



RAMSEY COUNTY DISTRICT COURT

CIVIL DIVISION, 600 COURTHOUSE, ST. PAUL, MN 55102-1682 (651) 266-8253
FAX NUMBER (651) 266-8263

MICHAEL G. MORIARITY
Court Administrator

BETTY ANDRADE
Supervisor
Conciliation / Housing Court

CAROL BECKER
Supervisor
Public Services

THOMAS G. P. BOIES
Supervisor
Accounting

MARY JUREK
Supervisor
Civil

September 27, 2000

Hon. Kathleen Blatz
Chief Justice,
Minnesota Supreme Court
25 Constitution Avenue
St. Paul, MN 55155

OFFICE OF
APPELLATE COURTS

OCT 1 2000

FILED

RE: Ole Savior v Mark Dayton
Ramsey File # C9-008288

Dear Chief Justice Blatz:

On September 26, 2000, an Answer containing a special appearance and a Motion to Dismiss were filed in this election contest case.

Pursuant to Minn. Stat. § 209.045, I am hereby submitting one copy of these pleadings to you by certified mail.

Should you have any questions, or if I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael G. Moriarity".

Michael G. Moriarity
Court Administrator

Enc:

STATE OF MINNESOTA
COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT
DISTRICT COURT

Case Type: Election Contest

Court File No. C9-00-8288

Ole Savior,

Plaintiff/Contestant,

v.

Mark Dayton,

Defendant/Contestee.

FILED
Court Administrator

SEP 26 2000

By _____ Deputy

ANSWER

Contestee Mark Dayton for his Answer states as follows:

1. He is appearing specially.
2. This Court is without personal and subject matter jurisdiction.
3. Denies the allegations of the Complaint.

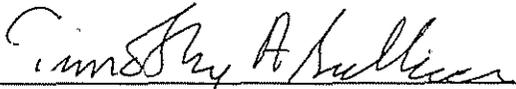
For his affirmative and other defenses Contestee states as follows:

1. The Complaint is untimely in that it was not served within five days after the canvass was completed.
2. Process is insufficient.
3. Service of process is insufficient.
4. The Complaint fails to state a claim upon which relief can be granted.
5. The Complaint fails to describe with particularity any irregularity which may have affected voting.
6. The Courts in Minnesota lack jurisdiction to decide who shall be seated in the United States Congress or to judge federal elections.
7. Minn. Stat. §211B.13 is pre-empted by 18 U.S.C. §597.

WHEREFORE, Contestee Mark Dayton prays for an order finding that the Complaint/Notice of Contest fails to meet the statutory requirements, dismissing the contest without further proceedings and for such other and further relief as the Courts may deem proper.

Dated: September 26, 2000

BEST & FLANAGAN, LLP

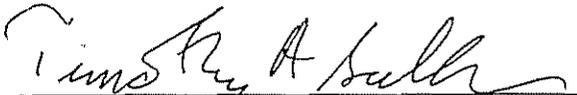
By 

Frank J. Walz (#114327)
Timothy A. Sullivan (#107165)
Michelle Bergholz Frazier (#285468)
4000 First Bank Place
601 Second Avenue South
Minneapolis, MN 55402-4331
(612) 339-7121

ATTORNEYS FOR DEFENDANT
MARK DAYTON

ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. Sec. 549.211 to the party against whom the allegations in this pleading are asserted.


Timothy A. Sullivan

124133

STATE OF MINNESOTA)
)ss.
COUNTY OF HENNEPIN)

AFFIDAVIT OF SERVICE

Julie A. Brammer, being first duly sworn, deposes and says:

That on the 26th day of September, 2000, she served the attached:

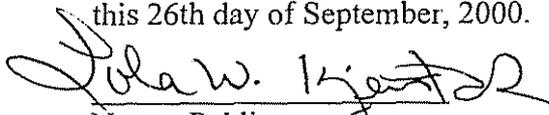
1. Contestee Mark Dayton's Answer.
2. Contestee Mark Dayton's Motion to Dismiss.
3. Contestee's Memorandum in Support of his Motion to Dismiss with attachments.

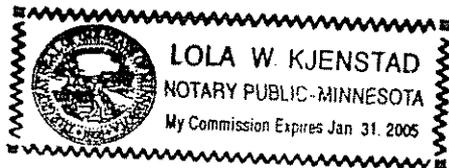
upon the following parties by depositing a true and correct copy thereof in the U.S. Mail (and certified mail) in the City of Minneapolis, County of Hennepin, State of Minnesota, with postage prepaid, in an envelope directed and addressed to said parties:

Mr. Ole Savior
1905 Elliot Avenue South
Minneapolis, MN 55404


Julie A. Brammer

Subscribed and sworn to before me
this 26th day of September, 2000.


Notary Public



STATE OF MINNESOTA

SECOND JUDICIAL DISTRICT

COUNTY OF RAMSEY

DISTRICT COURT

Case Type: Election Contest

Ole Savior,

Court File No. C9-00-8288

Plaintiff/Contestant,

FILED
SEP 26 2000

v.

MOTION TO DISMISS

Mark Dayton,

Deputy

Defendant/Contestee.

Contestee Mark Dayton moves the Courts of the State of Minnesota for an Order dismissing Plaintiff/Contestant's Complaint/Notice of Contest without further proceedings upon the files and records filed with the District Court and for such other and further relief as the Courts may deem proper.

