

Wiley Defends Political Party's Right to Select Nomination Method

March 2021

Wiley attorneys Lee Goodman and Andrew Woodson successfully defended the Republican Party of Virginia's right to select its nomination method free of court interference. In *Chase v. Republican Party of Virginia*, a candidate for governor sued the Party seeking a court decree prohibiting the Party from nominating its candidates by convention due to restrictions imposed on gatherings in a state Executive order.

The Party defended the action asserting four defenses. First, the plaintiff candidate did not have legal standing to enforce the Governor's Executive order; only the Commonwealth could enforce the restrictions set forth in the Executive order and Virginia law disfavors judicial creation of new causes of action. Second, the Party's decision-making process for a nomination to occur in May or June was still in progress and the existing Executive order was set to expire at the end of February, thus the claim was not ripe for judicial resolution. Third, because the Executive order was set to expire at the end of February, there was no violation of law to declare or enjoin at the time of the hearing. And fourth, the First Amendment protected the Party's right to make its own decision about a nomination method as well as its right to choose a method that could comply with COVID-era assembly restrictions.

At a hearing in the Circuit Court of Richmond on February 19, the court sustained the Party's demurrer and denied the plaintiff's motion for a preliminary injunction as moot. The court ruled that the plaintiff did not have legal standing to enforce the Executive order especially in light of the fact that the Executive order would expire and the plaintiff was attempting to enjoin a nomination method in the future that was not fixed at the time of the hearing.

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Practice Areas

Election Law & Government Ethics

Mr. Goodman's argument on behalf of the Party received significant press attention.