

OFFICIAL TRANSCRIPT  
PROCEEDINGS BEFORE  
THE SUPREME COURT  
OF THE  
UNITED STATES

CAPTION: BARBARA J. NORMAN, ET AL.,

Petitioners, v. DOROTHY REED, ET AL;

and

COOK COUNTY OFFICERS

ELECTORAL BOARD, ET AL., Petitioners

v. DOROTHY REED, ET AL.

CASE NO: 90-1126; 90-1435

PLACE: Washington, D.C.

DATE: October 7, 1991

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SUPREME COURT, U.S.  
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1 IN THE SUPREME COURT OF THE UNITED STATES

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3 BARBARA J. NORMAN, ET AL., :

4 Petitioners :

5 v. : No. 90-1126

6 DOROTHY REED, ET AL., :

7 and :

8 COOK COUNTY OFFICERS :

9 ELECTORAL BOARD, ET AL., :

10 Petitioners :

11 v. : No. 90-1435

12 DOROTHY REED, ET AL. :

13 - - - - -X

14 Washington, D.C.

15 Monday, October 7, 1991

16 The above-entitled matter came on for oral  
17 argument before the Supreme Court of the United States at  
18 1:55 p.m.

19 APPEARANCES:

20 ROBERT E. PINCHAM, JR. ESQ., Chicago, Illinois; on behalf  
21 of the Petitioners Barbara Norman, et al.

22 KENNETH L. GILLIS, ESQ., First Assistant State's Attorney,  
23 Chicago, Illinois; on behalf of the Petitioners Cook  
24 County Electoral Board, et al.

25 GREGORY A. ADAMSKI, ESQ., Chicago, Illinois; on behalf

of the Respondent.

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1 P R O C E E D I N G S

2 (1:55 p.m.)

3 CHIEF JUSTICE REHNQUIST: We will hear argument  
4 next in No. 90-1126, Barbara Norman v. Dorothy Reed, and  
5 90-1435, Cook County Officers Electoral Board v. Dorothy  
6 Reed.

7 Mr. Pincham, you may proceed.

8 ORAL ARGUMENT OF ROBERT E. PINCHAM

9 ON BEHALF OF THE PETITIONERS

10 BARBARA J. NORMAN, ET AL.

11 MR. PINCHAM: Mr. Chief Justice, may it please  
12 the Court:

13 We are here today because the Democratic Party,  
14 partisan politics, continues to permeate the Illinois  
15 judiciary up to and including the Illinois Supreme Court.

16 The October 12, 1990, order of the Illinois  
17 Supreme Court completely disregarded this Court's  
18 precedent in Illinois State Board of Elections v.  
19 Socialist Workers Party and Moore v. Ogilvie. More  
20 importantly, not only did it disregard the precedent  
21 previously set by this Court, but it was a flagrant and  
22 blatant attempt to limit political opposition to the  
23 existing Democratic Party machine.

24 I hasten to point out to this Court that the  
25 Harold Washington Party is now the second largest

1 political party in the city of Chicago and of the  
2 municipality of Chicago. It regularly out-polls the  
3 Republican Party, for example, and today offers the only  
4 viable alternative to the Democratic Party in the city of  
5 Chicago.

6 QUESTION: Mr. Pincham, is it the same party? I  
7 mean that's one of the controversies here.

8 MR. PINCHAM: Indeed it is, Your Honor. I  
9 hasten to point out to Your Honor that the Illinois  
10 legislature has promulgated no statute or regulation  
11 controlling the expansion of an established political  
12 party from one jurisdiction or one subdivision of the  
13 State into the next. The striking of the entire Harold  
14 Washington Party from the ballot was a judicially  
15 contrived remedy by the four Democratic Party justices of  
16 the Illinois Supreme Court, and indeed, contradicted the  
17 rule of law as previously set forth by that court in  
18 Anderson v. Schneider.

19 QUESTION: How do -- how do we know that it was  
20 the same party?

21 MR. PINCHAM: The record is --

22 QUESTION: All the record says, if I recollect  
23 it, is that the city Harold Washington Party had no  
24 objection to the use of the name.

25 MR. PINCHAM: Actually it went further than

1 that, Your Honor. The leader of the city Harold  
2 Washington Party and the founder of that party appeared  
3 before the county officers electoral board, and went even  
4 further and said not only is it the same party, I give my  
5 permission to expand this party outside of the  
6 municipality of Chicago and into suburban Cook County.  
7 The record is clear on that point.

8 Moreover, and I hasten to point out to Your  
9 Honor, that there is no competing group here saying no,  
10 this isn't the Harold Washington Party, we are. There is  
11 but one Harold Washington Party, and references to the  
12 contrary by opposing counsel are simply misrepresentations  
13 of the fact. There is but one Harold Washington Party,  
14 and it now seeks to expand beyond the city limits of  
15 Chicago and into Cook County.

16 The question then becomes --

17 QUESTION: Was that evident to those who had to  
18 make the initial judgment --

19 MR. PINCHAM: Yes, Your Honor.

20 QUESTION: -- as to whether the party had the  
21 proper number of signatures? I mean, in retrospect, maybe  
22 we can say, well it is one in the same. But was that  
23 evident to those that had to make the judgment?

24 MR. PINCHAM: Yes, indeed it was.

25 QUESTION: From what?

1 MR. PINCHAM: From the testimony of Mr. Timothy  
2 Evans and from the affidavits that were submitted to the  
3 Cook County Officers Electoral Board. And they, in fact,  
4 so found in their opinion.

5 QUESTION: You're talking about testimony before  
6 the election board.

7 MR. PINCHAM: Before the Cook County Officers  
8 Election Board, that is correct. That testimony was  
9 given.

10 QUESTION: Where is that?

11 MR. PINCHAM: Where in the record before you?

12 QUESTION: Yes. And you don't have to give it  
13 right away, but before you're done, if you could refer me  
14 to that part of the record, I'd be --

15 MR. PINCHAM: Certainly, I'd be more than happy  
16 to, Your Honor.

17 QUESTION: What did the supreme court of your  
18 State say about this matter, about the party?

19 MR. PINCHAM: Frankly, Your Honor, that's one of  
20 the reason's we're here. They said nothing. They simply  
21 entered an order striking the Harold Washington Party from  
22 the ballot, and in that order stated that they would write  
23 an opinion in the near future. That opinion has never  
24 been written. We don't know why that opinion was never  
25 written. I point out to Your Honor --



1 QUESTION: Well, so you don't know why they  
2 struck the Harold Washington Party?

3 MR. PINCHAM: We know the reasons that the  
4 dissenters gave for disagreeing, but the opinion analyzing  
5 the reasons for striking the Harold Washington Party were  
6 not fully set forth in an opinion. What the -- four  
7 Democratic Party judges of the Illinois Supreme Court in  
8 effect ruled is that, contrary to the prior precedent of  
9 this Court, this political party much have, not 25,000  
10 petition signatures, but 50,000 signatures, and that those  
11 50,000 signatures must be divided geographically 25,000  
12 from the city of Chicago, and 25,000 from suburban Cook  
13 County outside the city of Chicago.

14 I point out to Your Honor that the total number  
15 of signatures required statewide for the entire State of  
16 Illinois is only 25,000 signatures. Thus, the ruling of  
17 the Illinois Supreme Court would not only require twice  
18 the number of signatures, but would require those  
19 signatures be obtained from a smaller portion of the State  
20 than, of course, the entire State itself.

