

No. 11-56303

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MICHAEL CHAMNESS, DANIEL FREDERICK, and RICH WILSON

Plaintiffs,

JULIUS GALACKI

Intervenor-Applicant / Appellant,

-v.-

DEBRA BOWEN, in only her official capacity as California Secretary of State, and
DEAN LOGAN, in only his official capacity as Registrar-Recorder / County Clerk of Los
Angeles County,

Defendants / Appellees

ABEL MALDONADO, CALIFORNIA INDEPENDENT VOTER PROJECT,
CALIFORNIANS TO DEFEND THE OPEN PRIMARY,

Intervenors-Defendants / Appellees

*ON APPEAL FROM A CENTRAL DISTRICT OF CALIFORNIA ORDER DENYING
JULIUS GALACKI'S MOTION TO INTERVENE*

NOTICE OF ENACTMENT OF WRITE-IN VOTING STATUTE

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TO THE COURT AND ALL PARTIES OF RECORD:

Please take notice that, on August 8, 2011, AB 461 (Bonilla) was enacted.¹ By passing AB 461, the California Legislature made it clear that a write-in vote must be counted “if the intent of the voter can be determined, *regardless of whether the voter has complied with the voting instructions*”:²

BILL NUMBER: AB 461 CHAPTERED
BILL TEXT

CHAPTER 189
FILED WITH SECRETARY OF STATE AUGUST 8, 2011
APPROVED BY GOVERNOR AUGUST 8, 2011
PASSED THE SENATE JULY 14, 2011
PASSED THE ASSEMBLY MAY 5, 2011
AMENDED IN ASSEMBLY APRIL 5, 2011
AMENDED IN ASSEMBLY MARCH 24, 2011

INTRODUCED BY Assembly Member Bonilla

FEBRUARY 15, 2011

An act to add Section 15342.5 to the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 461, Bonilla. Write-in candidates.

Existing law regulates the processing of write-in votes, including requiring that a ballot for a qualified write-in candidate be counted if, on specified voting systems, the candidate's name is

¹ AB 461 (Bonilla) may be accessed online at http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0451-0500/ab_461_bill_20110808_chaptered.pdf (last visited Aug. 10, 2011).

² Elections Code §15342.5 (mandating that Elections Code §15342 be “liberally construed”) (emphases added), *enacted by* AB 461 (Bonilla), *accessible at* http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0451-0500/ab_461_bill_20110808_chaptered.pdf (last visited Aug. 10, 2011).

written on the ballot in the blank space provided and the voting space next to the write-in space, if provided, is marked according to voting instructions. It further requires that, for other voting systems, a ballot for a write-in candidate, if otherwise qualified, be counted if the name is written in the manner described in the voting instructions.

This bill would require a liberal construction of these write-in vote processing provisions in the event of a manual recount conducted under specified circumstances to ensure that a ballot is counted if the voter's intent can be determined, regardless of whether the voter has complied with the voting instructions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 15342.5 is added to the Elections Code, to read:

15342.5. In the event of a manual recount conducted pursuant to Section 15610 or requested pursuant to Section 15620 or 15621, the process set forth in Section 15342 shall be liberally construed to ensure that each ballot is counted if the intent of the voter can be determined, regardless of whether the voter has complied with the voting instructions.

Executed on August 10, 2011, in Fremont, California.

DATED: Aug. 10, 2011

By: /s/
GAUTAM DUTTA, ESQ.

CERTIFICATE OF SERVICE

On Aug. 10, 2011, I electronically served an electronic copy of this
Notice of Enactment of Write-In Voting Statute via ECF.

/s/ _____

GAUTAM DUTTA