

No. 20-897

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

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KYLE KOPITKE,

*Petitioner,*

v.

KAREN BRINSON BELL, Executive Director,  
North Carolina State Board of Elections,

*Respondent.*

—◆—  
**On Petition For A Writ Of Certiorari  
To The United States Court Of Appeals  
For The Fourth Circuit**

—◆—  
**BRIEF OF JESSICA BELCHER,  
ROBERT BELCHER, ELIZABETH CHRISTMAN,  
NORRIS CLARK, PHILIP FUEHRER,  
PAT CUMMINGS KOMOROUS,  
THOMAS MCLAUGHLIN, RUSSELL VERNEY,  
J. DAVID GILLESPIE, DARCY RICHARDSON,  
AND RICHARD WINGER, AS AMICI CURIAE  
IN SUPPORT OF THE PETITION**

—◆—  
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**INTEREST OF AMICI CURIAE<sup>1</sup>**

Amici Curiae include eight veterans of the Ross Perot presidential campaign in 1992, and three historians with experience in recording the history of significant independent and minor party presidential campaigns, along with the history of U.S. ballot access laws affecting independent candidates. All of the Amici believe that the 1992 Ross Perot presidential campaign mobilized millions of voters into enthusiastic political activity, and that this activity was beneficial to the United States.

Amici who were active in the Ross Perot presidential campaigns are Jessica Belcher of Montgomery, Alabama; Robert Belcher of Montgomery, Alabama; Elizabeth Christman of Philadelphia, Pennsylvania; Norris Clark of Trenton, New Jersey; Philip Fuehrer of St. Paul, Minnesota; Pat Cummings Komorous of Tryon, North Carolina; Thomas McLaughlin of Bloomsburg, Pennsylvania; and Russell Verney of Noblesville, Indiana.

The Amici also includes three historians of significant independent presidential candidacies and the history of the ballot access laws that affect such candidates. These other Amici are J. David Gillespie, Ph.D.,

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<sup>1</sup> No counsel for a party authored this brief in whole or part, and no counsel or party made a monetary contribution to fund the preparation or submission of this brief. No one other than the Amici Curiae, and their counsel made any monetary contribution to its preparation and submission. The parties were given timely notice and consented to the filing of this Brief of the Amici Curiae.

Dana Professor of Political Science, Emeritus, Presbyterian College, professor (retired), College of Charleston and The Citadel, author of two books on the history of third political parties and independent candidates. Darcy Richardson is an author and historian who is the author of several books on the history of independent candidates, third party politics, and American political history. Richard Winger is the author of several law review and journal articles on the history of ballot access laws, including “*Can United States Voters Still Recruit Someone to Run for President as an Independent After the Identities of the Major Party Presidential Candidates are Known?*” in 29 U. Ark. Little Rock L. Rev. 763 (Iss. 4, 2007).

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### SUMMARY OF ARGUMENT

This litigation is about safeguarding the ability of the voters of the United States to support an independent presidential candidate who does not enter the race until the election year itself. This litigation challenges the North Carolina ballot access requirement that independent presidential candidates must submit their petition to be on the ballot by the first week in March of the presidential election year. If that law, which has only existed since 2018, had been in effect in 1992, it is very likely that the Ross Perot campaign could not and would not have happened.



## ARGUMENT

Ross Perot first mentioned the possibility that he would run for president as an independent candidate while he was being interviewed on the Larry King television show on February 20, 1992.<sup>2</sup> During the interview, King repeatedly asked Perot if he might run, but he said that he would not. Finally, toward the very end of the interview, Perot said that if voters really wanted him to run, and if they successfully petitioned for him in all fifty states, then he would likely run. He was very clear that he had to be on the ballot in all fifty states. At the time, no state had an independent presidential petition deadline earlier than June, except that in 1987 Texas had moved its presidential independent deadline from July to mid-May. At that time, the North Carolina petition deadline was June 26, 1992, the third-earliest in the nation. All other states had petition deadlines in July, August, and September. See the list of 1992 independent presidential petition deadlines in Appendix A.

Perot supporters immediately began petitioning for him, and in mid-March he declared that he would run. He did appear on the ballot of all fifty states and the District of Columbia in November of 1992. Perot did not need to file any ballot access lawsuits to achieve that goal. He is the only presidential candidate who ran outside the Democratic and Republican Parties, who obtained ballot access in all fifty-one jurisdictions,

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<sup>2</sup> See *Mad as Hell, Revolt at the Ballot Box, 1992*, by Jack W. Germond and Jules Witcover, pp.216-227.

without having to file any ballot access lawsuits. Perot polled 18.9% of the vote for President in 1992, the highest percentage for someone running outside the two major parties since 1912.

If North Carolina had had its current ballot access laws in 1992, a petition of 1.5% of the number of registered voters (which, for the 2020 election, was 70,666 signatures) and a deadline of March 3, 2020, it would have been impossible for his 1992 petition to have succeeded.

The United States has a long tradition of significant independent and new political party presidential candidates entering the race in the middle of the election year in response to unforeseen developments. The Republican Party itself was not founded until July 6, 1854, in response to the unexpected passage by Congress of the Kansas-Nebraska Act in May 1854. Theodore Roosevelt did not launch his Progressive Party campaign for the presidency in 1912 until after he had been defeated for the Republican nomination at the Republican Convention, which was held June 18-22, 1912.

The United States government signed the *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Commission on Security and Cooperation in Europe* (the CSCE) in June 1990. The United States and the other signatory nations pledged to “respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide

such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities.” See Point 7.6. That includes the right to support a candidate or a party that doesn’t launch a candidacy until the election year. In 2000, the United States State Department criticized Azerbaijan’s new election law because it did not permit entry into its elections for parties that had not existed as early as six months before the election. Yet the North Carolina independent presidential petition requirement is eight months before the election.

This Court previously ruled in *Anderson v. Celebrezze*, 460 U.S. 780 (1983), that the First Amendment demands that states permit late entries into the presidential general election. This Court should reaffirm that holding.

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## CONCLUSION

For these reasons, and those stated in the petition, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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