Dated: September 26, 2000

BEST & FLANAGAN, LLP

By Timothy A. Sullivan

Frank J. Walz (#114327)
Timothy A. Sullivan (#107165)
Michelle Bergholz Frazier (#285468)
4000 First Bank Place
601 Second Avenue South
Minneapolis, MN 55402-4331
(612) 339-7121

ATTORNEYS FOR DEFENDANT
MARK DAYTON

STATE OF MINNESOTA
COUNTY OF RAMSEY

FILED
Court Administrator

SEP 26 2000

By _____ Deputy

DISTRICT COURT
SECOND JUDICIAL DISTRICT

CASE TYPE: ELECTION CONTEST

Ole Savior,

Court File No. C9-00-8288

Plaintiff/Contestant

v.

**MEMORANDUM IN SUPPORT
OF MOTION TO DISMISS**

Mark Dayton,

Defendant/Contestee.

Mark Dayton ("Contestee") received a majority of the Democratic votes cast for Democratic candidates for the United States Senate at the primary election held on September 12, 2000 and was duly declared the nominee for that position by the State Canvassing Board. He now submits this memorandum in support of his motion to dismiss unsuccessful candidate Ole Savior's ("Contestant") Complaint. Based on the procedural and substantive deficiencies discussed below, Contestant's Complaint must be dismissed with prejudice. Any delay in dismissing this action cuts against established precedents and frustrates the underlying purpose of campaign laws, namely refraining from interfering with the electoral process.

FACTS

This September, Contestee won the DFL primary for United States Senate, with a total vote of 178,972. See Exhibit 1 (Certification by Secretary of State of Canvassing Board Results). Candidate's closest contender received a total vote of 96,874. Id. Contestant, also a contender in this primary race, received 1,206 votes. Id.

The canvass on this primary race was completed on September 19, 2000. Id. On September 22, 2000, Contestant filed a Complaint in Ramsey County District Court, demanding

among other things for Candidate to undergo self-examination and for “intervention” into an alleged case of election fraud from “trying to influence voters.” See Exhibit 2 (Complaint). In addition to his Complaint, Contestant submitted four purported affidavits of service. See Exhibit 3A-D (Affidavits of Service). Two of the affidavits were “served” by certified mail (see Exhibits 3A-B); one of the affidavits was for “personal service” (see Exhibit 3C); and one of the affidavits reflected service of “the Dayton Campaign” (see Exhibit 3D). There was no personal service on the Contestee and never has been.

I. The Complaint Does Not Comply With The Procedural Requirements of Minn. Stat. § 209 (1998).

A. Contestant’s notice must be dismissed because personal service has not been effected.

Contestant failed to perfect service under the Minnesota Rules of Civil Procedure. Minn. Stat. § 209.021 declares that service of notice of an election contest must be performed in the same way as service of a summons and complaint. See Holmen v. Miller, 296 Minn. 99, 102, 206 N.W.2d 916, 918 (1973) (noting service of notice of contest made in same manner as service of summons in civil actions). Under Minn. R. Civ. P. 4.03(a), personal service is completed by “delivering a copy [of the notice] to the individual personally or by leaving a copy at the individual’s usual place of abode.” Service may also be achieved by “mailing a copy [of the notice] . . . to the person to be served, together with two copies of the notice and acknowledgment [of service] . . . and a return envelope, postage prepaid, addressed to the sender.” Minn. R. Civ. P. 4.05.

Contestant attached to the Complaint filed with the Ramsey County District Court four affidavits of service of the notice of election contest. The affidavits, if valid, indicate that Contestant attempted service on Contestee by: (1) hand delivering the notice of election contest to Mark Dayton’s campaign headquarters (no individual receiving the papers is identified), and (2) sending by certified mail, copies of the notice to Contestee’s home, Contestee’s campaign

headquarters, and the Secretary of State. Contestant's efforts are faulty because not only was Contestee not personally served within the statutory prescribed period, but he never has been effectively served under applicable law.

Under Minn. Stat. § 209.021, subd. 3 (1998), a notice of election contest must first be served on the candidate who is the contestee, and then a copy of the notice must be sent to the contestee's last known address by certified mail. At this point, a copy of the notice may also be sent at this point to the Secretary of State if the contest relates to a constitutional amendment or other question voted on statewide or voted on in more than one county. Id. In an attempt to personally serve Contestee under Minn. Stat. §209.021, subd. 3, Contestant hand delivered the notice to Contestee's campaign headquarters without ever personally serving Contestee. But because Contestant named Contestee, not his campaign committee, as the opposing party in this matter, his delivery of the notice to a worker of the campaign committee does not suffice. Cf. Minn. R. Civ. P. 4.03(b)-(c) (stating delivery to officer or agent of partnership or corporation constitutes sufficient service). Because Contestee's campaign headquarters is not his "personal abode," Contestant's attempt at substitute service by leaving the notice with a campaign employee also is insufficient. See Minn. R. Civ. P. 4.03(a) (noting personal service sufficient if summons left with person at individual's home who is of suitable age and discretion residing therein). Moreover, Contestant's later attempt to serve Contestee by certified mail fails because he did not accompany the notice with the acknowledgment, which is necessary for service by mail. Minn. R. Civ. P. 4.05. Under these circumstances, Contestant failed to provide Contestee with sufficient service of the notice and thus cannot proceed with the Complaint for lack of personal jurisdiction.

