

U. S. Supreme Court

**BUCKLEY v. AMERICAN CONSTITUTIONAL LAW (97-930)
120 F.3d 1092, affirmed (1999)**

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 97-930

**VICTORIA BUCKLEY, SECRETARY OF STATE OF COLORADO,
PETITIONER v. AMERICAN CONSTITUTIONAL LAW FOUNDATION,
INC., et al.**

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE TENTH CIRCUIT**

[January 12, 1999]

Justice Ginsburg delivered the opinion of the Court.

Colorado allows its citizens to make laws directly through initiatives placed on election ballots. See Colo. Const., Art. V, §§1(1), (2); Colo. Rev. Stat. §§1-40-101 to 1-40-133 (1998). We review in this case three conditions Colorado places on the ballot-initiative process: (1) the requirement that initiative-petition circulators be registered voters, Colo. Rev. Stat. §1-40-112(1) (1998); (2) the requirement that they wear an identification badge bearing the circulator's name, §1-40-112(2); and (3) the requirement that proponents of an initiative report the names and addresses of all paid circulators and the amount paid to each circulator, §1-40-121.

Precedent guides our review. In *Meyer v. Grant*, 486 U.S. 414 (1988), we struck down Colorado's prohibition of payment for the circulation of ballot-initiative petitions. Petition circulation, we held, is "core political speech," because it involves "interactive communication concerning political change." *Id.*, at 422 (internal quotation marks omitted). First Amendment protection for such interaction, we agreed, is "at its zenith." *Id.*, at 425 (internal quotation marks omitted). We have also recognized, however, that "there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes." *Storer v. Brown*, 415 U.S. 724, 730 (1974); see *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997); *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983). Taking careful account of these guides, the Court of Appeals for the Tenth Circuit upheld some of the State's regulations, but found the three controls at issue excessively restrictive of political speech, and therefore declared them invalid. *American Constitutional Law Foundation, Inc. v. Meyer*, 120 F.3d 1092 (1997). We granted certiorari, 522 U.S. ____ (1998), and now affirm that judgment.

I

The complaint in this action was filed in 1993 in the United States District Court for the District of Colorado pursuant to 42 U.S.C. § 1983; it challenged six of Colorado's many controls on the initiative-petition process. Plaintiffs, now respondents, included American Constitutional Law Foundation, Inc., a nonprofit, public interest organization that supports direct democracy, and several individual participants in Colorado's initiative process. In this opinion we refer to plaintiffs-respondents, collectively, as ACLF.¹ ACLF charged that the following prescriptions of Colorado's law governing initiative petitions violate the First Amendment's freedom of speech guarantee: (1) the requirement that petition circulators be at least 18 years old, Colo. Rev. Stat. §1-40-112(1) (1998);² (2) the further requirement that they be registered voters, *ibid.*;³ (3) the limitation of the petition circulation period to six months, §1-40-108;⁴ (4) the requirement that petition circulators wear identification badges stating their names, their status as "VOLUNTEER" or "PAID," and if the latter, the name and telephone number of their employer, §1-40-112(2);⁵ (5) the requirement that circulators attach to each petition section⁶ an affidavit containing, *inter alia*, the circulator's name and address and a statement that "he or she has read and understands the laws governing the circulation of petitions," §1-40-111(2);⁷ and (6) the requirements that initiative proponents disclose (a) at the time they file their petition, the name, address, and county of voter registration of all paid circulators, the amount of money proponents paid per petition signature, and the total amount paid to each circulator, and (b) on a monthly basis, the names of the proponents, the name and address of each paid circulator, the name of the proposed ballot measure, and the amount of money paid and owed to each circulator during the month, §1-40-121.8

The District Court, after a bench trial,⁹ struck down the badge requirement and portions of the disclosure requirements, but upheld the age and affidavit requirements and the six-month limit on petition circulation. See *American Constitutional Law Foundation, Inc. v. Meyer*, 870 F. Supp. 995, 1001-1004 (Colo. 1994). The District Court also found that the registration requirement "limits the number of persons available to circulate ... and, accordingly, restricts core political speech." *Id.*, at 1002. Nevertheless, that court upheld the registration requirement. In 1980, the District Court noted, the registration requirement had been adopted by Colorado's voters as a constitutional amendment. See *ibid.* For that reason, the District Court believed, the restriction was "not subject to any level of scrutiny." *Ibid.*

