF 969746
EXPIRES: March 9, 2020
Bonded Thru Budget Notary Services