B. Contestant failed to serve the notice of election contest within five days after completion of the canvass.

Under Minnesota's Election Contests statute, a party contesting a nomination or election must serve the notice of election contest on the candidate "within five days after the canvass is completed." Minn. Stat. § 209.021, subd. 1 (1998). Because the right to contest an election and the authority of courts to hear and determine an election contest are purely statutory, courts are powerless to entertain such proceedings absent compliance with this requirement. Schmitt v. McLaughlin, 275 N.W.2d 587, 590 (Minn. 1979). Chapter 209's procedural requirements cannot be overemphasized and must be strictly observed in order to provide the court with jurisdiction of the contest. See Hancock v. Lewis, 265 Minn. 519, 522, 122 N.W.2d 592, 594 (1963) (noting elections contests are solely creatures of statute).

Contestant filed his Complaint with the Ramsey County District Court on September 22, 2000. Contestant appears to have attempted service on Contestee on September 22, 2000. But as previously noted, Contestant never properly effected service. Although Contestant may argue his service of the notice "substantially complied" with the statute, substantial compliance with the statute's strict procedural requirements is insufficient. See Rachner v. Growe, 400 N.W.2d 749, 751 (Minn. App. 1987) (affirming trial court's dismissal of notice for lack of jurisdiction because appellant did not comply "with the precise terms of the statute"), review denied (Minn. Apr. 17, 1987). Contestant was required to serve notice on Contestee before September 22, 2000, and his failure to do so leaves the court with no choice but to dismiss his Complaint for lack of jurisdiction.¹

¹ Contestant filed an earlier Notice of Contest involving the election of Governor Ventura. The Supreme Court upheld a dismissal of that contest. Savior v. Ventura, et al, C4-99-46 Order of the Supreme Court dated April 1, 1999. See Exhibit 4 (Order dated April 1, 1999).

C. The Complaint fails to state a claim for which relief can be granted.

Under Minn. Stat. § 209.021, subd. 1, a notice of contest must specify the “grounds on which the [election] contest will be made.” The legislature no doubt included this requirement so that an election contest can focus on specific alleged improprieties in order to function efficiently and expeditiously. Holmen v. Miller, 296 Minn. at 109, 206 N.W.2d at 921. To do so, the notice must state facts “sufficient to apprise the contestee of the grounds of the contest so that [s]he is given a fair opportunity to meet the asserted claims.” Rachner, 400 N.W.2d at 751. Because the basic question in an election contest is whether the election resulted in a free and fair expression of the will of the voters on the merits, the facts in the contest must indicate not only how the candidate violated applicable election laws but also **how the violation affected the outcome of the election.** Hancock, 265 Minn. at 523, 122 N.W.2d at 595.

Contestant’s Complaint fails to state with specificity any irregularities in the conduct of the United States Senate DFL Primary election that implicate the election laws cited by Contestant and support an election contest. Instead, the Complaint makes vague allusions to Contestee’s alleged attempt to “unduly influence voters.” One allegation provided by Contestant is that Contestee’s Rx Express Program was established “to induce voters in a particular manner to vote for [Contestee] in the up coming [sic] U.S. Senate 2000 elections.” Contestant would claim this implicates Minn. Stat. § 211B.13 regarding campaign practices. See Minn. Stat. § 211B.13 (stating “person who willfully, directly or indirectly, advances, pays, gives, promises, or lends any money. . . or other thing of monetary value. . . in order to induce a voter to refrain from voting, or to vote in a particular way”).

Minn. Stat. § 211B.13 is pre-empted in this case by a provision of federal law because the federal law covers the same general subject matter and the same behavior sought to be regulated. Specifically, 18 U.S.C. §597 (1997) covers improprieties in federal elections, while Chapter

211B addresses the same state election conduct and this preempts Chapter 211B in this matter. See United State v. Bruno, 144 F.Supp. 593, 595 (D.C.Ill 1955) (stating object of 18 U.S.C. § 597 is to “prevent frauds that would affect the vote for representatives of congress”); United States v. Blanton, 77 F.Supp. 812, 815 (D.C.Mo. 1948) (noting purpose of 18 U.S.C. § 597 is to “guard against. . . direct and intentional frauds upon the votes”). However, even under Minn. Stat. §211B, Contestant’s Complaint fails because it does not state how the Rx Express program induced voters to vote for Contestee nor does it overcome the fact that the support of Rx Express participants could not have caused Contestee’s victory over the other primary candidates by more than 80,000 votes. See Hancock, 265 Minn. at 523, 122 N.W.2d at 595 (recognizing notice must demonstrate how result would have been different but for irregularities). Under these circumstances, Contestant’s Complaint must be dismissed for failure to state a claim for which relief can be granted.

II. The Court lacks jurisdiction to “intervene” in response to Contestant’s Complaint.

In his Complaint, Contestant alleges Contestee engaged in election fraud and asks the court for “intervention” into the matter. But Chapter 209 does not permit Minnesota courts to render an opinion in response to allegations of election fraud at this level. Instead, Minn. Stat. § 209.12 (1998) states that the court may only determine which party to the contest received the highest number of votes legally cast at the election. Any other evidence, “*including but not limited to the question of the right of any person to nomination or office on the ground of deliberate, serious, and material violation of the provisions of Minnesota election law,*” must be taken and preserved by the judge trying the contest; the judge may not make any findings or conclusions on those points. Id. (emphasis added). Evidence, if any is taken, is forwarded to the presiding officer of the United States Senate to investigate. Id.