The Court of Appeals affirmed in part and reversed in part. See 120 F.3d 1092 (CA10 1997). That court properly sought guidance from our recent decisions on ballot access, see, e.g., *Timmons v. Twin Cities Area New Party*, 520 U.S. 351 (1997), and on handbill distribution, see *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334 (1995). See 120 F.3d, at 1097, 1103. Initiative-petition circulators, the Tenth Circuit recognized, resemble handbill distributors, in that both seek to promote public support for a particular issue or position. See *id.*, at 1103. Initiative-petition circulators also resemble candidate-petition signature gatherers, however, for both seek ballot access. In common with the District Court, the Tenth Circuit upheld, as reasonable regulations of the ballot-initiative process, the age restriction, the six-month limit on petition circulation, and the affidavit requirement. See *id.*, at 1098-1100, 1101.¹⁰ The Court of Appeals struck down the requirement that petition circulators be registered voters, and also held portions of the badge and disclosure requirements invalid as trenching unnecessarily and improperly on political expression. See *id.*, at 1100, 1101-1105.

II

As the Tenth Circuit recognized in upholding the age restriction, the six-month limit on circulation, and the affidavit requirement, States allowing ballot initiatives have considerable leeway to protect the integrity and reliability of the initiative process, as they have with respect to

election processes generally. See *Biddulph v. Mortham*, 89 F.3d 1491, 1494, 1500-1501 (CA11 1996) (upholding single subject and unambiguous title requirements for initiative proposals to amend Florida's Constitution), cert. denied, 519 U.S. 1151 (1997); *Taxpayers United For Assessment Cuts v. Austin*, 994 F.2d 291, 293-294, 296-297 (CA6 1993) (upholding Michigan procedures for checking voters' signatures on initiative petitions).¹¹ We have several times said "no litmus-paper test" will separate valid ballot-access provisions from invalid interactive speech restrictions; we have come upon "no substitute for the hard judgments that must be made." *Storer*, 415 U.S., at 730; see *Timmons*, 520 U.S., at 359; *Anderson*, 460 U.S., at 789-790. But the First Amendment requires us to be vigilant in making those judgments, to guard against undue hindrances to political conversations and the exchange of ideas. See *Meyer*, 486 U.S., at 421. We therefore detail why we are satisfied that, as in *Meyer*, the restrictions in question significantly inhibit communication with voters about proposed political change, and are not warranted by the state interests (administrative efficiency, fraud detection, informing voters) alleged to justify those restrictions.¹² Our judgment is informed by other means Colorado employs to accomplish its regulatory purposes.

III

By constitutional amendment in 1980, see Colo. Const., Art. V, §1(6) (1980), and corresponding statutory change the next year, see 1981 Colo. Sess. Laws, ch. 56, §4, Colorado added to the requirement that petition circulators be residents, the further requirement that they be registered voters.¹³ Registration, Colorado's Attorney General explained at oral argument, demonstrates "commit[ment] to the Colorado law-making process," Tr. of Oral Arg. 10, and facilitates verification of the circulator's residence, see *id.*, at 10, 14. Beyond question, Colorado's registration requirement drastically reduces the number of persons, both volunteer and paid, available to circulate petitions. We must therefore inquire whether the State's concerns warrant the reduction. See *Timmons*, 520 U.S., at 358.

When this case was before the District Court, registered voters in Colorado numbered approximately 1.9 million. At least 400,000 persons eligible to vote were not registered. See 2 Tr. 159 (testimony of Donetta Davidson, elections official in the Colorado Secretary of State's office);¹⁴ 120 F.3d, at 1100 ("Colorado acknowledges there are at least 400,000 qualified but unregistered voters in the state.").¹⁵

Trial testimony complemented the statistical picture. Typical of the submissions, initiative proponent Paul Grant testified: "Trying to circulate an initiative petition, you're drawing on people who are not involved in normal partisan politics for the most part. . . . [L]arge numbers of these people, our natural support, are not registered voters." 1 Tr. 128.

As earlier noted, see *supra*, at 5, the District Court found from the statistical and testimonial evidence: "The record does show that the requirement of registration limits the number of persons available to circulate and sign [initiative] petitions and, accordingly, restricts core political speech." 870 F. Supp., at 1002. Because the requirement's source was a referendum approved by the people of Colorado, however, the District Court deemed the prescription "not subject to any level of [judicial] scrutiny." *Ibid.* That misjudgment was corrected by the Tenth Circuit: "The voters may no more violate the United States Constitution by enacting a ballot issue than the general assembly may by enacting legislation." 120 F.3d, at 1100.

