



Written by [Joe Wolverton, II, J.D.](#) on August 17, 2012

Wash. State Libertarians Claim Romney Can't Appear on State Ballot

In Washington State pots and kettles are fighting over who's blacker.

The Libertarian Party petitioned August 15 to have Mitt Romney's name removed from November's ballot. The lawsuit claims the GOP is no longer significant enough to qualify under state law as a major party.

Chapter 29A of the Revised Code of Washington (RCW) [defines "major political party" as:](#)



a political party of which at least one nominee for president, vice president, United States senator, or a statewide office received at least five percent of the total vote cast at the last preceding state general election in an even-numbered year.

According to the Libertarian Party's complaint, although Republican Dino Rossi received 48 percent of the vote for U.S. Senate in 2010, he was not officially nominated by the Republican Party. Therefore, no Republican nominee for U.S. Senate reached the magic number of votes so the Party loses its "major" qualification and its presidential nominee can't be on the ballot in the state of Washington.

Not surprisingly, the GOP disagrees. [The Associated Press reports](#) that the Republican-led state election commission points to an administrative code that "essentially repealed" the rule cited above. Commission Chairman Sam Reed argues that the election regulations enacted in 2004 define a major political party as one whose "presidential tickets get more than 5 percent of the vote in the last White House vote."

Under that standard, both the Republican and Democratic Parties qualify as major parties and should be represented on the presidential ballot in November. The relevant question becomes which definition is the right one.

To answer that question, John Mills, the attorney representing the Libertarian Party, makes a separation of powers argument. He argues that laws passed by the state legislature trump regulations passed by government agencies.

"As a legal matter, that's kind of a frivolous argument," Mills said. The Legislature hasn't repealed the old laws, and an effort to make those changes a few years ago failed.

State Republican Party Chairman Kirby Wilbur calls the lawsuit "silly."

"Dino Rossi was nominated by this party in August 2010," he said. In the Associated Press article, Wilbur points to a state board meeting where Rossi received the GOP's official endorsement and that he has "legal documents to show that."

Mills contends that such a meeting does not comply with applicable state Republican Party rules governing the nomination of a candidate.

Wilbur said Republicans will ask the court to throw out the case.



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[Chapter 29A of the RCW requires](#) that in order to get its candidate put on the ballot for president, a political party must hold a convention attended by at least 100 registered voters and submit the signatures of 1,000 registered voters from the state of Washington. The [Libertarian Party of Washington State](#) held [its convention in March at a Best Western hotel](#).

At its convention in Las Vegas in May, the [U.S. Libertarian Party nominated](#) former New Mexico Governor Gary Johnson for President of the United States.

As for the presumptive Republican nominee Mitt Romney, the Libertarians' lawsuit argues that the best he can do in Washington State is wage a write-in campaign.

Photo of Mitt Romney: AP Images



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