Here, Contestant makes vague allegations in his Complaint relating to Minnesota's election laws. See Minn. Stat. §211B.13 (1998) (giving things of value statute); §211B.07 (1998) (undue influence). But these election laws were not intended as rules for federal election contests. Although in Flaten v. Kvale, 146 Minn. 463, 466, 179 N.W. 213, 214-15 (1920), the state courts ruled on an issue in a federal primary for a congressional seat, such state judicial actions have been criticized. See 70 Harvard Law Review 1077 (1957). Instead, the better practice is to recognize that **Congress alone shall be the judge of the elections**, returns and qualifications of its members. U.S. Const. art. I §5. Unless the election contest also involves the question of which candidate received a majority of the votes cast, a court has no jurisdiction over an election contest involving alleged violations of election fraud statutes. Id.; see State ex rel. 25 Voters v. Selvig, 170 Minn. 406, 407 (1927) (noting court's jurisdiction over primary election contests is limited to determining whether administration of such elections was valid, and courts may not encroach upon congressional power to determine who is seated in United States Senate).

Because the Constitution declares that each house of Congress shall be the judge of the elections, returns and qualification of its own members, matters are left for the United States Congress to evaluate. Youngdale v. Estvold, 232 Minn. 134, 144, 44 N.W.2d 459, 464 (1950); Selvig, 170 Minn. at 407. U.S. Const., art. I, § 5; Phillips v. Ericson, 248 Minn. 452, 459, N.W.2d 513, 519 (1957). The Court, therefore, lacks authority to "intervene" as requested by Contestant's Complaint.

CONCLUSION

"In contests over nominations and elections, it is highly important that the dispute be disposed of speedily in order that the election machinery may not be completely thrown out of gear." Youngdale, 232 Minn. at 144, 44 N.W.2d at 464 (1950). In this case, the deficiencies in Contestant's Complaint leave the court with no choice but to dismiss this action immediately as a

matter of law. The voters of Minnesota have been given an opportunity to freely and fairly vote and elected Contestee as their DFL U.S. Senate candidate. Failure to dismiss this Complaint not only gives unsuccessful candidates, such as Contestant, another shot at preventing this nomination but, more importantly, ignores the voter's clear support of Contestee.

Date: Sept 26, 2000

BEST & FLANAGAN LLP

By: Timothy A. Sullivan

Frank J. Walz (#114327)
Timothy A. Sullivan (#107165)
Michelle Bergholz Frazier (#285468)
4000 U.S. Bank Place
601 Second Avenue South
Minneapolis, MN 55402
(612) 339-7121

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ATTORNEYS FOR MARK DAYTON

State of Minnesota

SECRETARY OF STATE

We, the undersigned legally constituted State Canvassing Board, as required by law, canvassed on September 19, 2000, the certified copies of the statements made by the County Canvassing Boards of the votes cast at the September 12, 2000 State Primary for candidates for nomination by the Constitution Party, Democratic-Farmer-Labor Party, Independence Party, and Republican Party for the office of United States Senator, United States Representative, State Senator, and State Representative. We have specified in the following report the names of persons receiving such votes and the number received by each in the several counties in which they were cast. The candidate in each case who received the highest number of votes is hereby declared to be the nominee of their respective party.

Mary Kiffmeyer
Mary Kiffmeyer
Secretary of State

Paul H. Anderson
Paul H. Anderson, Associate Justice of the
Supreme Court

Edward C. Stringer
Edward C. Stringer, Associate Justice of the
Supreme Court

James M. Campbell
James M. Campbell, Judge of the District
Court, Second District

John T. Finley
John T. Finley, Judge of the District
Court, Second District
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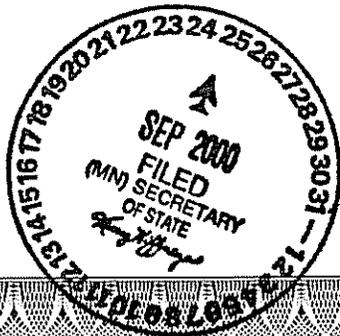


EXHIBIT 1

US SENATOR

County	DFL OLE SAVIOR	DFL MIKE CIRESI	DFL JERRY R. JANEZICH	DFL HAL DORLAND	
AITKIN		11	385	603	2
ANOKA		60	4573	5076	27
BECKER		21	433	364	11
BELTRAMI		8	348	917	6
BENTON		13	397	430	7
BIG STONE		2	119	61	3
BLUE EARTH		13	701	439	14
BROWN		2	237	227	0
CARLTON		9	578	1483	1
CARVER		6	889	658	6
CASS		11	384	386	4
CHIPPEWA		1	227	174	4
CHISAGO		18	698	1111	10
CLAY		9	358	144	4
CLEARWATER		9	87	107	7
COOK		6	153	240	4
COTTONWOOD		2	141	113	2
CROW WING		13	769	854	8
DAKOTA		54	7102	5103	35
DODGE		7	127	100	1
DOUGLAS		8	443	506	6
FARIBAULT		15	294	191	5
FILLMORE		11	163	177	3
FREEBORN		10	561	485	12
GOODHUE		10	681	661	5
GRANT		2	96	110	1
HENNEPIN		200	31387	16932	92
HOUSTON		4	118	54	5
HUBBARD		9	242	409	3
ISANTI		5	307	487	4
ITASCA		26	825	2709	10
JACKSON		4	148	57	2
KANABEC		6	159	279	1
KANDIYOHI		6	656	427	1
KITTSOON		3	111	33	7
KOOCHICHING		5	198	543	5
LAC QUI PARLE		5	182	125	2
LAKE		2	269	947	2
LAKE OF THE WOODS		9	101	90	4
LE SUEUR		2	309	284	4
LINCOLN		1	57	25	2
LYON		7	216	133	2
MCLEOD		5	316	298	0
MAHNOMEN		5	62	32	2
MARSHALL		6	109	50	3
MARTIN		4	285	119	1
MEEKER		4	227	166	0