The Tenth Circuit reasoned that the registration requirement placed on Colorado's voter-eligible population produces a speech diminution of the very kind produced by the ban on paid circulators at issue in *Meyer*. See 120 F.3d, at 1100. We agree. The requirement that circulators be not merely voter eligible, but registered voters, it is scarcely debatable given the uncontested numbers, see

supra, at 8-9, and n. 15, decreases the pool of potential circulators as certainly as that pool is decreased by the prohibition of payment to circulators.¹⁶ Both provisions "limi[t] the number of voices who will convey [the initiative proponents'] message" and, consequently, cut down "the size of the audience [proponents] can reach." Meyer, 486 U.S., at 422, 423; see *Bernbeck v. Moore*, 126 F.3d 1114, 1116 (CA8 1997) (quoting Meyer); see also Meyer, 486 U.S., at 423 (stating, further, that the challenged restriction reduced the chances that initiative proponents would gather signatures sufficient in number to qualify for the ballot, and thus limited proponents' "ability to make the matter the focus of statewide discussion"). In this case, as in Meyer, the requirement "imposes a burden on political expression that the State has failed to justify." *Id.*, at 428.

Colorado acknowledges that the registration requirement limits speech, but not severely, the State asserts, because "it is exceptionally easy to register to vote." Reply Brief 5, 6; see Brief for Petitioner 30-31. The ease with which qualified voters may register to vote, however, does not lift the burden on speech at petition circulation time. Of course there are individuals who fail to register out of ignorance or apathy. See post, at 6 (O'Connor, J., concurring in judgment in part and dissenting in part). But there are also individuals for whom, as the trial record shows, the choice not to register implicates political thought and expression. See 1 Tr. 14 (testimony of ballot-initiative organizer Jack Hawkins). A lead plaintiff in this case, long active in ballot-initiative support—a party no doubt "'able and willing' to convey a political message," cf. post, at 5 (O'Connor, J., concurring in judgment in part and dissenting in part)—testified that his refusal to register is a "form of ... private and public protest." 1 Tr. 223 (testimony of William Orr, executive director of ACLF). Another initiative proponent similarly stated that some circulators refuse to register because "they don't believe that the political process is responsive to their needs." *Id.*, at 58 (testimony of Jon Baraga). For these voter-eligible circulators, the ease of registration misses the point.¹⁷

The State's dominant justification appears to be its strong interest in policing lawbreakers among petition circulators. Colorado seeks to ensure that circulators will be amenable to the Secretary of State's subpoena power, which in these matters does not extend beyond the State's borders. See Brief for Petitioner 32. The interest in reaching law violators, however, is served by the requirement, upheld below, that each circulator submit an affidavit setting out, among several particulars, the "address at which he or she resides, including the street name and number, the city or town, [and] the county." Colo. Rev. Stat. §1-40-111(2) (1998); see supra, at 4, n. 7. This address attestation, we note, has an immediacy, and corresponding reliability, that a voter's registration may lack. The attestation is made at the time a petition section is submitted; a voter's registration may lack that currency.

ACLF did not challenge Colorado's right to require that all circulators be residents, a requirement that, the Tenth Circuit said, "more precisely achieved" the State's subpoena service objective. 120 F.3d, at 1100. Nor was any eligible-to-vote qualification in contest in this lawsuit. Colorado maintains that it is more difficult to determine who is a state resident than it is to determine who is a registered voter. See Tr. of Oral Arg. 10, 14. The force of that argument is diminished, however, by the affidavit attesting to residence that each circulator must submit with each petition section.

In sum, assuming that a residence requirement would be upheld as a needful integrity-policing measure—a question we, like the Tenth Circuit, see 120 F.3d, at 1100, have no occasion to decide because the parties have not placed the matter of residence at issue—the added registration requirement is not warranted. That requirement cuts down the number of message carriers in the ballot-access arena without impelling cause.

IV

Colorado enacted the provision requiring initiative-petition circulators to wear identification badges in 1993, five years after our decision in *Meyer*. 1993 Colo. Sess. Laws, ch. 183, §1.18 The Tenth Circuit held the badge requirement invalid insofar as it requires circulators to display their names. See 120 F.3d, at 1104. The Court of Appeals did not rule on the constitutionality of other elements of the badge provision, namely the "requirements that the badge disclose whether the circulator is paid or a volunteer, and if paid, by whom." *Ibid.* Nor do we.

Evidence presented to the District Court, that court found, "demonstrated that compelling circulators to wear identification badges inhibits participation in the petitioning process." 870 F. Supp., at 1001. The badge requirement, a veteran ballot-initiative-petition organizer stated, "very definitely limited the number of people willing to work for us and the degree to which those who were willing to work would go out in public." 1 Tr. 127 (testimony of Paul Grant).¹⁹ Another witness told of harassment he personally experienced as circulator of a hemp initiative petition. See 870 F. Supp., at 1001. He also testified to the reluctance of potential circulators to face the recrimination and retaliation that bearers of petitions on "volatile" issues sometimes encounter: "[W]ith their name on a badge, it makes them afraid." 1 Tr. 60 (testimony of Jon Baraga). Other petition advocates similarly reported that "potential circulators were not willing to wear personal identification badges." 870 F. Supp., at 1001-1002.