21 So in ruling that --

22 QUESTION: So you think they couldn't write the  
23 opinion, that's why they never wrote it. It would not  
24 write itself, you think.

25 MR. PINCHAM: I think that the -- to be

1 perfectly candid and frank with Your Honor, I think that  
2 the opinion would have been an embarrassment to the  
3 justices of the Illinois Supreme Court.

4 QUESTION: Well, the court also changed, though,  
5 didn't they? I mean, there were new justices so --

6 MR. PINCHAM: Yes, Your Honor, but it did not  
7 change between the date that Justice Stevens issued the  
8 initial stay or the date upon which the full Court issued  
9 the stay and December 6. The court had 2 months within  
10 which to write that opinion. And of course, that opinion  
11 was not written. Moreover, had the court acted in good  
12 faith, or intended to act in good faith, it could have  
13 asked this Court, for example, to stay its proceedings and  
14 to give it an opportunity to write its opinion so that  
15 this Court would have the benefit of the analysis of the  
16 four Democratic Party justices of the Illinois Supreme  
17 Court. But that, too, was not done.

18 More importantly, or perhaps equally  
19 importantly, the Illinois Supreme Court did not  
20 distinguish its own prior opinion in Anderson v.  
21 Schneider. We are, of course, sensitive to the precarious  
22 and perhaps irreconcilable dilemma of co-petitioner Cook  
23 County Officers Electoral Board. They find themselves in  
24 the untenable position of trying to reconcile  
25 self-contradictory language of the statute.

1 First, the statute provides that the entire  
2 petition shall contain not more than 25,000 signatures as  
3 the minimum requirement. Elsewhere, in the same section  
4 of the statute, Section 10-2, it provides that each  
5 component of the petition shall provide 25,000 --

6 QUESTION: So I take it your principal argument  
7 is that the each component portion of the statute is  
8 invalid.

9 MR. PINCHAM: Well, as the three Republican  
10 justices of the court pointed out, that need not be  
11 reached. However, and I also point out to this --

12 QUESTION: Well, but is that one of your  
13 principal contentions before us?

14 MR. PINCHAM: That it is invalid? Absolutely.  
15 Absolutely.

16 QUESTION: Now, what's your best authority for  
17 that?

18 MR. PINCHAM: It is invalid because this Court  
19 said in the Socialist Workers Party case and in Moore v.  
20 Ogilvie, that it is unconstitutional to require a third  
21 political party to obtain more signatures on its petition,  
22 nominating petition ballots, than are required for an  
23 entire State.

24 QUESTION: Suppose that in your case the  
25 requirement was for a total of 25,000 signatures, roughly

1 apporportioned between the suburban and the city area, so you  
2 could have, say 40, percent of your signatures from the  
3 suburban area and 60 percent of the city. What result  
4 there?

5 MR. PINCHAM: That, too, would be  
6 unconstitutional --

7 QUESTION: Why?

8 MR. PINCHAM: -- under this Court's ruling in  
9 Moore v. Ogilvie, because then you would in effect give  
10 veto power to suburban voters as the Harold Washington  
11 Party expands from the city. Where the Harold Washington  
12 Party is strongest --

13 QUESTION: And that is so even if the signature  
14 requirement were in proportion to the number of registered  
15 voters in each of the districts?

16 MR. PINCHAM: No. That, perhaps would correct  
17 that constitutional infirmity. But I hasten to point to  
18 Your Honor, the statute does not say that. The  
19 legislature --

20 QUESTION: Well, I'm trying to find out the  
21 rationale for your argument so that if we do decide to  
22 write an opinion we can.

23 (Laughter.)

24 MR. PINCHAM: I base my argument and the  
25 rationale of my argument on this Court's prior decisions

1 in Moore v. Ogilvie and Socialist Workers Party, along  
2 with the rationale employed by the Illinois Supreme Court  
3 in Anderson v. Schneider, where, in that case, the court  
4 ruled that even if the party failed to file a full slate,  
5 for one reason or another, the remedy is not to exclude  
6 the entire party from the ballot. And that is the  
7 rationale that I urge upon this Court at this time.

8 We further point to this Court that in ruling on  
9 the objections, the Cook County Officers Electoral Board  
10 considered the fact that the objections themselves were  
11 not properly obtained. While the Cook County Officers  
12 Electoral Board ruled that they did not consider the  
13 manner in which they were obtained to be fraudulent, it is  
14 clear that false affidavits were submitted to the County  
15 Officers Electoral Board with those objections through the  
16 nominating petition of the Harold Washington Party.  
17 Generally, such false affidavits submitted to a tribunal  
18 will result in the objections for other document being  
19 stricken in its entirety. That was not done here.

20 Had that been done, of course, we would not have  
21 the problem that we're faced with today. In reviewing the  
22 statute, I would point out to Justice Kennedy that the  
23 burden of analyzing the statute has been removed from this  
24 Court. The Illinois Supreme Court, the highest tribunal  
25 of the State of Illinois, has interpreted that State

1 statute in a manner that is repugnant to the Constitution  
2 as previously set forth by this Court's rulings in  
3 Anderson -- I'm sorry, in Socialist Workers Party and  
4 Moore v. Ogilvie.

5 So as we stand here today, Your Honor, we urge  
6 upon this Court to enforce its own prior decision over the  
7 Illinois Supreme Court, which did not deem fit to bless us  
8 with its opinion before the justices changed, nor have  
9 they taken any effort subsequent to that change to rehear  
10 the case and to provide us with an opinion.

11 QUESTION: Mr. Pincham, can I ask you this  
12 question? There are really two different issues, as I  
13 understand, well, putting aside the name problem for a  
14 minute, just the 50,000 vote requirement. The 50,000 vote  
15 requirement applies to the commissioners who are elected  
16 from the suburbs and to the officers like State's Attorney  
17 who ran county wide. They had to have 50. But you also  
18 challenge, as I understand -- under the Illinois Supreme  
19 Court's holding -- under the Illinois Supreme --

20 MR. PINCHAM: The county-wide offices would only  
21 require 25,000. Those county commissioners running from  
22 the city of Chicago itself would require 25,000 and those  
23 running from suburban Cook County would require 25,000.  
24 Those running county wide could combine their signatures  
25 with either one or the other.

1 QUESTION: No, but the effect of the Illinois  
2 Supreme Court's decision, as I understand it, is to  
3 disqualify the entire ballot.

4 MR. PINCHAM: That's correct.

5 QUESTION: Even though those running for like  
6 State's attorney had more than 25,000.

7 MR. PINCHAM: Absolutely, Your Honor.

8 QUESTION: Because they, in effect, require  
9 50,000 for those offices. And I understand your position  
10 on those officers and on the county commissioners running  
11 from the suburbs -- rather from the city -- from the city.

12 But now with respect to the county commissioners  
13 running from the county only, the suburban area, they did  
14 not get 25,000 signatures from the suburbs.

15 MR. PINCHAM: That is correct.

16 QUESTION: And you nevertheless contend they are  
17 entitled to be on the ballot, too. This is a point in  
18 which you differ with the election board.

19 MR. PINCHAM: That is exactly correct, Your  
20 Honor.

21 QUESTION: And I don't think you've explained  
22 why the Socialist Party case supports you with respect to  
23 those candidates.