US SENATOR

County	DFL OLE SAVIOR	DFL MIKE CIRESI	DFL JERRY R. JANEZICH	DFL HAL DORLAND	
MILLE LACS		3	242	274	2
MORRISON		2	304	403	4
MOWER		12	446	314	6
MURRAY		0	84	94	2
NICOLLET		2	399	216	0
NOBLES		3	150	268	9
NORMAN		4	79	33	2
OLMSTED		37	1335	941	18
OTTER TAIL		12	507	333	9
PENNINGTON		5	115	135	3
PINE		12	656	890	6
PIPESTONE		3	85	39	3
POLK		20	343	236	5
POPE		6	245	224	5
RAMSEY		164	18527	10688	74
RED LAKE		1	55	56	1
REDWOOD		4	162	101	2
RENVILLE		6	199	146	4
RICE		17	1553	997	14
ROCK		5	87	34	1
ROSEAU		4	118	61	1
SAINT LOUIS		68	3725	20124	38
SCOTT		10	739	697	2
SHERBURNE		17	649	806	8
SIBLEY		3	143	128	1
STEARNS		21	1430	1258	12
STEELE		3	337	276	0
STEVENS		6	194	264	3
SWIFT		7	257	177	2
TODD		6	200	295	4
TRAVERSE		1	59	19	2
WABASHA		5	222	147	3
WADENA		4	126	178	3
WASECA		4	149	140	1
WASHINGTON		36	3856	2604	6
WATONWAN		3	141	85	1
WILKIN		8	66	20	1
WINONA		16	666	317	2
WRIGHT		11	803	1004	7
YELLOW MEDICINE		6	193	133	3
	=====	=====	=====	=====	
	1206	96874	90074	610	

US SENATOR

County	DFL REBECCA YANISCH	DFL "DICK" FRANSON	DFL GREGG A. IVERSON	DFL MARK DAYTON	
AITKIN	228	9	5	1121	
ANOKA	3227	75	35	11091	
BECKER	453	13	36	1342	
BELTRAMI	373	6	5	1047	
BENTON	321	17	14	1055	
BIG STONE	68	9	9	285	
BLUE EARTH	448	7	8	1304	
BROWN	166	2	2	573	
CARLTON	129	12	6	1173	
CARVER	786	8	9	1625	
CASS	366	12	2	1240	
CHIPPEWA	173	2	3	560	
CHISAGO	594	20	12	1874	
CLAY	371	6	16	1020	
CLEARWATER	115	5	7	278	
COOK	91	4	4	280	
COTTONWOOD	55	2	2	325	
CROW WING	526	15	14	2050	
DAKOTA	4754	102	44	11987	
DODGE	172	7	4	265	
DOUGLAS	392	7	11	1374	
FARIBAULT	232	4	4	658	
FILLMORE	317	8	8	504	
FREEBORN	612	17	13	1464	
GOODHUE	923	9	7	1797	
GRANT	104	4	2	341	
HENNEPIN	17431	267	130	47752	
HOUSTON	81	11	16	214	
HUBBARD	265	5	7	755	
ISANTI	281	4	2	996	
ITASCA	387	25	16	2091	
JACKSON	50	9	2	264	
KANABEC	190	1	2	650	
KANDIYOHI	411	6	6	1320	
KITTSOON	135	2	7	351	
KOOCHICHING	79	11	12	556	
LAC QUI PARLE	146	5	8	473	
LAKE	77	4	8	611	
LAKE OF THE WOODS	89	7	15	322	
LE SUEUR	246	3	7	768	
LINCOLN	23	4	1	134	
LYON	109	5	3	506	
MCLEOD	280	4	2	734	
MAHNOMEN	70	4	10	186	
MARSHALL	218	5	6	352	
MARTIN	148	3	4	665	
MEEKER	202	6	3	601	

US SENATOR

County	DFL REBECCA YANISCH	DFL "DICK" FRANSON	DFL GREGG A. IVERSON	DFL MARK DAYTON
MILLE LACS	178	2	5	679
MORRISON	279	19	6	1024
MOWER	518	11	15	1448
MURRAY	56	9	7	244
NICOLLET	228	3	6	698
NOBLES	78	22	21	387
NORMAN	104	3	7	321
OLMSTED	1958	33	16	2617
OTTER TAIL	500	11	21	1426
PENNINGTON	119	2	4	302
PINE	383	16	11	1576
PIPESTONE	53	10	6	173
POLK	1067	10	18	1080
POPE	220	3	9	597
RAMSEY	10011	147	100	25137
RED LAKE	67	2	2	165
REDWOOD	137	5	3	410
RENVILLE	148	4	7	547
RICE	1052	12	16	2330
ROCK	35	6	11	155
ROSEAU	98	4	15	309
SAINT LOUIS	1033	58	56	8346
SCOTT	607	10	7	1680
SHERBURNE	550	18	8	1616
SIBLEY	121	2	2	435
STEARNS	1048	28	17	3376
STEELE	353	4	3	672
STEVENS	173	3	5	484
SWIFT	163	6	2	583
TODD	215	7	2	696
TRAVERSE	29	1	1	209
WABASHA	218	7	5	502
WADENA	121	1	4	406
WASECA	249	2	3	444
WASHINGTON	2659	37	19	6842
WATONWAN	92	4	3	397
WILKIN	72	2	6	164
WINONA	560	21	23	923
WRIGHT	675	15	13	2121
YELLOW MEDICINE	148	3	4	517
	=====	=====	=====	=====
	63289	1336	1038	178972

STATE OF MINNESOTA
COUNTY OF RAMSEY

SECOND JUDICIAL
DISTRICT COURT

Plaintiff,)
Ole Savior)
vs.)
Mark Dayton)
Defendant,)

COMPLAINT :

* CONTESTED ELECTION :
United States Senate
Minnesota Primary
D.F.L. September 12, 2000.