Colorado urges that the badge enables the public to identify, and the State to apprehend, petition circulators who engage in misconduct. See Brief for Petitioner 36-37; Reply Brief 17. Here again, the affidavit requirement, unsuccessfully challenged below, see *supra*, at 6, and n. 10, is responsive to the State's concern; as earlier noted, see *supra*, at 3-4, and n. 7, each petition section must contain, along with the collected signatures of voters, the circulator's name, address, and signature. This notarized submission, available to law enforcers, renders less needful the State's provision for personal names on identification badges.

While the affidavit reveals the name of the petition circulator and is a public record, it is tuned to the speaker's interest as well as the State's. Unlike a name badge worn at the time a circulator is soliciting signatures, the affidavit is separated from the moment the circulator speaks. As the Tenth Circuit explained, the name badge requirement "forces circulators to reveal their identities at the same time they deliver their political message," 120 F.3d, at 1102; it operates when reaction to the circulator's message is immediate and "may be the most intense, emotional, and unreasoned," *ibid.* The affidavit, in contrast, does not expose the circulator to the risk of "heat of the moment" harassment. Cf. 870 F. Supp., at 1004 (observing that affidavits are not instantly accessible, and are therefore less likely to be used "for such purposes as retaliation or harassment").

Our decision in *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334 (1995), is instructive here. The complainant in *McIntyre* challenged an Ohio law that prohibited the distribution of anonymous campaign literature. The writing in question was a handbill urging voters to defeat a ballot issue. Applying "exacting scrutiny" to Ohio's fraud prevention justifications, we held that the ban on anonymous speech violated the First Amendment. See *id.*, at 347, 357. "Circulating a petition is akin to distributing a handbill," the Tenth Circuit observed in the decision now before us. 120 F.3d, at 1103. Both involve a one-on-one communication. But the restraint on speech in this case is more severe than was the restraint in *McIntyre*. Petition circulation is the less fleeting encounter, for the circulator must endeavor to persuade electors to sign the petition. See Tr. of Oral Arg. 21, 25-26. That endeavor, we observed in *Meyer*, "of necessity involves both the expression of a desire for political change and a discussion of the merits of the proposed change." 486 U.S., at 421.

The injury to speech is heightened for the petition circulator because the badge requirement compels personal name identification at the precise moment when the circulator's interest in

anonymity is greatest. See 120 F.3d, at 1102. For this very reason, the name badge requirement does not qualify for inclusion among the "more limited [election process] identification requirement[s]" to which we alluded in *McIntyre*. 514 U.S., at 353 ("We recognize that a State's enforcement interest might justify a more limited identification requirement, but Ohio has shown scant cause for inhibiting the leafletting at issue here."); see *id.*, at 358 (Ginsburg, J., concurring). In contrast, the affidavit requirement upheld by the District Court and Court of Appeals, which must be met only after circulators have completed their conversations with electors, exemplifies the type of regulation for which *McIntyre* left room.²⁰

In sum, we conclude, as did the Court of Appeals, that Colorado's current badge requirement discourages participation in the petition circulation process by forcing name identification without sufficient cause. We reiterate this qualification: In its final observation, the Court of Appeals noted that ACLF's "arguments and evidence focus[ed] entirely on [the circulator identification] requirement"; therefore, that court expressed no opinion whether the additional requirements—that the badge disclose the circulator's paid or volunteer status, and if paid, by whom—"would pass constitutional muster standing alone." 120 F.3d, at 1104. We similarly confine our decision.

V

Like the badge requirement, Colorado's disclosure provisions were enacted post-Meyer in 1993. See 1993 Colo. Sess. Laws, ch. 183, §1.21 The Tenth Circuit trimmed these provisions. Colorado requires ballot-initiative proponents who pay circulators to file both a final report when the initiative petition is submitted to the Secretary of State, and monthly reports during the circulation period. Colo. Rev. Stat. §1-40-121 (1998), set out *supra*, at 5, n. 8. The Tenth Circuit invalidated the final report provision only insofar as it compels disclosure of information specific to each paid circulator, in particular, the circulators' names and addresses and the total amount paid to each circulator. See 120 F.3d, at 1104-1105. As modified by the Court of Appeals decision, the final report will reveal the amount paid per petition signature, and thus, effectively, the total amount paid to petition circulators. See *ibid.*

The Court of Appeals next addressed Colorado's provision demanding "detailed monthly disclosures." 120 F.3d, at 1105. In a concise paragraph, the court rejected compelled disclosure of the name and addresses (residential and business) of each paid circulator, and the amount of money paid and owed to each circulator, during the month in question. See Colo. Rev. Stat. §§1-40-121(2)(b), (d) (1998). The Court of Appeals identified no infirmity in the required reporting of petition proponents' names, or in the call for disclosure of proposed ballot measures for which paid circulators were engaged. See §§1-40-121(2)(a), (c). We express no opinion whether these monthly report prescriptions, standing alone, would survive review.