24 MR. PINCHAM: The ruling of this Court was that,  
25 as we understand it and we have read it and as it has set

1     forth by other courts, including the Seventh Circuit Court  
2     of Appeals, is that the total number of signatures, the  
3     total number for the entire petition, is 25,000. It has  
4     never been suggested, and in fact, the same section of the  
5     statute that provides for each component to have 25,000,  
6     also says that the entire petition shall not be -- shall  
7     not be required to exceed 25,000. So it can't be both.  
8     The language of the statute itself is self-contradictory.  
9     And that alone would invalidate the statute.

10            QUESTION: We shouldn't be involved in  
11     interpreting the Illinois statute. Is there any Federal  
12     constitutional requirement that would prohibit the State  
13     of Illinois from saying that if you want to run from the  
14     suburbs of Cook County for a position on the county board  
15     representing the suburbs only, that you must get 25,000  
16     signatures from the suburbs? What in the Federal  
17     Constitution prohibits that?

18            MR. PINCHAM: The brief of amicus curiae,  
19     American Civil Liberties Union, addresses that at great  
20     length. First of all, when you ask me about the  
21     constitutional requirement, the equal protection clause of  
22     the Fourteenth Amendment, the freedom of association under  
23     the First Amendment, the liberty provision of the  
24     Fourteenth Amendment all would seem to suggest that that  
25     would be unconstitutional in that it requires the Harold



1 Washington Party to obtain more signatures from a smaller  
2 geographical unit, that is suburban Cook County, than  
3 would be required for the entire State.

4 We also point out the obvious that -- Chicago  
5 itself is, of course, within Cook County.

6 QUESTION: Is it more or the same?

7 QUESTION: But the statewide officers only need  
8 to get 25,000.

9 MR. PINCHAM: That's correct.

10 QUESTION: So it's the same.

11 MR. PINCHAM: But we're being asked to get  
12 50,000 for county-wide office.

13 QUESTION: Why?

14 MR. PINCHAM: Because the Supreme Court has  
15 determined that --

16 QUESTION: But you're saying that -- you're in  
17 effect saying that it must be unconstitutional to divide  
18 Cook County into Chicago and the suburban area.

19 MR. PINCHAM: No, sir, not at all. That's not  
20 what's unconstitutional about it. What's unconstitutional  
21 is requiring the excessive number of signature petitions,  
22 in effect giving suburban voters veto power over the  
23 expansion of the Harold Washington Party.

24 QUESTION: We're just talking about the --  
25 Justice Stevens is just talking about those officers

1 running for places on the suburban.

2 MR. PINCHAM: He asked about those as well as  
3 the county-wide offices. Perhaps I should clarify.

4 QUESTION: I did originally. I said I  
5 understand your position on the county-wide officers and  
6 on the commissioner residents of Chicago who are elected.

7 MR. PINCHAM: Yes, sir.

8 QUESTION: I'm asking for further enlightenment  
9 only with respect to your argument pertaining to the  
10 county commissioners elected from the suburbs. I think  
11 that's the point in which you differ with the election  
12 board.

13 MR. PINCHAM: That is correct. That is correct.  
14 We don't know what that provision would provide, Your  
15 Honor, because the supreme court of our State has not  
16 addressed that adequately to give us any insight.

17 QUESTION: Well, if they say that you didn't get  
18 on the ballot at all because you didn't get a sufficient  
19 number of votes --

20 MR. PINCHAM: Signatures.

21 QUESTION: -- signatures in the suburban area,  
22 you got fewer than 25,000 in the suburban area.

23 MR. PINCHAM: That's correct.

24 QUESTION: Now if the State may constitutionally  
25 divide Cook County into city and suburban area, and say

1 each area -- signatures from each area must be over  
2 25,000, what's wrong with that?

3 MR. PINCHAM: Because that then requires the  
4 expansion of the party to produce 50,000 rather than the  
5 25,000 signatures. But more -- which is the statewide  
6 requirement. So you now have a party running county wide,  
7 getting 25,000 signatures for suburban Cook County, 25,000  
8 for the City of Chicago, which is also within Cook County,  
9 and using --

10 QUESTION: Does that mean that if they got  
11 26,000 in Chicago they wouldn't need any signatures in the  
12 suburbs to run a slate in the suburbs?

13 MR. PINCHAM: No, not at all. Not at all. But  
14 we don't know how many to produce from the suburbs and how  
15 many to produce from the city to give us the total number  
16 of signatures of 25,000. And our State Supreme Court has  
17 not given us the insight into that question.

18 Thank you, Your Honor.

19 QUESTION: Thank you, Mr. Pincham.

20 Mr. Gillis, we'll hear now from you.

21 ORAL ARGUMENT OF KENNETH L. GILLIS

22 ON BEHALF OF THE PETITIONERS

23 COOK COUNTRY OFFICERS ELECTORAL BOARD, ET AL.

24 MR. GILLIS: Mr. Chief Justice, may it please  
25 the Court:

1           If I might follow up on the last question.

2       There are two districts in Cook County, the large City of  
3       Chicago and the large suburban area. Each has over a  
4       million registered voters.

5           The -- after this Court's ruling in 1979 in the  
6       Socialist Workers case, Illinois put a cap of 25,000  
7       signatures on any large district. So that's what you need  
8       in this case. In this case, the Harold Washington Party  
9       did obtain 25,000 -- in fact, 44,000 -- signatures in the  
10      city of Chicago. And these petitions had two components,  
11      the county-wide candidates at the top, and the city of  
12      Chicago candidates also on the same petition. So my  
13      client, the electoral board ruled that they had qualified  
14      to run county-wide at-large candidates as well as  
15      candidates in the city of Chicago for county commissioner.

16           On the other hand, and this is the one point we  
17      differ with the Harold Washington Party, the Harold  
18      Washington Party only filed 7,800 signatures in the  
19      suburban area, or about one-half of 1 percent of the  
20      million and some registered voters there are in the area.  
21      The Cook County Electoral Board held that that did not  
22      show a modicum of support, and hence did not let them on  
23      the ballot in the suburban area.

24           What the Illinois Supreme Court seems to have  
25      done, although they did not use these words, is to apply

1 what's known in Illinois law as the complete slate  
2 requirement. It amounts to a rule that if any one of your  
3 candidates is off, they all go off. The Illinois Supreme  
4 Court's order stated that since there were not sufficient  
5 signatures in the suburbs, all the candidates went off.

6 This Court's order of last October 25th stayed  
7 that order and upheld the order of my client, the  
8 electoral board, which says if you qualify in the city,  
9 and you can show a modicum of support there, those  
10 candidates go on. And also the at-large candidates went  
11 on. It seems to me that the Illinois Supreme Court's  
12 order, and the feeling behind that, could be shown in a  
13 dissenting opinion in a 1977 Illinois case called Anderson  
14 v. Schneider. That shows the workings of the complete  
15 slate rule, or the -- at least the thoughts of some of the  
16 justices about that.

17 I submit that is a harsh rule and one that  
18 intends to block ballot access.

19 QUESTION: Mr. Gillis, is the question  
20 concerning that rule one of the ones included in the  
21 petition for certiorari?

22 MR. GILLIS: I believe it was. The grant of  
23 certiorari was general and I believe that it covers the  
24 complete slate requirement. It's in the last page of the  
25 appendix.

1 QUESTION: Now your client, which as I  
2 understand it, is the Board of Elections --

3 MR. GILLIS: Right. The Cook County Officers  
4 Electoral --

5 QUESTION: -- held or decided that the Harold  
6 Washington Party candidates did not qualify for the -- is  
7 it the Sanitary District Offices -- where the suburbs  
8 elect, and they simply represent the suburbs only.