Election Fraud Violations
MN. STATE & FEDERAL LAW



Ole Savior
V.S.
Mark Dayton

COMPLAINT: Rx EXPRESS Usage : to influence Voters.

There is a pattern of abuse of power Mark Dayton uses in this U.S. Senate 2000 election. These public illeal contributions are actually an attempt to influence voters with private money in order to obtain public sympathy as well as free publicity from the news media coverage for Daytons candidacy.

I am requesting that he be disqualified as Minnesota Statute 211B states.

EXHIBIT 2

As a millionaire he uses his private money in order to obtain an unfair advantage over other candidates.

Public sympathy as well as free publicity from the news media coverage for Dayton's candidacy is like money in the bank.

Rx EXPRESS Usage: to influence Voters and offers of monetary value and promises to induce voters in a particular manner to vote for Mark Dayton in the up coming U.S. Senate 2000 elections in Minnesota. 211B.13 Bribery, Treating, and Solicitation. Violation of the Minnesota State Fair Campaign practice Laws. Violation 211B.07 Influence on voters PROHIBITED. 211A.10 Disqualified Individuals Not To Hold Various Positions.

Mark Dayton has clearly violated those Minnesota statute laws. His drug policy played on the fears of the elderly.

Buying votes in an illegal criminal act also immoral.

He should be disqualified A.S.A.P. 211A.10 MN. Statute. Dayton is not at all in touch with the average man or women in Minnesota. He thinks he can buy this election and unfortunately he comes across as untrustworthy and elitist, trying to make the public think he's a nice guy when truthfully he is just using his millions like he unsuccessfully failed to do before.

He has even stolen other candidate speeches and televised them as his own in hopes of influencing voters at the other candidates expense politically.

He gives out his home phone number to people on the street that want financial help to impress the news media of his generosity to the poor and a good reason to become a U.S. Senator.

He is trying to buy this election at any cost.

His honor system needs to be self examined.

Mark Dayton claims he would accept \$1.00 a year salary was to gain favor with voters in an unfair manner towards the other candidates a few days before the election.

In referance also to the Minnesota Fair Campaign Laws that were violated, Constitutional Laws and Civil Rights Laws occured preceeding the election. Mark Dayton used censorship and exclusion from debates, collusion with three other candidates to deny me my rights as a legal U.S. Senate candidate.

" IN GOOD FAITH "

As a voter and resident of Minnesota and

As a candidate for U.S. Senate Minnesota 2000

D.F.L. also I am requesting your intervention into this case of election fraud of intentionally trying to buy election votes by Mark Dayton, or any other infraction in the Fair CAMPAIGN Laws he violated with his activities during this election year U.S. Senate Minnesota 2000.

Deke Ahmed
Subscribed and sworn to
before this date.



Deputy or Notary

Dated:

Sept 22, 2000

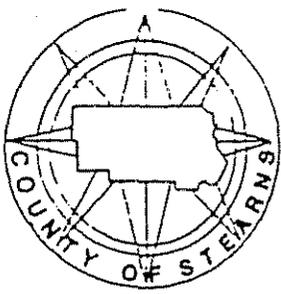
1905 Elliot Ave. South
Minneapolis, Minnesota 55404

Signed :

Ole Savior

Ole Savior
U.S. Senate Candidate D.F.L.
Minnesota 2000 (612)872-8050

(Pro-Se)



COUNTY OF STEARNS

Office of County Attorney

Administration Center, RM 448 • 705 Courthouse Square • St. Cloud, MN 56303-4773
(320) 656-3880 FAX (320) 656-6695

ROGER S. VAN HEEL
County Attorney

PATRICK T. STROM
First Assistant
Acting Chief-Civil/Human Services Division

MARY A. YUNKER
Chief-Criminal Division

LEGAL ASSISTANT
Heidi E. Slegers

INVESTIGATORS
William C. Winscher - Chief
Jode G. Boldt
Pamela W. Weber

VICTIM ASSISTANCE COORDINATOR
Audrey L. Westergren

ASSISTANT COUNTY ATTORNEYS

Daniel A. Benson
Suzanne Bollman
Will R. Brost
Robert J. Calhoun
Theresa M. Kehe
Michael J. Lieberg
William S. MacPhail
Richard J. May
Dennis A. Pfahn
Jacqueline M. Schuh
Brenda L. Theis
Samuel Wertheimer, II
Sam D. Young

LAW OFFICE SUPERVISOR
Gladys E. Breuer

September 1, 2000

Mr. Ole Savior
1905 Elliot Avenue South
Minneapolis, MN 55404

Re: Illegal Public Contributions Complaint

Dear Mr. Savior:

I have your letter dated August 29, 2000, concerning the above.

The matter will be reviewed, investigated, if necessary, and appropriate action will be taken.

