

Client Challenge

First Amendment Rights

Mr. Marts and Mr. Newcomb are two former Republican Party members who lost their party membership due to their public advocacy against the GOP's nominees. The plaintiffs filed suit in the U.S. District Court for the Western District of Virginia, alleging that the Republican Party's membership requirements violated their constitutional rights. The district court dismissed the case because political parties are not government entities and the Republican Party's management of its own internal affairs did not constitute actionable government conduct but instead was an exercise of the GOP's own fundamental right to freedom of association. Because the Republican Party's actions were not government conduct, but instead were private activities protected by the First Amendment, the district court found that Mr. Marts and Mr. Newcomb had not properly alleged a constitutional violation.

Problem

In her ruling, U.S. District Judge Elizabeth Dillon dismissed a lawsuit brought by two Republican Party members from Frederick County who claimed they were unlawfully prohibited from participating in party activities due to their advocacy against Republican candidates.

Plaintiffs Jay Marts and Dana Newcomb admitted that they had engaged in such advocacy, in violation of their previous pledges to support the Republican Party's candidates and that the party's rules allowed their membership privileges to be suspended. However, they argued that the Republican Party of Virginia and the Frederick County Republican Committee were not constitutionally permitted to exclude them from party activities because some of those activities included closed nominating processes. Judge Dillon dismissed their action. In so doing, she noted that the Supreme Court has recognized that a political party's First Amendment right of freedom of association includes the right to exclude those who do not share its beliefs. Accordingly, Judge Dillon found that Marts and Newcomb had failed to allege a constitutional violation.

Attorney Testimonial

“ Judge Dillon's decision is notable because she upheld the First Amendment rights of the Republican Party—and in fact, all political parties—to manage their own internal affairs.”

Cortland Putbrese
Partner, Dunlap Bennett & Ludwig
Lead Partner On This Case



Litigation

Related Industry: Political and Election Law



Our Role

Represented Republican Party of Virginia (RPV) and Frederick County Republican Committee (FCRC) against plaintiffs

Result & Impact

First Amendment Rights Were Preserved

The plaintiffs appealed to the U.S. Court of Appeals for the Fourth Circuit, claiming that the district court erred in dismissing their suit. The Fourth Circuit disagreed and ruled in favor of the Republican Party.

Attorney Testimonial

“This is an important win. By affirming the lower court’s decision, the Fourth Circuit has implicitly upheld the First Amendment rights of the Republican Party –and in fact, all political parties—to manage their own internal affairs.”

Cortland Putbrese
Partner, Dunlap Bennett & Ludwig
Lead Partner On This Case



Doing Better Law.

DBL has extensive experience in the area of counseling political parties and representing them in disputes, including litigation matters. In fact, our team includes a former general counsel of a major statewide political party. The team at DBL is therefore uniquely situated to provide a political party or its constituent committee with the legal advice it needs. Contact our team to learn how we can help you and your business with litigation and dispute matters.