9 MR. GILLIS: Well, that issue did not get by --  
10 that was not decided by the Illinois Supreme Court, so I  
11 do not believe that issue is before the Court. But they  
12 ruled an insufficient number of signatures on those  
13 petitions.

14 QUESTION: Well, the Supreme Court of Illinois  
15 didn't upset that determination, did it?

16 MR. GILLIS: No. They were held insufficient.

17 QUESTION: Mr. Gillis, it may well be a harsh  
18 rule, but what is wrong with a State rule that does not  
19 require you to run on a slate? If they required you to  
20 run on slate, and then said if you -- you must run on a  
21 slate and everybody on the slate must get all the votes,  
22 then that would be, in effect, requiring more than 25,000  
23 votes. But if they just say it's up to you, you can run  
24 on a slate or not. However, if you chose to run on a  
25 slate, everybody on that slate must be properly qualified.

1 Why is that an unconstitutional rule?

2 MR. GILLIS: I think to run with a political  
3 party, to run with other persons of a like mind set and a  
4 like platform, is a political advantage. If you said that  
5 these people can just run individually, I think that puts  
6 them in an inferior position when facing other -- the  
7 established political parties that have a banner and have  
8 a number of candidates.

9 QUESTION: Well, that may be, but it seems to me  
10 a State can say, you know, voters are going to be misled.  
11 They think their voting for a slate when, you know, when  
12 in fact some of the people on that slate don't make it.  
13 They might have voted differently. They might have signed  
14 the petitions differently. You don't know how many people  
15 would have signed the petitions for these individuals.  
16 They signed for them as members of a slate.

17 MR. GILLIS: I really see no State interest in  
18 requiring a complete slate. The -- what is required --

19 QUESTION: That's not my hypothetical. They do  
20 not require a complete slate. They just say if you chose  
21 to go as a slate, and that's how you get your petitions  
22 signed, then, by George, every member of that slate has to  
23 be qualified, otherwise, you've misrepresented what you're  
24 doing.

25 MR. GILLIS: Well, one vice to that is Moore v.

1 Ogilvie, which if you required them to get a complete  
2 slate in both the city and the county, a party could be  
3 quite popular and show a modicum of support in one  
4 district, but not in the other. If you would --

5 QUESTION: You're not listening to -- I am not  
6 requiring them to get a slate. You don't have to get a  
7 slate. If you want to run individually, you may. But if  
8 you run on a slate, everybody on your slate has to be  
9 qualified. Now what's wrong with that?

10 MR. GILLIS: I think it's -- I'm sorry, I think  
11 it violates the requirement that if a person -- party  
12 qualifies in one district that they should be on the  
13 ballot as happened in this case. And if -- that there, in  
14 this case, the petitioners chose to run under a party  
15 banner. And I think that's their right.

16 QUESTION: Well, isn't it true also that in this  
17 case, the petitions, at least the ones at the beginning of  
18 the appendix, for the 19 candidates, were the 19 that were  
19 elected either from Chicago or county wide. And the seven  
20 others, who were just from the suburbs, were on an  
21 entirely different petition.

22 MR. GILLIS: That's right. And that that was  
23 the one --

24 QUESTION: So there wasn't any danger of the  
25 kind of confusion.



1 QUESTION: Mr. Gillis, do I take it you are not  
2 here supporting the decision of the Cook County Electoral  
3 Board across the board, so to speak?

4 MR. GILLIS: No, I am. I am supporting.

5 QUESTION: You are. And you are supporting its  
6 decision to exclude the suburban candidates running for  
7 suburban offices only?

8 MR. GILLIS: Yes, because only 7,008 signatures  
9 were brought forth and the board found that that does not  
10 show a modicum of support. To the --

11 QUESTION: Would 25,000 signatures have been the  
12 required number in the suburban area for suburban  
13 candidates?

14 MR. GILLIS: Right. That would be about 2-1/2  
15 percent.

16 QUESTION: Mr. Gillis, you know, I simply can't  
17 find in the questions presented, in either petition, a  
18 question on the whole slate question. Am I overlooking  
19 one of the questions?

20 MR. GILLIS: When the supreme court -- I'm  
21 sorry, I may have used a shorthand, but when the Supreme  
22 Court held that by failing to qualify in the suburbs --

23 QUESTION: The Illinois Supreme Court?

24 MR. GILLIS: The Illinois Supreme Court's order  
25 said you failed to get enough signatures in the suburbs,

1 then you're off the ballot entirely. That is the workings  
2 of what we call in Illinois the complete slate  
3 requirement.

4 QUESTION: Well, that may be, but I guess what  
5 we're looking at here, as far as I know, are the questions  
6 presented in these blue petitions. And I simply fail to  
7 see a question presenting that complete slate requirement.  
8 Am I missing one?

9 MR. GILLIS: Well, it is wrapped up in the issue  
10 about whether it's constitutionally permissible to take  
11 the complete -- to take the Harold Washington Party off  
12 the ballot. That's how it's phrased in the petition.

13 QUESTION: Which question do you say covers it?

14 MR. GILLIS: The first one: whether it's  
15 constitutionally impermissible to knock the Harold  
16 Washington Party off the ballot. Because it imposes  
17 conditions that there's no compelling State interest.  
18 What's at work there is the State rule that if one  
19 candidate is off, they all go off. And that's  
20 illustrated, as I said in Anderson v. Schneider.

21 QUESTION: Well, that would -- you were reading  
22 from your argument, not your question.

23 MR. GILLIS: Yes.

24 QUESTION: I think that's part of the confusion.

25 MR. GILLIS: Going to Justice Steven's point

1 about the name, that is displayed in a transcript of  
2 August 21st at page 25, and August 24th at page 4. The  
3 Cook County Officers Electoral Board interpreted Section  
4 10-5, one of the members said that 10-5 did not even apply  
5 to this. And they found -- the board found that there was  
6 no violation of 10-5.

7 I think what's implicit in that is the Court's  
8 opinion in *Eu v. San Francisco*, which states that  
9 political parties ought to be allowed to fashion their own  
10 business if that doesn't interfere with some compelling  
11 State interest such as the manner of running elections or  
12 things of that nature.

13 QUESTION: Well, what would be your position on  
14 a State law which required a complete slate within say,  
15 just the city of Chicago? Say they required -- say they  
16 had 25,000 signatures, but they were required to run a  
17 complete slate of officers?

18 MR. GILLIS: I don't think there's any State  
19 interest. I think that would be constitutionally  
20 impermissible. The only thing that Mr. Adamski --

21 QUESTION: Is it because it's not indicative of  
22 the existence of a viable party that it can field  
23 candidates for all of the ballot positions?

24 MR. GILLIS: I think it's discriminatory against  
25 new political parties. Established political parties

1 don't have to do that. The Illinois Supreme Court has  
2 held in the case I've been citing, Anderson v. Schneider,  
3 that if one candidate goes off, in some instances the  
4 others go on. And I think basically there's no compelling  
5 State interest, no good reason, to knock all of the  
6 candidates off if one happens to go off or be found  
7 unqualified for the ballot.

8           And in this case it works a further vexatious  
9 result that these candidates brought forth 44,000  
10 signatures and enough to qualify under Illinois law, and  
11 oops, because they did not qualify in one district, they  
12 could be off. This could go on in many jurisdictions. We  
13 just have to find one county or one State representative  
14 district where somebody doesn't qualify, and you could  
15 disqualify the whole ticket, I think that's just  
16 constitutionally impermissible.