Dear Sir :

* Please
include in your :

PTS:geb

211B.16 211B.18 211B.13 MN. Campaign Statutes Violations.
* investigation concernig Mark Dayton's free bus trips to voters,
his frequent offers of financial help to persons he meets on the
street giving them his home phone number during his campaign to
buy the Minnesota U.S. Senate for himself. Also his free hot
line to the elderly and his \$ 1.00 salary a year to influence D.F.L.
voters to vote for him in the primary. Illegal activities. MN. State

Ole Savior
By: Ole Savior
1905 Elliot Ave. So.
Minneapolis, MN. 55404
(612) 872-8050

Notary: Deke Ahmed

Dated : Sept 15, 2000

Very truly

Patrick T. Strom
Patrick T. Strom



State of Minnesota, }
County of Ramsey } ss.

District Court
2ND Judicial District

Ole SAVIOR
vs.
MARK DAYTON

Contested
Election
U.S. Senate
MN. 2000 (D.F.L.)
Primary Sept 12,
2000
2121 Apt 609

State of Minnesota, }
County of Ramsey } ss.

TERANCE WEST of the MINNEAPOLIS of Mpls. MN 55401
County of HENNEPIN in the State of Minnesota, being duly sworn, says that on the
22 day of September (Friday) 2000 he served the annexed
MARK DAYTON Campaign Headquarters 3030

on Lexington Ave. Egan, MN 55121
the attorney(s) for Contestee in this action, by mailing to MARK DAYTON a copy thereof, inclosed
in an envelope, postage prepaid, and by depositing same in the post office at
Minnesota directed to said attorney(s) at 3030 Lexington Ave. Egan, MN.
the last known address of said attorney(s). 55121

Certified Mail
Terence West

Subscribed and sworn to before me, this 22 day of September 2000
[Signature]



State of Minnesota, }
County of Ramsey } ss.

District Court

2ND Judicial District

Ole SAVIOR
vs.
MARK DAYTON

Contested
Election (D.F.L.)
U.S. Senate
MN. 2000
Primary Sept 12,
2000

State of Minnesota, }
County of Ramsey } ss.

2121 Apt. 609

TERENCE WEST of the Minnehaha Ave of Mpls. MN. 55404
County of HEMNEN in the State of Minnesota, being duly sworn, says that on the
22 day of September, 2000 he served the annexed
MARK DAYTON 2112 KENWOOD PARKWAY 55405
on FRIDAY "Certified mail" Mpls. MN.
the attorney(s) for
the Contestee in this action, by mailing to MARK DAYTON a copy thereof, inclosed
in an envelope, postage prepaid, and by depositing same in the post office at Univ. Station Mpls.
Minnesota directed to said attorney(s) at 2112 KENWOOD PARKWAY 55405
the last known address of said attorney(s)

Terence West
[Signature]

Subscribed and sworn to before me, this 22 day of September, 2000

State of Minnesota,

County of Ramsey Terence West, being duly sworn, on oath says: that on the 22nd day of Sept, year 2000,

he served the attached Contested Election Complaint # 170 upon Mary Kiffmeyer Sec of State 20 Constitution Ave St Paul MN therein named, personally, at State Office Bldg 20 Constitution Ave St Paul

in the County of Ramsey, State of Minnesota, by handing to and leaving with

Clerk of Records 1 copy true and correct copy thereof.

Terence West

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

Subscribed and sworn to before me this 22 day of September, year 2000.

[Signature] SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Contested Election
U.S. Senate MN.
Primary (D.F.L.)
Sept 12, 2000

Hand delivery To:
MARY KIFFMEYER
Secretary of State
Office # 170
Constitution Ave.
St. Paul, MN.
55101

State of Minnesota,

County of Ramsey Terence West, being duly sworn, on oath says: that on the FRIDAY 22 day of September year 2000 he served the attached Contested Election upon MARK DAYTON Campaign therein named, personally, at 3030 Lexington Ave. Egan, MN. 55121

in the County of Egan (Ramsey), State of Minnesota, by handing to and leaving with Office Clerk U.S. Senate at desk Contested Election Primary true and correct copy 1 copy 3 pages thereof.

Terence West

Subscribed and sworn to before me this 22 day of September year 2000

[Signature]
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

Contested Election
U.S. Primary
Senate, MN. (D.F.L.)
Sept 12, 2000

HAND Delivery To:
MARK DAYTON Campaign
3030 Lexington Ave.
Egan, MN 55121

STATE OF MINNESOTA
IN SUPREME COURT

OFFICE OF
APPELLATE COURTS
APR 1 1999

28

C4-99-46

FILED

Ole Savior,

FILED
Court Administrator

C4-98-11100

Appellant,

APR 02 1999

vs.

By J. E. GOCIOVICH Deputy

Jesse Ventura, et al.,

Respondents.

ORDER

On February 5, 1999, pro se appellant Ole Savior filed with this court a document identified as a petition for accelerated review, a petition for review of a decision of the Court of Appeals and a conditional petition for review. The document also contains language typical of a notice of appeal.

On March 17, 1999, respondents Jesse Ventura and Dean Barkley filed a motion to dismiss the appeal. Respondents argue that the appeal should be dismissed because it is untimely and that certain constitutional issues asserted by appellant were improperly raised for the first time in the appeal to this court. We conclude that the appeal is untimely and must be dismissed.

Appellant seeks review of a court of appeals' order filed January 27, 1999, dismissing his appeal from a Ramsey County District Court judgment entered on January 22, 1999. The district court judgment dismissed an election contest brought by appellant against Jesse Ventura and Dean Barkley. The election contest was filed in the district court on November 10, 1998.

