

**STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT**

**FRANK DEAN, ROSE JAMES, KIM HILLARD,  
RODGER MICKELSON, CAROLYN FREEMAN,  
FRANK RUVOLO, PAT COTTERELL, AND  
HAROLD DAVIS,**

**Plaintiffs,**

**v.**

**CV-2012-03462**

**GARY D. SMITH, Real Party in Interest,  
And DIANNA DURAN, in her capacity as  
Secretary of State for the State of New Mexico,**

**Defendants.**

**FINAL ORDER**

This matter having come before the Court upon an evidentiary hearing and the Court, having, considered all of the evidence and the arguments of counsel and pro se litigants finds:

1. The Defendant, Gary D. Smith, did not obtain twenty percent (20%) of the votes at the Republican preprimary convention. He received 3.5% of the vote.
2. Having failed to obtain at least 20% of the preprimary votes he was required to obtain additional nominating petition signatures to be eligible for the 2012 primary ballot.
3. Defendant was required to secure the signatures of at least four percent (4%) of the total vote of the Republican party in the congressional district based on the last gubernatorial election where a Republican was nominated.
4. Four percent of the total votes cast equaled 1579. Therefore, Defendant was required to submit at least 1579 valid nominating petition signatures.
5. Defendant filed his Declaration of Candidacy along with 1823 nominating petition signatures.

6. Plaintiffs have conducted a reasonable and diligent investigation of the validity of the signatures appearing on Defendant's nominating petitions.

7. Plaintiffs have established that at least 410 signatures appearing on Defendant's nominating petitions do not satisfy the requirements of NMSA 1978, Section 1-8-31 and -33.

8. Accordingly, Defendant's nominating petitions are at least 166 signatures short of the 1579 valid signatures necessary to secure a position on the Republican primary election ballot for Congressional District 1.

Therefore, the Court orders that the nominating petitions filed by Defendant Gary D. Smith for a position on the June 2012 Republican party primary ballot for Congressional District 1 fail to satisfy the requirements of NMSA 1978, Section 1-8-33 and, as a consequence, under NMSA 1978, Section 1-8-26 Defendant is not eligible to appear on the ballot for the Republican primary election in June 2012; and the Defendant, Secretary of State of the State of New Mexico, is hereby ordered not to place the name of Defendant Gary D. Smith on the ballot for the position of Congressional District 1 for the June 2012 primary.

IT IS SO ORDERED.

  
**C. SHANNON BACON**  
**DISTRICT COURT JUDGE**