17           It's another hoop to make new political parties  
18 jump through that existing political parties do not have  
19 to.

20           The name issue, I think the board found the name  
21 was not improper. The trial court affirmed on that issue.  
22 And I submit that the political party should be allowed to  
23 manage its own business.

24           If there's no other questions, I thank the Court  
25 and ask the Court to affirm the decision of the Cook

1 County Officers Electoral Board.

2 QUESTION: Thank you, Mr. Gillis.

3 Mr. Adamski, we'll hear now from you.

4 ORAL ARGUMENT OF GREGORY A. ADAMSKI

5 ON BEHALF OF THE RESPONDENTS

6 MR. ADAMSKI: Mr. Chief Justice, may it please  
7 the Court:

8 The Illinois Supreme Court said nothing about  
9 complete slate. The issue concerning the complete slate  
10 is simply this. That seven people who were on this ticket  
11 did not get enough nomination signatures. As a result of  
12 that, the nomination petition that was submitted for the  
13 formation of the new political party, that is the  
14 county-wide Harold Washington Party, was not in proper  
15 form. The fact that the Illinois Supreme Court struck it  
16 down was for that very reason.

17 There were three things before the Illinois  
18 Supreme Court. The first issue was the Harold Washington  
19 Party use -- the use of the Harold Washington Party name  
20 by this new political party. The second was the 25  
21 signature requirement for each of the units. And the  
22 third was the propriety of the form -- of the petition.  
23 And on behalf of my clients, who were objectors to these  
24 petitions, the Illinois Supreme Court was correct in all  
25 three instances.

1           Now unfortunately, I don't know what the reasons  
2 were for their decisions, but I can read their decisions,  
3 and I believe their decisions are correct.

4           Concerning the name violation, the petition that  
5 was actually submitted here was a petition for a new  
6 political party. It was a petition for a new political  
7 party that was called the Harold Washington Party. Mr.  
8 Evans, in fact --

9           QUESTION: May I ask at that point, is that the  
10 petition at page 4 of the joint appendix?

11          MR. ADAMSKI: Yes, it is.

12          QUESTION: And the only names on that are the 19  
13 candidates who either ran from the city or ran county  
14 wide. Is that --

15          MR. ADAMSKI: Yes. And then if you look at the  
16 next page, there's -- you are correct, Justice, that there  
17 were -- there are two separate petitions here. One  
18 petition is for the city and one petition is for the  
19 county.

20          But this is a party formation party. This is a  
21 party formation issue, Your Honor. These people were  
22 forming a party to run concerning county issues, the needs  
23 of the county, the goals of the county, the aspirations of  
24 the county. And it's not unreasonable, and it's  
25 certainly -- it certainly is not, I believe,

1 unconstitutional that the State of Illinois requires that  
2 if you're going to run in the county, and the county has  
3 more than one political subdivision, that you have to come  
4 up with -- a modicum of support. In this instance, 25,000  
5 signatures.

6 QUESTION: Maybe that's right. But just --  
7 because I'm really a little puzzled by it. The first of  
8 the two petitions is the one that has the candidates who  
9 did get the 25,000 signatures.

10 MR. ADAMSKI: That's correct.

11 QUESTION: And the second is the group that go  
12 the 7,800 or whatever it is.

13 MR. ADAMSKI: That's correct.

14 QUESTION: Now, were they two separate  
15 petitions, or are they two parts of the same petition?

16 MR. ADAMSKI: They were submitted as part of the  
17 same petition, I believe.

18 QUESTION: I see. And so that you're saying the  
19 failure to qualify in the one part should disqualify the  
20 part --

21 MR. ADAMSKI: That's correct. That's correct  
22 because they're running as a party. And the fact is that  
23 when you form -- the law gives special benefits the --

24 QUESTION: But you would not have been able to  
25 make the argument if they'd simply omitted the second

1 part? If they had confined their petition to page 1 and  
2 left page 2 out entirely, then you would have no  
3 objection?

4 MR. ADAMSKI: No, I would have a different  
5 objection. And that is there is a section of the statute  
6 that says you have to put forward a complete slate of  
7 candidates for all positions -- for all offices that are  
8 to be filled. So in order for them to have complied with  
9 the electoral --

10 QUESTION: For all offices to be filled  
11 throughout the State or throughout the area  
12 from -- throughout the area that you're petitioning from?

13 MR. ADAMSKI: For that -- for the particular  
14 contest that you are petitioning to run in.

15 QUESTION: In the particular context on page 1  
16 was county wide and commissioners from Chicago.

17 MR. ADAMSKI: But the contest included the  
18 election of commissioners from the city and from the  
19 suburbs.

20 QUESTION: Well, it also included running for  
21 Governor, possibly, too.

22 MR. ADAMSKI: It didn't. The fact is that the  
23 section of the -- I believe it's 10-5, the section of the  
24 electoral code that concerns this issue specifically says  
25 that you must put forth a complete slate. And that has



1       been upheld in Anderson v. Schneider.

2                   QUESTION: A complete slate for all county  
3 officers?

4                   MR. ADAMSKI: All county officers and county  
5 commissioners. For everyone who is running in that  
6 particular political subdistrict election at that time.  
7 And the idea of that, if I may suggest this to the Court,  
8 is that you not only want to show that people that you  
9 have 25,000 voters, or a modicum of support, you not only  
10 want to show that you have that modicum of support from  
11 both areas, but you want to show that you have people in  
12 both areas who will represent both areas. And the idea  
13 here is that there are 10 --

14                   QUESTION: And you couldn't form a new political  
15 party to elect just those members of the county commission  
16 from Chicago?

17                   MR. ADAMSKI: That's correct. I don't believe  
18 that the Illinois electoral code gives that advantage  
19 to --

20                   QUESTION: And that must be true or the supreme  
21 court wouldn't have ruled the way it did.

22                   MR. ADAMSKI: Well, the supreme court could have  
23 ruled otherwise.

24                   QUESTION: Isn't it -- The supreme court could  
25 have come down on other grounds then. The supreme court

1 could say that because -- and I suggest to you this is  
2 what the supreme court did conclude did conclude -- that  
3 the petition was in improper form, that the entire  
4 petition was not properly presented because it did not  
5 have candidates.

6 QUESTION: Isn't it -- aren't their instances in  
7 Illinois where the two major parties don't put up complete  
8 slates?

9 MR. ADAMSKI: Yes.

10 QUESTION: Well then, what is the justification  
11 if the major parties aren't subject to the complete slate  
12 rule, for requiring it of a new party?

13 MR. ADAMSKI: Well, Your Honor, this goes to the  
14 issue that this Court has addressed in Anderson and in the  
15 other, what we'll call classification scheme, cases.  
16 The --

17 QUESTION: You're referring to the Supreme Court  
18 of Illinois' decision in the Anderson case?

19 MR. ADAMSKI: No, I'm referring to Anderson v.  
20 Celebrezzi, this Court's decision.

21 The fact is that there is an interest in  
22 promoting the two-party system and I believe that Monroe  
23 stands for that proposition. I believe that there's  
24 language to that effect in Socials Workers. The State has  
25 a right to set up certain restrictions in allowing new

1 parties. Now there's a gigantic advantage, and the State  
2 of Illinois favors, in fact, party formation. There's a  
3 gigantic advantage to running as a party, because the  
4 party only has to come up with 25,000. It only has to  
5 comply with the number of votes -- signatures on the  
6 nominating ballots for the district in which it is  
7 running. If individuals ran, if you are running as an  
8 Independent, you have to come up with 25,000 each  
9 yourself.

