

ORIGINAL

Case Number # **21-6316**

Supreme Court, U.S.
FILED

OCT 23 2021

OFFICE OF THE CLERK

**In the
Supreme Court of the United States**

Clayton G. Walker,

Petitioner,

Vs.

Steve Barnett,

In his official & individual capacities,

Respondent.

On petition for Writ of Certiorari to eight circuit court of appeal

PETITION FOR WRIT OF CERTIORARI

Clayton G. Walker
1736 E. Tallent St. #4
Rapid City SD 57709-0682
Claytongwalker4sdsenate@gmail.com
Claytongwalker.com

Ann F. Mines-Bailey office at 1302 East
Highway 14, Suit 1 Pierre, SD 57501-8501.

RECEIVED

NOV 16 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

RECEIVED

NOV - 2 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

**In the Supreme Court
of the United States**

Clayton G. Walker Petitioner, Vs. Steve Barnett, In his official & individual capacities, Respondents.	Case # _____ Appellate # 20-2870 Petition for Writ of Certiorari
---	---

I. Questions Presented

1. Should Walker as a Governor Candidate be able to choose from any party to join him in the nomination to be on the ballot just as the rights of Major Parties are allowed as lieutenant governor ?
 2. Does Freedom of Association encompass both individuals right to join or leave a group to take collective action to pursue the interest of its members?
 3. Are the rights of a candidate that is treated differently during an election, violate the equal protection clause of the 9th and 14th Amendment?
 4. Does Freedom of Association, a Constitutional Right apply to independent candidates?
 5. Should candidate be able to pick any candidate(lieutenant governor) as they wish during the election process just as major parties do?
 6. Will this be a major issues as more candidates move to having a third Party when it comes to upcoming elections ?
 7. Does SDCL§ 12-7-1.2 discriminate against the petitioner for lieutenant governor, and candidate of the "equal protection clause" under the United State Constitution?
-

List of Parties

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceedings in the court whose judgment is the subject of this petition is as follows:

Shantel Krebs, Secretary of state, in her official & individual capacities, Pierre South Dakota

Marty Jackley. Attorney General, In his official & individual capacities, Pierre South Dakota and

Kea Warne in her official capacity. Pierre South Dakota.

Clayton G. Walker will be referred to as the Petitioner, I , Walker, him, me, and the plaintiff.

Steve Barnett, In his official & individual capacities, will be referred as Defendants, they and Respondents.

The Candidate Clayton G. Walker was electrocuted by High Voltage of 277 volts in which he is suffering from memory loss, brain injury and a shoulder injury, care was denied by the insurance and Walker will most likely have to send those appeal to the Supreme Court of the United States. Walker is asking the court to liberally construed this brief as to give substantial justice that is fair and equal.

II. Table of Contents

Jurisdiction.....	6
Constitutional opinions and Statutory provisions involved.....	7
Statement of the case.....	6
Major Political Parties in South Dakota.....	8
Reason for Granting the Writ.....	14
Oppositions.....	15
Conclusion	17
Proof of Service and Affidavit.....	18

III. Table of Authorities

Cases

1. Williams v, Rhodes 393 US. 23 30(1968)	7
2. NACP v. Alabama ex rel Patterson 357, US 449,460-61-(1958)	9
3. Bates v. City of little Rock 361 US 516, 522-23(1960).....	9
4. Healy v. James 408 US 169.....	9
5. Brown v. Board of Education (1954).....	10

6. Bolling v. Sharpe.....	10
7. Tashjian vs Republican Party convention(1986),.....	14
8. California Democratic Party vs Jones (2000).....	14
9. Martin v. Overton, 391 F. 3d 710,712.....	14
10. Harvey v. Piersol 03-4002.....	15
11. Gibbons v. Orgden (1824).....	15
12. Muller v. Orgon 1908”	16
13. Haines vs Krener 404 U.S. 519 (1972).....	17

Statutes and Rules

1. 28 U.S.C. § 1331.....	6
2. 28 U.S.C. § 1251.....	6

Constitutional Provisions

United State Constitution, Amendment 1 st	9,12,13,17
United State Constitution, Amendment 5 th	9,12,13,1617
United State Constitution, Amendment 9 th	9,12,13,16,17
United State Constitution, Amendment 10.....	16
United State Constitution, Amendment 14 th	9,10,12,13,11,1617

Other

1. SDCL § 12-7-1.2	6,9,10,1,13
2. justice Hugo L. Black, the Supreme court opinion.....	7
3. $\lim_{x \rightarrow c} F(x) = \infty$	10
4. HB 1037.....	12
5. including Federal Rule 8, 26, 39,50.....	13
6. 20-2870 and 20-3199.....	13,14,18
7. FEDERAL RULES OF EVIDENCE and Fed. R. Civ. P. Judicial Notice of Adjudicative Facts Rule 201 (e).....	14