In ruling on Colorado's disclosure requirements for paid circulations, the Court of Appeals looked primarily to our decision in *Buckley v. Valeo*, 424 U.S. 1 (1976) (*per curiam*). In that decision, we stated that "exacting scrutiny" is necessary when compelled disclosure of campaign-related payments is at issue. See *id.*, at 64-65. We nevertheless upheld, as substantially related to important governmental interests, the recordkeeping, reporting, and disclosure provisions of the Federal Election Campaign Act of 1971, 86 Stat. 3, as amended, 88 Stat. 1263, 2 U.S.C. § 431 et seq. (1970 ed., Supp. IV). See 424 U.S., at 66-68, 84. We explained in *Buckley* that disclosure provides the electorate with information "as to where political campaign money comes from and how it is spent," thereby aiding electors in evaluating those who seek their vote. *Id.*, at 66 (internal quotation marks omitted). We further observed that disclosure requirements "deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity." *Id.*, at 67; see also *Grosjean v. American Press Co.*, 297 U.S. 233, 250

(1936) (observing that an "informed public opinion is the most potent of all restraints upon misgovernment").

Mindful of Buckley, the Tenth Circuit did not upset Colorado's disclosure requirements "as a whole." But see post, at 8 (Rehnquist, C. J., dissenting). Notably, the Court of Appeals upheld the State's requirements for disclosure of payors, in particular, proponents' names and the total amount they have spent to collect signatures for their petitions. See 120 F.3d, at 1104-1105. In this regard, the State and supporting amici stress the importance of disclosure as a control or check on domination of the initiative process by affluent special interest groups. See Reply Brief 15 ("[T]here are increasingly more initiatives that are the product of large monied interests."); Brief for Council of State Governments et al. as Amici Curiae 3 ("Today the initiative and referendum process is dominated by money and professional firms."). Disclosure of the names of initiative sponsors, and of the amounts they have spent gathering support for their initiatives, responds to that substantial state interest. See 870 F. Supp., at 1003 ("What is of interest is the payor, not the payees."); cf. this Court's Rule 37.6 (requiring disclosure of "every person or entity ... who made a monetary contribution to the preparation or submission of the brief").

Through the disclosure requirements that remain in place, voters are informed of the source and amount of money spent by proponents to get a measure on the ballot; in other words, voters will be told "who has proposed [a measure]," and "who has provided funds for its circulation." See post, at 11 (O'Connor, J., concurring in judgment in part and dissenting in part). The added benefit of revealing the names of paid circulators and amounts paid to each circulator, the lower courts fairly determined from the record as a whole, is hardly apparent and has not been demonstrated.²²

We note, furthermore, that ballot initiatives do not involve the risk of "quid pro quo" corruption present when money is paid to, or for, candidates. See Meyer, 486 U.S., at 427-428 (citing First Nat. Bank of Boston v. Bellotti, 435 U.S. 765, 790 (1978) ("The risk of corruption perceived in cases involving candidate elections ... simply is not present in a popular vote on a public issue.")); McIntyre, 514 U.S., at 352, n. 15. In addition, as we stated in Meyer, "the risk of fraud or corruption, or the appearance thereof, is more remote at the petition stage of an initiative than at the time of balloting." 486 U.S., at 427. Finally, absent evidence to the contrary, "we are not prepared to assume that a professional circulator-whose qualifications for similar future assignments may well depend on a reputation for competence and integrity-is any more likely to accept false signatures than a volunteer who is motivated entirely by an interest in having the proposition placed on the ballot." *Id.*, at 426.²³

In sum, we agree with the Court of Appeals appraisal: Listing paid circulators and their income from circulation "forc[es] paid circulators to surrender the anonymity enjoyed by their volunteer counterparts," 120 F.3d, at 1105;²⁴ no more than tenuously related to the substantial interests disclosure serves, Colorado's reporting requirements, to the extent that they target paid circulators, "fai[l] exacting scrutiny," *ibid.*