10 So what the State does is, the State of Illinois  
11 makes a determination. We can run the whole spectrum of  
12 ballot access here. There can be no ballot access or you  
13 can have complete ballot access. And the State of  
14 Illinois says for new party formation it's 25,000. And  
15 the additional price that you have to pay to get that  
16 advantage is that you have to show us that you have a full  
17 slate of candidates that you -- that you can field people  
18 of common interest, common goals --

19 QUESTION: I think that in our cases, the talk  
20 about a two-party system as being a valid electoral goal,  
21 we were talking in terms of requiring new parties to do  
22 almost as much, or perhaps as much, as the established  
23 parties. But Illinois requires a new party to do more,  
24 apparently.

25 MR. ADAMSKI: Well, Your Honor, the fact is that

1 all the States that require new parties to come up with  
2 certain -- a number of nominating petitions require those  
3 new parties to do more than a party where that for  
4 instance --

5 QUESTION: Well, where there's been a past track  
6 record --

7 MR. ADAMSKI: Right.

8 QUESTION: -- of support.

9 MR. ADAMSKI: No, that isn't what I was going to  
10 say, if I may excuse you. In the instance --

11 QUESTION: You don't have to excuse me, just say  
12 what you were going to say.

13 (Laughter.)

14 MR. ADAMSKI: In the instance where no one has  
15 run for an officer, in the instance where say, an office  
16 has been held by Democratic Party holders for years and  
17 years and years, and there is no Republican Party holder,  
18 there's no restriction there. And there's a  
19 restriction -- there's a greater restriction on the person  
20 who's coming into that area.

21 QUESTION: But supposing that there has been no  
22 republican candidate in a particular part of Chicago for  
23 many, many years. And then the Republicans want to start  
24 having a candidate there. They're not subject to this  
25 full slate requirement, are they?

1 MR. ADAMSKI: No, they're not because they're an  
2 established party. And that -- if it please the Court,  
3 that is the price that Illinois puts on new parties. If  
4 you're going to come in and be a new party, if you're  
5 going to take advantage of this liberal 25,000  
6 requirement, then you simply have to have a full slate of  
7 people.

8 QUESTION: May I pursue that just a little.  
9 There are seven or eight offices -- I can't remember --  
10 State's Attorney of Cook County, Assessor of Cook County,  
11 Clerk of Cook County, Sheriff of the County, Treasurer of  
12 Cook County, Superintendent of Education, and so forth.  
13 Supposing a party wanted to run for six of those, but not  
14 all seven or eight, whatever it is. The law would not  
15 permit them to qualify as a party unless they got  
16 25,000 -- and what is the State interest in requiring all  
17 eight instead of just six or seven?

18 MR. ADAMSKI: The State interest is that the  
19 State while it encourages party formation wants to be  
20 certain that individuals -- that you put forth a full  
21 party. That you are putting forth for the voters --

22 QUESTION: Why doesn't that apply equally to the  
23 Republicans or the Democrats who might decide they haven't  
24 got a chance of electing the Clerk of Cook County for some  
25 reason -- maybe the incumbent is so terribly popular that

1 they don't have to run a candidate. What is the State  
2 interest that justifies the disparate treatment?

3 MR. ADAMSKI: I don't know that you're correct  
4 that the Republican would not be subject to attack. I  
5 don't know -- or the Democrat, whoever it is --

6 QUESTION: Well, what's the State interest in  
7 making them run somebody that they know is going to lose,  
8 and they aren't going to spend any money trying to elect?

9 MR. ADAMSKI: Well, I -- there's no State  
10 interest in that. There's none.

11 I think the Court has taken in these  
12 cases -- the Court -- the language of the Court is that  
13 there is no litmus paper test. And the Court has looked  
14 in a fact-intensive basis into each one of these cases to  
15 see where the burdens are. Now the State's interest, and  
16 Mr. Justice White in the Monroe case specifically said and  
17 noted that this Court has never made a particularized  
18 review -- required a particularized proof from a State as  
19 to the needs, as to the State's interest in regulations,  
20 so long as those regulations are reasonable. And so the  
21 Court has to look on a factual basis, in effect, as to the  
22 reasonableness of these.

23 Now the requirement of 25,000 -- we've thrown  
24 that around, but in fact the requirement is a percentage  
25 requirement. It is the percentage requirement of

1 5 percent maxed out under the Socialist Workers case at  
2 25,000. There is no evidence in this record, no evidence  
3 in this record whatsoever, that unduly burdened these  
4 people.

5 These people simply came in, they put their  
6 ballot -- they put their nominee -- nomination petitions  
7 in and made no effort or record that they had a difficulty  
8 to expand. Essentially what they're telling you here,  
9 what they're asking you to do is because they didn't  
10 comply with the law, they want you to strike the law down  
11 so they can run anywhere they want.

12 Now the State has an interest, and I think all  
13 the parties agree, the State has an interest in regulating  
14 these elections, and there's no, I suggest to the Court,  
15 there's no --

16 QUESTION: What -- I gather that though in this  
17 case because the suburban -- the party, new party didn't  
18 get enough signatures in the suburban area and they got  
19 plenty in the city.

20 MR. ADAMSKI: That's correct.

21 QUESTION: But nevertheless the new party  
22 couldn't run in either the city or the county.

23 MR. ADAMSKI: For the county positions. That's  
24 correct.

25 QUESTION: Yeah, for the county positions.

1 MR. ADAMSKI: That's correct.

2 QUESTION: In effect, then, the people who are  
3 running for county commissioners from Chicago, even though  
4 they had more than 25,000 votes -- or signatures, were off  
5 the ballot.

6 MR. ADAMSKI: That's correct.

7 QUESTION: Because there weren't 50,000 in the  
8 whole county.

9 MR. ADAMSKI: That's correct.

10 QUESTION: Why is -- why doesn't that violate  
11 our cases?

12 MR. ADAMSKI: Your Honor, the cases say that the  
13 State has a right to put restrictions on to show that a  
14 particular party has a modicum of support. These people  
15 were saying -- these people were representing to the  
16 public, and to their competitors in the other parties,  
17 that they were a party that had county-wide interests.  
18 They didn't. They didn't have --

19 QUESTION: But our cases also say that you can't  
20 require more support for a subdivision of the State than  
21 you require for the whole State. And the whole State you  
22 only require 25,000, whereas for Cook County you require  
23 50,000.

24 MR. ADAMSKI: Unless --

25 QUESTION: How do you figure that?



1 MR. ADAMSKI: The case -- I think you're  
2 referring to the Socialist Workers case in particular,  
3 that case says unless there's a good reason. Socialist  
4 Workers was a situation, Your Honor, where because of this  
5 Court's decision in Moore, the City of Chicago had  
6 requirements for ballots, ballot nominations, three times  
7 greater than the State of Illinois. And this Court struck  
8 that down and in effect amended -- our legislature did it,  
9 but in effect amended the State law to say 25,000 was the  
10 cap. But in that very case, that 25,000 that this Court  
11 was talking about was the 25,000 from Chicago.

12 And this Court recognizes, Justice Stevens  
13 recognized in his footnote 3 of that opinion, that the  
14 25,000 requirement was a requirement for all political  
15 subcomponents. Our law in Illinois requires if -- let's  
16 take for example one of our counties is called Sangamon  
17 County. It's in Springfield, Illinois. If these people  
18 wanted to go to Sangamon County, they'd have to -- and  
19 they wanted to form their new party there -- there's  
20 nothing in our law that stops them from doing  
21 that -- they'd have to come up with 5 percent of the  
22 people in Sangamon County.