IV. Jurisdiction

Candidate Clayton G. Walker petition for a hearing to the 8th Circuit Court of Appeals was denied on or about the April 4th 2021. Mr. Walker invokes this court jurisdiction under 28 U.S.C. § 1331 § 1251, having timely filed this petition for Writ of Certiorari within the time extension during the pandemic of Covid-19 within the time allowed of the eighth circuit court of Appeals. § 1254 - 28 USC § 1254

V. Petition for Writ of Certiorari

Candidate Clayton G. Walker is a resident in the Rapid City area of South Dakota, Walker respectfully petitions this court for a Writ of Certiorari to review the order of the eighth Circuit Court of Appeals.

VI. Statement of the case

The Defendants alleges that SDCL § 12-7-1.2 is constitutional and that there are no genuine disputed facts. The Plaintiff states that SDCL § 12-7-1.2 is unconstitutional and there are disputed facts when the candidate wanted to bring another from a major party to his independent party. That MSJ was premature and MSJ should have been denied until after Discovery was completed. The plaintiff is a Pro Se indigent litigant, with limited access to the internet, a computer and with no access to a pacer Account.

Constitutional and Statutory provisions involved

In Williams v. Rhodes 393 US. 23 30(1968) the court stated that Ballot access restrictions infringed on the rights of Individuals to associate for political purposes. In Williams v. Rhodes 1968 the supreme court of the United States the Williams et al v. Rhodes, governor of Ohio et al that Ohio's restrictive were discriminatory and violated the Equal Protection Clause because they gave the two old established parties a decade of advantages over manior candidate parties.

The Supreme Court in a 6-3 opinion authored by justice Hugo L. Black, the Supreme court found that Ohio failed to show a compelling interest in limiting the parties' ballot access. The court concluded that Ohio's restrictions gave the two major parties a "total monopoly" and imposed a significant, unequal burden on minority parties. Given the importance of the right to vote, Ohio's arguments that its restrictive policies maintained an orderly process and ensured an electoral victor would have at least 50% of vote failed to meet the necessary standard of a compelling the state interests. The United States Supreme court struck down the Ohio restrictions and granted the American Independent Party full ballot access.

Enacting laws the same year as the election creates tremendous burden on the plaintiff. Time to prepare for an election takes a long time, at least 2 years. To have all parties pick their lieutenant governor at the same time, on the last Tuesday would be fair and constitutional.

The Defendants are assenting that there is no genuine issue of material fact. That statement is false, there are a lot of genuine issues of material fact, the nonmoving party did come forward with specific facts showing that the Affidavit of Kea Warne (Docket #48) has a lot of disputable facts. Kea Warne is no expert witness and in her Affidavit # 14 she states that a declaration must contain 3,392 valid signatures based on the Gubernatorial election in 2018, the Plaintiff Submits

an Exhibit of the statewide results for voter turnout of 341,048, (Exhibit 1), that would make her Affidavit untrue in which it becomes a disputed fact. The plaintiff wants to bring to the courts attention that the plaintiff is intitled to ask question to Secretary of State (SOS) and that Kea Warne does not know what goes on in private state conventions meetings, unless she is a member of all political parties.

Major Political Parties in South Dakota

Though the plaintiff is no expert, the Republican Party of South Dakota (SD) is affiliate of the National Republican Party. SD was granted statehood in 1889, one would assume that's when the party was started. SD was granted statehood in 1889 and the South Dakota Democratic party is affiliate with the Democratic Party. (Exhibit 2,3)

The Affidavit is a written statement that is considered made under oath. It is only valid when made voluntarily and without coercion. The plaint believes Kea Warne was forced into making this Affidavit and the plaintiff would like an opportunity to ask his questions. When you sign an Affidavit, you are asserting that the information is true, and you have personal knowledge of the facts contained in the Affidavit. Kea Warne does not have personal knowledge of what goes on behind closed doors during these state conventions/party meetings. Walker brings the attention to the court that the Affidavit is brought in bad faith and contains false information, (Docket 48 #4). The use of terms as "recognized political parties" the plaintiff believes that the signing of the Affidavit makes it legally binding and being charged with perjury if the affidavit contains false information. The plaintiff seeks discovery of those statements made in that Affidavit. For party convention to be held, the party must obtain legal recognition. Walker wants to see all party's recognition from the SOS. Under that statement made under oath, Kea Warne must have personal