

10-31-1969

10-31-1969 Justice Stewart, Per Curiam

Potter Stewart
US Supreme Court Justice

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To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Douglas
 Mr. Justice Harlan
 Mr. Justice Brennan
 Mr. Justice White
 Mr. Justice Fortas
 Mr. Justice Marshall

SUPREME COURT OF THE UNITED STATES

No. 31.—OCTOBER TERM, 1969

Paul M. Brockington, Appellant,
 v.
 James A. Rhodes, Governor of
 Ohio, et al.

On Appeal from the
 Supreme Court of
 Ohio.

From: Stewart, J.
 Circulated: **OCT 31 1969**
 Recirculated: _____

[October —, 1969]

PER CURIAM.

The appellant sought to run in the November 1968 election as an independent candidate for the United States House of Representatives from the Twenty-First Congressional District of Ohio. His nominating petition bore the signatures of 899 voters in the congressional district, a little over 1% of those in the district who had voted in the gubernatorial contest at the last election. The Board of Elections ruled that the appellant's petition was insufficient to put his name on the November ballot, because it did not contain the signatures of 7% of the qualified voters, as Ohio law then required.¹ The appellant petitioned the Court of Common Pleas for a writ of mandamus, challenging the 7% requirement as "unreasonably high and excessive, . . . disproportionate when compared to the 100 signatures required for party candidates," . . . arbitrary and capricious, . . . [and] an

¹ Ohio Rev. Code Ann. § 3513.257 (1968 Supp.) provided in pertinent part:

"The nominating petition of an independent candidate for the office of . . . district representative to congress, shall be signed by not less than seven per cent of the number of electors who voted for governor at the next preceding regular state election for the office of governor in the district."

² Under Ohio law a candidate for the nomination of a political party to the office of United States Representative must, in order to enter the *party primary*, obtain from the party membership