

FILED

December 17, 2019

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA
IN SUPREME COURT

A19-1994

Roque “Rocky” De La Fuente, et al.,

Petitioners,

vs.

Steve Simon, Minnesota Secretary of State,

Respondent.

O R D E R

On December 13, 2019, petitioners Roque De La Fuente and James Martin, Jr. filed a petition pursuant to Minn. Stat. § 204B.44(a)(4) (2018), asking this court to direct the respondent Steve Simon, Minnesota Secretary of State, to include De La Fuente’s name on the ballot as a candidate for United States President at Minnesota’s presidential primary election, which will be held on March 3, 2020. Petitioners allege that under Minnesota Statutes § 207A.13 (2018), only Minnesota’s major political parties can “determine which candidates are to be placed on the presidential nomination primary ballot” for the party, *see* Minn. Stat. § 207A.13, subd. 2(a). *See also* Minn. Stat. § 207A.11(d) (Supp. 2019) (stating that chapter 207A “only applies to a major political party that selects delegates at the presidential nomination primary to send to a national convention”). Petitioners assert that once the chair of the Republican Party of Minnesota notified Simon of the party’s determination that the United States President was the only candidate whose name would

be submitted for placement on the ballot for Minnesota's presidential primary, "changes" cannot "be made to the candidates that will appear on the ballot." Minn. Stat. § 207A.13, subd. 2(a). By permitting major political parties to determine whose names will appear on the ballot, petitioners contend that the Legislature has impermissibly controlled or limited access to the ballot. Specifically, petitioners contend that Minnesota Statutes § 207A.13 violates the Minnesota Constitution's prohibition on granting special or exclusive privileges to a private corporation, association, or individual, Minn. Const. art. XII, § 1; violates the Presidential Eligibility Clause of the United States Constitution, U.S. Const. art. II, § 1, cl. 3, by imposing eligibility conditions in addition to those stated in that clause; and, violates the right of free association of the United States Constitution, U.S. Const. amend. I, by burdening potential candidates' access to the ballot and voters' rights to associate with the candidate of their choice.

Ballots for the presidential primary election must be made available beginning January 17, 2020. *See* Minn. Stat. § 204B.35, subd. 4 (2018) (requiring ballots to be available for absentee voting at least 46 days before the election); Minn. Stat. § 204B.45, subd. 2 (2018) (requiring ballots to be provided by mail at least 46 days before the election). Petitioner has served the petition on the Secretary of State, the Republican Party of Minnesota, the Minnesota Democratic Farmer Labor Party, and several candidates for United States President. *See* Minn. Stat. § 204B.44(b) (2018) (requiring service on the official charged with the duty or alleged error, and on "all candidates for the office").

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Petitioners shall serve a copy of this order on the Minnesota Secretary of State and the Republican Party of Minnesota in the manner provided by Minn. R. Civ. P. 4.03. A copy of the order must also be served on President Donald J. Trump. Petitioners shall file proof with the Clerk of the Appellate Courts no later than **12:00 p.m., Friday, December 20, 2019**, that the service required by this paragraph has been completed.

2. Respondent Secretary of State Steve Simon may serve and file a response to the petition by no later than **Tuesday, December 31, 2019**.

3. Petitioners, respondent Simon, the Republican Party of Minnesota, and if he chooses to do so, President Donald J. Trump, shall file briefs addressing the claims asserted in the petition and the relief requested on those claims. The briefs must be served and filed on or before **Tuesday, December 31, 2019**. No reply briefs will be permitted.

4. The major political parties in Minnesota, as defined in Minn. Stat. § 200.02, subd. 7 (2018), are invited to participate as amicus curiae in this matter. The major political parties that wish to participate as amicus must file a notice on or before **Tuesday, December 24, 2019**, confirming that the entity will participate as an amicus. The brief of an amicus curiae must be filed on or before **Tuesday, December 31, 2019**. In light of the expedited nature of this action and to facilitate notice of the requirements of this paragraph, petitioners and respondent Simon must each deliver a copy of this order to each of the major political parties on or before **Friday, December 20, 2019**. Any entity that participates as amicus will not be allowed to participate in oral argument.

5. Oral argument will be held in this case on **Thursday, January 9, 2020**, at 10:00 a.m. in the State Capitol Courtroom. Counsel who intend to argue must file Notices of Appearances on or before **Tuesday, December 31, 2019**.

Dated: December 17, 2019

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Lorie S. Gildea".

Lorie S. Gildea
Chief Justice