23 If they're going to go around and form parties  
24 in every city and every county in the State, they're  
25 going -- I'm saying this to you, Your Honor, because I

1 want you to understand we're talking about a lot more than  
2 50,000 here. The fact is that before they get to go into  
3 those areas --

4 QUESTION: I understand, but Cook County is just  
5 one county. Sangamon and Cook County are two counties,  
6 and that's 50,000, and that's fine. 25,000 in each  
7 county. Cook county is just one county.

8 MR. ADAMSKI: Cook County has 900 -- 650,000  
9 registered voters in the last election. The City of  
10 Chicago has 850,000. When you're looking -- let's take  
11 this first on the idea of reasonableness. When you're  
12 looking at the reasonableness of this, this is a drop in  
13 the bucket, I suggest to you.

14 When you're talking next about why have the  
15 difference, the difference is based upon this Court's  
16 discipline in all of its cases that says that the State  
17 has a right to demand that someone has a modicum of  
18 support. These people should not have the right, under  
19 our State law and under good representative participatory  
20 government and democracy, they should not have the right  
21 to simply go into any area they want and run their party,  
22 unless they have people there who are going to support  
23 them. And the 5 percent rule, I suggest to you is not  
24 unreasonable and does not unduly burden them.

25 QUESTION: It's only unreasonable when you

1 require more from the county than you would to have for  
2 somebody to run statewide. I mean, yes, they are big  
3 numbers you gave me for the number of voters in Cook  
4 County and in the city of Chicago, which is part of Cook  
5 County, for the purposes of the breakout in counties,  
6 right? This is one county we're talking about.

7 MR. ADAMSKI: But the city of Chicago is a  
8 completely separate political subdistrict under the  
9 Illinois Electoral Board.

10 QUESTION: Of the county.

11 MR. ADAMSKI: Of the State. Of the State.

12 QUESTION: I take it you're really not arguing  
13 that they struck this whole -- that they disqualified the  
14 candidates from Chicago as well as from suburbia because  
15 they didn't get 50,000 votes?

16 MR. ADAMSKI: You wouldn't permit the people  
17 from Chicago who got their 25,000 votes to run in the  
18 election because the suburbanites didn't get enough votes.

19 MR. ADAMSKI: That's correct.

20 QUESTION: So you're really saying they  
21 were -- the Chicago people were disqualified because of  
22 the full slate rule.

23 MR. ADAMSKI: Well, I don't know --

24 QUESTION: Isn't that right?

25 MR. ADAMSKI: I don't know about a full slate

1 rule. I know that the petition wasn't in proper form.

2 QUESTION: Why wouldn't you let the county  
3 people who got 25,000 -- the Chicago people who got 25,000  
4 votes run on the ballot? Why couldn't they get on the  
5 ballot? Why?

6 MR. ADAMSKI: Your Honor, well, because that's  
7 not what the rules provide. If they want to run as  
8 independents, then each of them has to get 25,000 --

9 QUESTION: No, they want to run under the party  
10 name.

11 MR. ADAMSKI: But the party they put forward,  
12 and this goes back, I guess to what Justice Stevens was  
13 pointing out, the party that they ran for was a party that  
14 had more people in it than they had support from. And  
15 that made their petition infirm. It made their petition  
16 improper. It made their petition invalid.

17 QUESTION: Yeah, but it's because the party just  
18 didn't have candidates from suburbia that had enough  
19 votes.

20 MR. ADAMSKI: That's exactly why.

21 QUESTION: All right. And therefore, you  
22 disqualified the Chicago people as well.

23 MR. ADAMSKI: The Chicago people were  
24 running -- this is a county election, Your Honor. The  
25 Chicago people were running in a county election for

1 county positions.

2 QUESTION: Sure.

3 MR. ADAMSKI: And there's good reasons why you  
4 shouldn't let that happen. You shouldn't allow the city  
5 people -- in this instance, you shouldn't allow the city  
6 people to attempt to take over county positions without  
7 having support throughout the county. That seems to me to  
8 be axiomatic.

9 QUESTION: Yes, but you don't really mean that  
10 because on the position for State's Attorney or County  
11 Clerk, for example, you would accept 25,000 signatures all  
12 from Hyde Park or one tiny area in Chicago that would  
13 qualify them to run for State's Attorney, if they filed  
14 the right form.

15 MR. ADAMSKI: If they were a party?

16 QUESTION: Yes.

17 MR. ADAMSKI: No. No, I don't agree with that.  
18 They were --

19 QUESTION: Even if they ran a full slate?

20 MR. ADAMSKI: If they ran a full slate --

21 QUESTION: But the people running for the  
22 offices I'm describing, all of the signatures came from a  
23 tiny area within the city of Chicago.

24 MR. ADAMSKI: Right.

25 QUESTION: Those petitions would still be good.

1 Assuming --

2 MR. ADAMSKI: I agree with that. Yes, I do  
3 agree.

4 QUESTION: So that a candidate for a county-wide  
5 office does not have to have any support at all outside  
6 the city of Chicago to get on the ballot.

7 MR. ADAMSKI: So long as the candidate for  
8 county --

9 QUESTION: So long as the slate is -- you know,  
10 a complete slate.

11 MR. ADAMSKI: Yes. Yes.

12 QUESTION: So people in the city of Chicago do  
13 vote, say, for Treasurer of Cook County.

14 MR. ADAMSKI: Yes, Your Honor. The --

15 QUESTION: Well, excuse me. And the Board of  
16 County Commissions, they are county commissioners of Cook  
17 County.

18 MR. ADAMSKI: That's correct.

19 QUESTION: And some of them are elected from the  
20 city of Chicago.

21 MR. ADAMSKI: 10 of them are.

22 QUESTION: Right.

23 MR. ADAMSKI: That's correct.

24 QUESTION: So how is that a separate political  
25 sub -- I mean, I don't understand what you mean by a

1 separate political subdivision if you have a Board of  
2 County Commissioners that governs both the county and the  
3 City of Chicago.

4 MR. ADAMSKI: For purposes of the county board  
5 elections, the statute -- and this is not just in Chicago,  
6 this is in any county that has a similar county  
7 board -- the statutes provide that if you have -- if  
8 you're running for more than one component, then you have  
9 to show a modicum of support from both components.

10 An example might be for the -- I'm not sure if  
11 this is accurate -- I'll give this example to the Court  
12 and tell you that I think it is, but the State Senate  
13 positions run for more than one county. You have to show  
14 a modicum of support from the various places that you run  
15 from that is outside the City of Chicago, in the southern  
16 areas of the State, the central areas of the State, and  
17 western areas of the State. So I don't think that that's  
18 unreasonable.

19 This is a county position and you need to show  
20 county support if you want to take advantage of the  
21 ameliorative party formation laws in the State of  
22 Illinois. If you want to run -- if a group of individuals  
23 want to run as a group of individuals, then each of them  
24 has to go and get that number of votes, 25,000 or 5  
25 percent. But if they want to run together as a group and

1 take advantage of this, this law, then they have to get  
2 the support from every component that there is.

3 The other point that I wanted to make about the  
4 factual basis here is that I said first that there's no  
5 reason to believe that the 25,000 requirement burdens  
6 anyone. There's no evidence to that effect before the  
7 Court.