VI

Through less problematic measures, Colorado can and does meet the State's substantial interests in regulating the ballot-initiative process. Colorado aims to protect the integrity of the initiative process, specifically, to deter fraud and diminish corruption. See Brief for Petitioner 24, 42, 45; Reply Brief 13, 14, 17. To serve that important interest, as we observed in Meyer, Colorado retains an arsenal of safeguards. See 486 U.S., at 426-427; 120 F.3d, at 1103, 1105; see, e.g., Colo. Rev. Stat. §1-40-130(1)(b) (1998) (making it criminal to forge initiative-petition signatures); §1-40-132(1) (initiative-petition section deemed void if circulator has violated any provision of the laws governing circulation). To inform the public "where [the] money comes from," Buckley, 424 U.S.,

at 66 (internal quotation marks omitted), we reiterate, the State legitimately requires sponsors of ballot initiatives to disclose who pays petition circulators, and how much. See *supra*, at 16-17.

To ensure grass roots support, Colorado conditions placement of an initiative proposal on the ballot on the proponent's submission of valid signatures representing five percent of the total votes cast for all candidates for Secretary of State at the previous general election. Colo. Const., Art. V, §1(2); Colo. Rev. Stat. §1-40-109(1) (1998); see Meyer, 486 U.S., at 425-426; 120 F.3d, at 1105. Furthermore, in aid of efficiency, veracity, or clarity, Colorado has provided for an array of process measures not contested here by ACLF. These measures prescribe, *inter alia*, a single subject per initiative limitation, Colo. Rev. Stat. §1-40-106.5(1)(a) (1998), a signature verification method, §1-40-116, a large, plain-English notice alerting potential signers of petitions to the law's requirements, §1-40-110(1), and the text of the affidavit to which all circulators must subscribe, §1-40-111(2).

* * *

For the reasons stated, we conclude that the Tenth Circuit correctly separated necessary or proper ballot access controls from restrictions that unjustifiably inhibit the circulation of ballot-initiative petitions. Therefore, the judgment of the Court of Appeals is Affirmed.

Notes

1. Individual plaintiffs included: David Aitken, who, as chairman of the Colorado Libertarian Party, had organized the circulation of several initiative petitions; Jon Baraga, statewide petition coordinator for the Colorado Hemp Initiative; Craig Eley and Jack Hawkins, circulators of petitions for the Safe Workplace Initiative and Worker's Choice of Care Initiative; Lonnie Haynes, an initiative-supporting member of ACLF; Alden Kautz, a circulator of numerous initiative petitions; Bill Orr, executive director of ACLF and a qualified but unregistered voter, who regularly participated in the petition process and wanted to circulate petitions; and William David Orr, a minor who wanted to circulate petitions. See *American Constitutional Law Foundation, Inc. v. Meyer*, 120 F.3d 1092, 1096-1097 (CA10 1997); Brief for Respondents David Aitken et al. 2, 3, 5, 6.
2. Section 1-40-112(1) provides: "No section of a petition for any initiative or referendum measure shall be circulated by any person who is not a registered elector and at least eighteen years of age at the time the section is circulated."
3. To be a registered voter, one must reside in Colorado. See §1-2-101(1)(b). ACLF did not challenge the residency requirement in this action.
4. Section 1-40-108(1) provides in relevant part: "No petition for any ballot issue shall be of any effect unless filed with the secretary of state within six months from the date that the titles, submission clause, and summary have been fixed and determined pursuant to the provisions of sections 1-40-106 and 1-40-107"
5. Section 1-40-112(2) provides: "(a) All circulators who are not to be paid for circulating petitions concerning ballot issues shall display an identification badge that includes the words 'VOLUNTEER CIRCULATOR' in bold-faced type which is clearly legible and the circulator's name. "(b) All circulators who are to be paid for circulating petitions concerning ballot issues shall display an identification badge that includes the words 'PAID CIRCULATOR' in bold-faced type which is clearly legible, the circulator's name, and the name and telephone number of the individual employing the circulator."

6. A petition section is a "bound compilation of initiative forms ... which ... include ... a copy of the proposed [ballot] measure; ... ruled lines numbered consecutively for registered electors' signatures; and a final page that contains the affidavit required by section 1-40-111(2)." §1-40-102(6).