EXHIBIT 4

apparently challenging the results of the September 15, 1998 primary election of Jesse Ventura as the gubernatorial candidate of the Reform Party and the November 3, 1998 general election of respondent Ventura as governor. The basis for appellant's challenge was his allegation that on July 21, 1998, respondents Ventura and Barkley, his campaign manager, violated the Fair Campaign Practices Act, Minn. Stat. ch. 211B (1998), by their payment of the \$600 filing fee for the Republican Party gubernatorial primary on behalf of a candidate, Bill Dahl. This payment enabled Dahl, who had previously filed as a candidate in the Reform Party gubernatorial primary against respondent Ventura, to switch to the Republican Party primary, thus benefiting respondent Ventura by removing his only opponent in the Reform Party primary.

The district court granted respondents' motion to dismiss on grounds that appellant had not properly served the respondents pursuant to Minn. Stat. § 209.021, subd. 2 (1998), that he had not furnished a copy of his notice of contest to the Secretary of State as required by Minn. Stat. § 209.021, subd. 3 (1998), and that the election contest was in any event untimely because it was in reality a challenge to the primary election, not the general election. A challenge concerning a primary election must be brought within five days after the canvass for the primary is completed. Minn. Stat. § 209.021, subd. 1 (1998). The 1998 primary canvass was completed on September 22, 1998, but appellant did not commence his election contest until November 10. Judgment dismissing the election contest was entered on December 22, 1998.

On January 5, 1999, appellant filed an appeal to the court of appeals from the December 22 judgment dismissing his case. By order filed January 27, 1999, the court of appeals granted respondents' motion to dismiss the appeal. The court of appeals explained that

it does not have jurisdiction to hear appeals of contests concerning elections for statewide office. Minnesota Statutes sections 209.09, subd. 2, and 209.10, subd. 4 (1998), require that those appeals be directed to this court. The court of appeals also pointed out that appellant's notice of appeal was untimely, because an appeal of an election contest must be taken within 10 days of entry of judgment if the contest concerns the general election and within 5 days of entry of judgment if the contest concerns the primary election, and appellant's notice of appeal was filed 14 days after entry of judgment. *Id.*

Then, as noted above, on February 5, 1999, appellant filed with this court a document identified as a petition for accelerated review, a petition for review of a decision of the court of appeals and a conditional petition for review. Addressing that document as a petition for review of the decision of the court of appeals under Minn. R. Civ. App. P. 117, the petition is denied.

We recognize that appellant is appearing pro se and that he alleges that he was told that an appeal from the district court's dismissal of his case would be to the court of appeals. We further note that the petition contains language typical of a notice of appeal. Therefore, we will also treat appellant's document as a notice of appeal to this court.¹

Even viewing the document as a notice of appeal and treating it as if it had been filed with this court on January 5, the date when the prior notice of appeal to the court of appeals was filed, appellant's appeal from the judgment entered December 22, 1998, is untimely. As an appeal of an election contest challenging the primary election, the appeal had to be filed

¹ In doing so, we do not suggest that pro se litigants will not be required to adhere to the clear terms of statutes and procedural rules that govern their appeals. Rather we do so to illustrate that even given the most generous construction, appellant's appeal is nevertheless defective.

within 5 days of entry of judgment, that is, by December 30. Even if construed as an appeal of an election contest challenging the general election, the appeal had to be filed within 10 days of entry of judgment, that is, by January 4.² The appeal was filed on January 5 and did not meet either deadline. This court has long held that since the right to contest an election and the authority of the courts to hear and determine election contests are purely statutory, absent strict compliance with the statutory requirements, the courts are powerless to entertain such contests or appeals therefrom. *E.g., Schmitt v. McLaughlin*, 275 N.W.2d 587 (Minn. 1979). Accordingly, treating appellant's document as a notice of appeal, the appeal must be dismissed as untimely.

Finally, the procedure followed by the district court in this matter requires comment. Minnesota Statutes section 209.045 (1998) requires that an election contest concerning a statewide office must be heard in Ramsey County District Court. When such a case is filed, the court administrator is required to notify the Chief Justice of the Supreme Court, who then appoints three judges to hear and determine the case. *Id.* Appellant points out that this process was not followed in this case. In its decision dismissing appellant's election contest, the district court did not address this procedure or explain why it was not followed.

We emphasize that in the future the court administrator must notify the Chief Justice and follow this statutory procedure in all election contests concerning a statewide office, even if the district court believes there are jurisdictional defects in the election contest. We decide this appeal even though the statutory procedure was not followed in the district court only in

² The ten days would have run on Friday, January 1. Since January 1 was a holiday followed by two weekend days, the deadline for filing the appeal was extended to Monday, January 4. See Minn. R. Civ. P. 6.05, incorporated into the Rules of Civil Appellate Procedure by Rule 126.01, Minn. R. Civ. App. P.

the interests of judicial economy and because the interests of justice would not be served by a remand that would inevitably conclude with the same result. *See State v. Lothenbach*, 296 N.W.2d 854, 858 (Minn. 1980) (court entertains appeal in interests of justice rather than remand for proper procedure followed by another appeal). Nevertheless, in the future this decision will not be treated as precedent for ignoring the statutory procedure even if the correct result is reached.

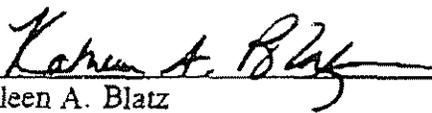
Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED that the petition for review is denied, and

IT IS FURTHER ORDERED that to the extent appellant's document is intended to serve as a notice of appeal, the appeal is dismissed as untimely.

Dated: 4/1/99

BY THE COURT:



Kathleen A. Blatz
Chief Justice