8 Likewise, there's no evidence to the effect that  
9 the filing of a proper form burdens anyone. They simply  
10 didn't do that.

11 The Harold Washington Party is alive and well in  
12 Chicago. It has run in two city elections in the last 2  
13 years and has done very well for itself.

14 The brief that I filed points out, and I don't  
15 think I need to go into much detail on this, that if they  
16 want to expand, the mechanisms are there for them to  
17 expand. They simply, in this case, did not follow those  
18 mechanisms. And I suggest to the court that there is  
19 nothing unreasonable about a requirement, the two  
20 requirements -- that you file a proper form and the  
21 requirement that you file 25,000 signatures from each unit  
22 to get to -- take advantage of the new party laws in  
23 Illinois.

24 QUESTION: Mr. Adamski, you don't contest that  
25 the Harold Washington Party is the Harold Washington



1 Party, do you?

2 MR. ADAMSKI: I do.

3 QUESTION: You do.

4 MR. ADAMSKI: Yes, Your Honor, yes. It's not.  
5 It's not.

6 QUESTION: It's not.

7 MR. ADAMSKI: This Harold Washington Party is  
8 Mr. Pincham's Harold Washington Party. Mr. Evans ran in a  
9 special election against Mayor Daly in 1989, I believe,  
10 and he formed the Harold Washington Party for the City of  
11 Chicago. He never appointed any committeemen, he never  
12 held any caucuses, he never held any -- he had no  
13 primaries, nothing.

14 In August of 1990, Mr. Pincham came in with  
15 petitions at this time and at the time he ran on the  
16 Harold Washington Party -- Mr. Evans, by the way, was a  
17 functionary of the Democratic Party, he held an office in  
18 the Democratic Party of Cook County -- Mr. Pincham came in  
19 and filed these document. And the documents say that it's  
20 a new political party. The documents say that.

21 Now, at the hearing before the board, the  
22 electoral board, Mr. Evans testified that he had  
23 authorized it. Well, the law doesn't give Mr. Evans the  
24 right to authorize it. The law -- once parties are  
25 formed, parties are very serious matters, and once they

1 are formed they are regulated by law. They had to hold a  
2 convention, they had to hold a caucus, they had to hold a  
3 primary. Mr. Evans only had authority to point interim  
4 committeemen under Section 10-2 of the Electoral Code, I  
5 believe.

6 QUESTION: I take it you are saying a political  
7 party is either a new one or an old one, and this was a  
8 new -- this had to be a new party.

9 MR. ADAMSKI: This is a party formation case.

10 QUESTION: It was said -- and then they said it  
11 was new when they filed their petition.

12 MR. ADAMSKI: No, they've taken the  
13 position -- they said it was new, yes.

14 QUESTION: Well, I mean -- they wanted to file a  
15 new -- for a new party.

16 MR. ADAMSKI: Since then they've taken the  
17 position that all they were really doing was expanding.

18 Be that as it may --

19 QUESTION: Oh, no wait. Could they have come  
20 into Cook County and said we are an old party?

21 MR. ADAMSKI: I believe they could have, yes. I  
22 believe that they could have filed nominating petitions  
23 for the formation of the Harold Washington Party in Cook  
24 County, yes.

25 QUESTION: I thought that you're a new party if

1 you are new in the elective unit that the election  
2 pertains to. They were -- they had to --

3 MR. ADAMSKI: They are new.

4 QUESTION: Well, okay. That's why they said  
5 they were a new party. Of course they were a new party in  
6 Cook County, in suburban Cook County.

7 MR. ADAMSKI: They were a new party. They were a  
8 new party.

9 QUESTION: Before you were criticizing them for  
10 being a new party, now you say yeah, of course, they were  
11 a new party. Well which is it?

12 MR. ADAMSKI: They were Mr. Pincham -- I've  
13 taken a -- maybe I just --

14 QUESTION: Even if Evans -- even if Alderman  
15 Evans had come in, he would have been a new party under  
16 your view.

17 MR. ADAMSKI: Yes.

18 QUESTION: Because the old party was just formed  
19 for the city of Chicago.

20 MR. ADAMSKI: Right. That's correct.

21 QUESTION: And you're now talking about a new  
22 political unit.

23 MR. ADAMSKI: That's correct.

24 QUESTION: So there had to be a new party.

25 MR. ADAMSKI: That's correct. That's exactly

1 right.

2 QUESTION: So the distinction isn't between the  
3 Evans Harold Washington Party and the Pincham Harold  
4 Washington Party. It's the distinction between the  
5 Chicago Harold Washington Party and anything else.

6 MR. ADAMSKI: That's correct.

7 QUESTION: Now, what evidence is there  
8 that -- did the Supreme Court of Illinois say that this  
9 party was not qualified to use the Harold Washington name?

10 MR. ADAMSKI: Yes.

11 QUESTION: It didn't say why, but it said that.

12 MR. ADAMSKI: Yes. It did not say why.

13 QUESTION: And you would say because it was a  
14 new party and a new party can't use the same name as an  
15 old party.

16 MR. ADAMSKI: It can use somebody else's name.  
17 The party continuity issue there is a different issue.  
18 You can't -- they can't come forward and say we're going  
19 to use somebody else's name when the name's already been -  
20 - in use. They can't do that.

21 QUESTION: Well, they're forming a new party and  
22 they want to use an old party's name. Can they do that?

23 MR. ADAMSKI: No.

24 QUESTION: And is that basis for the Supreme  
25 Court of Illinois judgment?

1 MR. ADAMSKI: I'd like to think so.

2 (Laughter.)

3 QUESTION: Now, wait a minute. Of course a new  
4 party can use an old party's name.

5 MR. ADAMSKI: If it has the permission of the  
6 old party.

7 QUESTION: It depends on what you mean by a new  
8 party. A new party in the political unit, in the sense  
9 that it's new to that political unit, can use the name of  
10 an old party from another political unit. You mean a  
11 party cannot expand in your State?

12 MR. ADAMSKI: A party can expand, but it has to  
13 be the same party. They weren't the same party. This was  
14 a brand new political party.

15 QUESTION: Oh, you're saying that it was new in  
16 that sense, that it is not the same party.

17 MR. ADAMSKI: If there's no more questions, I  
18 would --

19 QUESTION: Weren't there findings against you on  
20 that? Didn't the board simply find that it was the same  
21 party?

22 MR. ADAMSKI: Yes. The board found that it was  
23 the same party. The circuit court, which reviewed it de  
24 novo, essentially affirmed the board. I don't think that  
25 circuit court made any findings on that issue, but it

1 essentially affirmed the board.

2 I would ask that the Court affirm the decision  
3 of the Illinois Supreme Court. And I thank you.

4 CHIEF JUSTICE REHNQUIST: Thank you, Mr.  
5 Adamski.

6 The case is submitted.

7 (Whereupon, at 2:48 p.m., the case in the  
8 above-entitled matter was submitted.)

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## CERTIFICATION

*Alderson Reporting Company, Inc., hereby certifies that the attached pages represents an accurate transcription of electronic sound recording of the oral argument before the Supreme Court of*

*The United States in the Matter of:*

#90-1126 - BARBARA J. NORMAN, ET AL., Petitioners V. DOROTHY REED  
ET AL; and

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#90-1435 - COOK COUNTY OFFICERS ELECTORIAL BOARD, ET AL.,  
V. DOROTHY REED, ET AL.  
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*and that these attached pages constitutes the original transcript of the proceedings for the records of the court.*

BY

Michael Sander

(REPORTER)

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