7. Section 1-40-111(2) provides: "To each petition section shall be attached a signed, notarized, and dated affidavit executed by the registered elector who circulated the petition section, which shall include his or her printed name, the address at which he or she resides, including the street name and number, the city or town, the county, and the date he or she signed the affidavit; that he or she has read and understands the laws governing the circulation of petitions; that he or she was a registered elector at the time the section of the petition was circulated and signed by the listed electors; that he or she circulated the section of the petition; that each signature thereon was affixed in the circulator's presence; that each signature thereon is the signature of the person whose name it purports to be; that to the best of the circulator's knowledge and belief each of the persons signing the petition section was, at the time of signing, a registered elector; and that he or she has not paid or will not in the future pay and that he or she believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix his or her signature to the petition. The secretary of state shall not accept for filing any section of a petition that does not have attached thereto the notarized affidavit required by this section. Any signature added to a section of a petition after the affidavit has been executed shall be invalid."

8. Section 1-40-121 provides in relevant part: "(1) The proponents of the petition shall file ... the name, address, and county of voter registration of all circulators who were paid to circulate any section of the petition, the amount paid per signature, and the total amount paid to each circulator. The filing shall be made at the same time the petition is filed with the secretary of state... ." (2) The proponents of the petition shall sign and file monthly reports with the secretary of state, due ten days after the last day of each month in which petitions are circulated on behalf of the proponents by paid circulators. Monthly reports shall set forth the following: "(a) The names of the proponents; "(b) The name and the residential and business addresses of each of the paid circulators; "(c) The name of the proposed ballot measure for which petitions are being circulated by paid circulators; and "(d) The amount of money paid and owed to each paid circulator for petition circulation during the month in question."

9. The record included evidence submitted in support of cross-motions for summary judgment and at a bench trial. See *American Constitutional Law Foundation, Inc. v. Meyer*, 870 F. Supp. 995, 997 (Colo. 1994).

10. The Tenth Circuit recognized that "age commonly is used as a proxy for maturity," and that "maturity is reasonably related to Colorado's interest in preserving the integrity of ballot issue elections." 120 F.3d, at 1101. Such a restriction, the Court of Appeals said, need not satisfy "[e]xacting scrutiny," for it is both "neutral" and "temporary"; it "merely postpones the opportunity to circulate." *Ibid.* As to the six-month limit, the Court of Appeals observed that an orderly process requires time lines; again without demanding "[e]laborate ... verification," the court found six months a "reasonable window," a sensible, "nondiscriminatory ballot access regulation." *Id.*, at 1099 (internal quotation marks omitted). Finally, the court explained that the affidavit requirement properly responded to the State's need to "ensure that circulators, who possess various degrees of interest in a particular initiative, exercise special care to prevent mistake, fraud, or abuse in the process of obtaining thousands of signatures of only registered electors throughout the state." *Id.*, at 1099-1100 (quoting *Loonan v. Woodley*, 882 P.2d 1380, 1388-1389 (Colo. 1994) (en banc)). We denied ACLF's cross-petition regarding these issues. See 522 U.S. ____ (1998).

11. Nothing in this opinion should be read to suggest that initiative-petition circulators are agents of the State. Although circulators are subject to state regulation and are accountable to the State for compliance with legitimate controls, see, e.g., Colo. Rev. Stat. §§1-40-111, 1-40-130 (1998), circulators act on behalf of themselves or the proponents of ballot initiatives.

12. Our decision is entirely in keeping with the "now-settled approach" that state regulations "impos[ing] 'severe burdens' on speech . . . [must] be narrowly tailored to serve a compelling state interest." See post, at 1 (Thomas, J., concurring in judgment).

13. Colorado law similarly provides that only registered voters may circulate petitions to place candidates on the ballot. See Colo. Rev. Stat. §1-4-905(1) (1998) (only "eligible elector" may circulate candidate petitions); §1-1-104(16) ("eligible elector" defined as "registered elector").

14. Volume 1 of the trial transcript is reprinted in Pro-Se Plaintiff's App. I in No. 94-1576 (CA10), and is cited hereinafter as 1 Tr. Volume 2 of the trial transcript is reprinted in Pro-Se Plaintiff's App. II in No. 94-1576 (CA10), and is cited hereinafter as 2 Tr.

15. In fact, the number of unregistered but voter-eligible residents in Colorado at the time of the trial may have been closer to 620,000. See U.S. Dept. of Commerce, Bureau of Census, Statistical Abstract of the United States 282 (1993) (Table 453). More recent statistics show that less than 65 percent of the voting-age population was registered to vote in Colorado in 1997. See U.S. Dept. of Commerce, Bureau of Census, Statistical Abstract of the United States 289 (1997) (Table 463). Using those more recent numbers, Colorado's registration requirement would exclude approximately 964,000 unregistered but voter-eligible residents from circulating petitions. The proportion of voter-eligible but unregistered residents to registered residents in Colorado is not extraordinary in comparison to those proportions in other States. See generally *ibid*.

