

ELECTIONS & VOTING RIGHTS

Elections & Voting Rights: Political Parties

Republican Party of Miami-Dade County v. Davis,
18 So. 3d 1112 (Fla. 3d Dist. App. 2009)

Political parties may legitimately require candidates for election to their executive committees to execute loyalty oaths, but parties must provide reasonable notice to candidates as to the deadlines for submitting the oaths and are estopped from disqualifying candidates for their failure to timely file the oaths once the election has taken place.

FACTS AND PROCEDURAL HISTORY

On August 26, 2008, the Republican Party of Miami-Dade County elected its executive committee. In previous years, the party had allowed candidates to file their Republican Party loyalty oaths after the qualifying deadline for the election so long as they did so before taking office in the event they won. But in February 2008, the Republican Party of Florida amended its loyalty oath and decided to require county executive committee candidates to file the oaths before the qualifying deadline as a condition of eligibility for office.

On June 12, 2008, the chair of the state party sent a memo to all Republican executive committee chairpersons advising them of the new oath and filing deadline. However, the state party did not mail the new information to all registered Republicans or post the information on its Web site.

The qualifying period for the August 26, 2008 election began at noon on June 16, 2008 and ran through noon on June 20, 2008. About an hour before the close of the qualifying period, an attorney went to the county elections department and filed applications and statutory oath forms for nineteen individual candidates for the Miami-Dade Republican executive committee. The statutory oath, as opposed to the Republican Party loyalty oath, requires candidates for public office (other than judicial office) to affirm that they are eligible for the office they seek. *See Fla. Stat. § 99.021 (2007).*

When the attorney filed the election forms, an elections official mentioned the new Republican rule requiring candidates to file their loyalty oaths with the local party office before the end of the same qualifying period—or within the hour. The attorney did not have time to comply. Soon thereafter, and well before the August election, the nineteen candidates submitted their party loyalty oaths in the form adopted by the state party in February 2008. However, the chair of the Miami-Dade executive committee considered the submissions untimely and therefore disqualifying.

Since the candidates had filed their papers with the elections department before the close of the qualifying period, their names appeared on the ballot. Notably, the Republican Party did not seek to have their names stricken from the ballot. On August 26, 2008, all nineteen candidates prevailed. Yet, the Party refused to seat them on the executive committee. The candidates then filed suit in circuit court seeking an emergency temporary injunction and declaratory relief. The court granted the injunction, and the local and state Republican Parties appealed.

ANALYSIS

In granting the requested injunction, the trial court reasoned that the Republican Party's loyalty oath conflicted with the loyalty oath found in Florida Statutes Section 99.021. The Third District Court of Appeal disagreed. For one thing, Section 99.021 does not contain a pledge of loyalty applicable to political parties. Indeed, that section simply requires a candidate to execute a written oath that he or she is a qualified elector of the requisite county, is qualified under the Constitution and laws of Florida to hold the office in question, has taken the oath required by Sections 876.05 to 876.10 regarding state government employees and elected officers, is not seeking another elective office whose term would conflict with the office sought, and has resigned from any currently-held position if required to do so under Section 99.012.

Moreover, the Third District held that nothing in Section 99.021 precludes a political party from imposing its own requirements for service on a county executive committee. In fact, the court found that a separate statute controls political party governance, and that under its provisions each party's executive committee may establish additional rules for eligibility provided

they do not expressly conflict with Section 99.021. Fla. Stat. § 103.091 (2007).

The court applied principles of statutory construction to “harmonize” Sections 99.021 and 103.091. “[T]he statute applying specifically to political party executive committee candidates should control in the event of a conflict with the general statute applying to candidates of every stripe . . .” *Republican Party of Miami-Dade Co.*, 18 So. 3d at 1117. Thus, in order to give effect to the Legislature’s intent and to avoid rendering one of the statutory provisions meaningless, the court concluded that the Republican Party “has the right and the authority to require its own form of loyalty oath as a condition of eligibility to seek election to a committee membership position, and the right and authority to require receipt of that oath (as a party membership rule) before the election.” *Id.* at 1117–1118.

While rejecting the trial court’s statutory reasoning, the Third District cited with approval the lower court’s analysis of the notice, fairness, and due process issues that arose in the case. The record confirmed that the nineteen candidates did not refuse to execute the Party’s new form of oath; in fact, they did so promptly after learning of the new form and deadline. In addition, the Republican Party had failed to inform potential candidates of the new requirements via a mass mailing or Web site posting. The party’s notices “were too little and too late,” the Court held. *Id.* at 1120. Furthermore, although the Republican Party knew about the candidates’ alleged non-compliance before the election, the party did not attempt to have their names stricken from the ballot. “Florida law recognizes an estoppel in a case such as this, in which the alleged irregularities were known before the ballots were cast and results announced.” *Id.* at 1118 (citing *Winterfield v. Town of Palm Beach*, 455 So. 2d 359, 362 (Fla. 1984)).

In sum, the Third District affirmed the temporary injunction requiring the seating of the nineteen candidates.

Although the three-judge panel unanimously upheld the injunction, the opinion of the court took issue with a lengthy, specially concurring opinion filed by one of the panel members. The latter took the position that Section 99.021 preempts Section 103.091 and that the new party loyalty oath and deadline were themselves impermissible. But this position, according to the majority, conflicts with the Florida Election Code’s recognition that

interference with internal governance and operations of political parties is unlawful.

SIGNIFICANCE

Political parties have the right to establish their own rules and deadlines for eligibility to party offices, including requiring executive committee candidates to submit loyalty oaths before the close of candidate qualifying periods. Absent a lack of adequate notice to potential candidates of party rule changes, courts will likely uphold challenges by candidates who fail to comply with rule requirements in a timely manner. However, a political party seeking to challenge a candidate's untimely compliance should not wait until after Election Day to complain.

RESEARCH REFERENCE

- 21 Fla. Jur. 2d *Elections: Political Parties* §§ 68, 72 (2005 & Supp. 2010).

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