

PETITION FOR DECLARATORY ORDER

June 21, 2014

Petitioner: Mary C. Eberle
1520 Cress Court
Boulder, CO 80304
303 442-2164

Relationship to SOS: Elector. Chair of the Boulder County American Constitution Party

Related: C.R.S. 1-10-101. Rule 10-1-3.

Statement of facts: There is uncertainty regarding the appointment of members to the canvass board.

1. Must a person appointed to fill a seat on a partisan election canvass board have the same political affiliation as the political party that makes the appointment?

C.R.S. 1-10-101 does not make such a requirement.

Rule 10.1.3 appears to make such a requirement.

2. Must the duration of a person's affiliation for purposes of serving on a canvass board meet the same requirements as for purposes of voting in a Partisan Election?

We can find no such requirement in the statutes or the rules.

3. Will a proposed method of an elector's "unregistering" and then "registering" circumvent these PURPORTED uncertainties and immediately cause the elector to meet the legal and extralegal requirements for serving as a canvass board member?

Argument: Please see the attached complaint from Mr. James Edwin (Jim) Remmert. Remmert changed his affiliation, and I appointed him to serve as a canvass board member. His appointment is being blocked by the Boulder County Clerk because of disagreement over affiliation and duration of affiliation requirements.

As stated in Mr. Remmert's letter, the appointee should be chosen for his ability to make technical contributions. If the law intended to say that a canvass board appointee must

be affiliated with the same party as the party appointing the appointee, then C.R.S. 1-10-101(1)(a) would say so. But it does not. And it should not.

Same-day registration creates a possible inequity between long-time registrants and new registrants. If the law intended to say that a canvass board appointee must be registered and affiliated for a certain duration, it would say so. But it does not. And it should not.

Request: I request the Secretary of State to issue a declaratory order deciding the following:

1. We ask that you declare that C.R.S. 1-10-101 is as intended. A canvass board appointee need not be of the same party affiliation as the party making the appointment.
2. We ask that you declare that the duration of party affiliation is not a factor in determining canvass board eligibility.
3. We ask that you declare whether Mr. Remmert's proposal of "unregistering" and "registering" will meet the legal and extralegal requirements for serving as our canvass board member.
4. We ask that you acknowledge that Mr. Remmert has substantially complied with the intent of the canvass board appointment provisions.

It is vital that this matter be resolved promptly, because it is possible that Mr. Remmert will have to "unregister" and "register" before 7:00 p.m. on Election Day.

Attachments

1. Remmert complaint to SOS
2. Remmert affidavit of registration on June 8, 2014
3. Remmert Registration Record

June 21, 2014

Dear Secretary of State Gessler and Deputy Secretary Staiert:

I am Jim Remmert, retired corporate attorney though not admitted to the bar in Colorado. I served as an American Constitution Party appointee to the Boulder County Canvass Board for the 2012 elections. I meet the qualifications to serve as an appointee of the American Constitution Party on the Boulder County 2014 Primary Election Canvass Board according to C.R.S. 1-10-101.

On June 9, I was appointed to the Boulder County Canvass Board by Boulder County American Constitution Party Chair Mary Eberle.

The Boulder County Clerk has excluded my name from the list of canvass board appointees and has refused to correct the record of appointees. I have been excluded from all canvass board communications originated by the Boulder County Clerk and her staff, and I fear that I will be refused a seat at the table when the board meets.

On June 8, I changed my party affiliation from Libertarian to American Constitution (see attached affidavit). I did this because of the failure of the Boulder Clerk's office to acknowledge that parties may appoint canvass board members without regard to their party affiliation. C.R.S. 1-10-101 places no such affiliation requirement upon canvass board members, nor should the law prevent political parties from selecting the most competent person (a lawyer, engineer, accountant, etc.) regardless of affiliation to represent them on the canvass board. The law recognizes that canvass board appointee affiliation is a party decision, not a government decision.