16. Persons eligible to vote, we note, would not include "convicted drug felons who have been denied the franchise as part of their punishment," see post, at 4 (Rehnquist, C. J., dissenting), and could similarly be barred from circulating petitions. The dissent's concern that hordes of "convicted drug dealers," post, at 5, will swell the ranks of petition circulators, unstoppable by legitimate state regulation, is therefore undue. Even more imaginary is the dissent's suggestion that if the merely voter eligible are included among petition circulators, children and citizens of foreign lands will not be far behind. See post, at 6. This familiar parade of dreadfuls calls to mind wise counsel: "Judges and lawyers live on the slippery slope of analogies; they are not supposed to ski it to the bottom." R. Bork, *The Tempting of America: The Political Seduction of the Law* 169 (1990). That same counsel applies to Justice O'Connor's floodgate fears concerning today's decision, which, like Meyer, separates petition circulators from the proponents and financial backers of ballot initiatives. See post, at 13 (opinion concurring in judgment in part and dissenting in part).

17. Justice O'Connor correctly observes that registration requirements for primary election voters and candidates for political office are "classic" examples of permissible regulation. See post, at 4 (opinion concurring in judgment in part and dissenting in part). But the hired signature collector, as this Court recognized in Meyer, is in a notably different category. When the Court unanimously struck down a ban on paying persons to circulate petitions, it surely did not imply that the State must therefore tolerate a private sponsor's hourly or piecework payment of persons in exchange for their vote or political candidacy.

18. Colorado does not require identification badges for persons who gather signatures to place candidates on the ballot. See generally Colo. Rev. Stat. §1-4-905 (1998) (regulations governing candidate-petition circulators).

19. See 1 Tr. 133 ("I would not circulate because I don't want to go to jail. And, I won't wear the badge because I don't think it's right.") (testimony of Paul Grant).

20. As the Tenth Circuit observed, see 120 F.3d, at 1101, neither *Riley v. National Federation of Blind of N. C., Inc.*, 487 U.S. 781 (1988), nor *Martin v. City of Struthers*, 319 U.S. 141 (1943), supports the name identification Colorado requires petition circulators to wear. *Riley* invalidated a North Carolina law restricting solicitation of charitable contributions by professional fundraisers. *Martin* invalidated a city ordinance prohibiting knocking on the door or ringing the doorbell of any residence for the purpose of distributing literature. The Court observed in *Riley* that an unchallenged portion of the disclosure law required professional fundraisers to disclose their professional status, i.e., their employer's name and address, to potential donors. 487 U.S., at 799, and n. 11. In dictum in *Martin*, the Court noted that "a stranger in the community" could be required to establish his identity and authority to act for the cause he purports to represent. 319 U.S., at 148, n. 14 (internal quotation marks omitted). Neither case involved a name badge requirement or any other specification that the solicitor's personal name be revealed. Nor was there in either case a counterpart to the affidavit, which puts each petition circulator's name and address on a public record.

21. Colorado does not require similar disclosures for persons who gather signatures to place candidates on the ballot. See generally Colo. Rev. Stat. §1-4-905 (1998) (regulations governing candidate-petition circulators).

22. Justice O'Connor states that "[k]nowing the names of paid circulators and the amounts paid to them [will] allo[w] members of the public to evaluate the sincerity or, alternatively, the potential bias of any circulator that approaches them." Post, at 11. It is not apparent why or how this is so, for the reports containing the names of paid circulators would be filed with the Secretary of State and would not be at hand at the moment the circulators "approac[h]."

23. While testimony in the record suggests that "occasional fraud in Colorado's petitioning process" involved paid circulators, it does not follow like the night the day that "paid circulators are more likely to commit fraud and gather false signatures than other circulators." See post, at 12 (O'Connor, J., concurring in judgment in part and dissenting in part). Far from making any ultimate finding to that effect, the District Court determined that neither the State's interest in preventing fraud, nor its interest in informing the public concerning the "financial resources . . . available to [initiative proponents]" or the "special interests" supporting a ballot measure, is "significantly advanced by disclosure of the names and addresses of each person paid to circulate any section of [a] petition." 870 F. Supp., at 1003. Such disclosure in proponents' reports, the District Court also observed, risked exposing the paid circulators "to intimidation, harassment and retribution in the same manner as the badge requirement." Ibid.

24. Because the disclosure provisions target only paid circulators and require disclosure of the income from circulation each receives, the disclosure reports are of course "[d]istinguishable from the affidavit," post, at 8 (O'Connor, J., concurring in judgment in part and dissenting in part), which must be completed by both paid and volunteer circulators, and does not require disclosure of the amount paid individually to a circulator.