It is now June 21. My online voter record incorrectly indicates that my party affiliation is still Libertarian (see attached Registered Voter Information). Libertarian is not my affiliation, and I do not understand why it has not been changed. It is certainly my First Amendment right to associate with the party of my choice via the formal affiliation process at any time.

If the Boulder County Clerk is attempting to construct a fictitious affiliation requirement to block my membership on the canvass board, this must not be permitted.

In the first place, Colorado law does not require that I be affiliated with the American Constitution Party to be a canvass board member on that party's behalf.

In the second place, I have changed my affiliation to ACN, but there appears to be a defect in the online voter registration system because the change I made on June 8 is not reflected in my voter registration record.

I think I have a way to correct the faulty registration record: To avoid the uncertainty of whether I will be properly seated otherwise, I am willing to correct the faulty registration record by going to a Voter Service and Polling Center to “unregister.” Then I will go to a VSPC and “register” and affiliate with the American Constitution party.

Do you agree that by doing so I will have met all legal and extralegal requirements for serving as an ACN canvass board appointee for the June 24 Primary Election?

Regards,

[original signed]

James Edwin (Jim) Remmert
3815 Lakebriar Drive
Boulder, CO 80304
303 862-9153

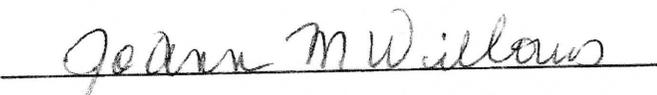
attachments: Voter Registration Affidavit
Registered Voter Information

VOTER REGISTRATION AFFIDAVIT

I, James Edwin Remmert, reside at 3815 Lakebriar Drive, Boulder, Colorado 80304. I have been a registered voter in the city and county of Boulder since August 11, 2006 and my party affiliation was "Libertarian" as of October 5, 2013. On June 8, 2014 I logged onto the Colorado Secretary of State "Registered Voter Information" website, entered the requested information and changed my "Party Affiliation" from "Libertarian" to "American Constitution."


James Edwin Remmert

Signed and sworn to before me this 20th day of
JUNE, 2014.


Joann M Willows



My Commission Expires 08/27/2015

REGISTERED VOTER INFORMATION

COLORADO IS AN ALL MAIL BALLOT STATE. FOR THE JUNE 24 PRIMARY ELECTION - ALL ACTIVE VOTERS WHO ARE REGISTERED WITH A POLITICAL PARTY THAT HAS A PRIMARY WILL RECEIVE A MAIL BALLOT.

IF YOU PREFER TO VOTE IN PERSON, YOU CAN DO SO AT ANY VOTER SERVICE AND POLLING CENTER. A LIST OF LOCATIONS WILL BE MAILED WITH YOUR BALLOT AND LISTED [HERE](#).

FOR THE JUNE 24 PRIMARY, THE FOLLOWING POLITICAL PARTIES WILL BE RECEIVING A BALLOT:

- AMERICAN CONSTITUTION PARTY
- DEMOCRATIC PARTY
- REPUBLICAN PARTY

Voter Information

VOTER NAME:	JAMES EDWIN REMMERT
RESIDENTIAL ADDRESS:	3815 LAKEBRIAR DR, BOULDER, CO 80304
MAILING ADDRESS:	3815 LAKEBRIAR DR , BOULDER, CO 80304

Registration Information

STATUS:	ACTIVE
PARTY AFFILIATION:	LBR
PRECINCT NUMBER:	888
DATE OF REGISTRATION:	08/11/2006

Special Alerts

Note: May 23 was the deadline to change party affiliation from one party to another. You will not receive a ballot for the 2014 Primary Election.

Attention City of Longmont Voters: The City of Longmont is conducting a special election. All City of Longmont voters will receive a ballot regardless of party affiliation. If you recently moved to the City of Longmont, please contact the elections office at 303-413-7740 to inquire about voting in the City of Longmont special election.

UPDATE YOUR VOTER REGISTRATION INFORMATION [ONLINE](#).

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