

# Wiley Secures Ballot Access for Two Congressional Candidates

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Wiley won a court victory securing ballot access for two Virginia congressional candidates last month. The DCCC sued the Virginia State Board of Elections alleging that it acted *ultra vires* in July when it extended a deadline for approximately fourteen candidates to file a one page form used by the Board to confirm each candidate's residency and qualifications. The candidates who received the benefit of the filing extension included Independents, Democrats and Republicans. The DCCC singled out two Republican congressional candidates – Bob Good in the Fifth Congressional District and Nick Freitas in the Seventh Congressional District – and sued to enjoin the Board from printing their names on the general election ballot in November.

The DCCC argued that the State Board of Elections acted outside the authority granted to it under a statute expressly providing for extensions of the filing deadline. It argued that the statute required the Board to extend the deadline before or shortly after the deadline date and further limited the Board to granting candidate-specific deadlines only for good cause shown. Neither of these requirements were written in the plain language of the statute, however.

Represented by Wiley's Lee Goodman, Andrew Woodson and Attison Barnes, the NRCC (formerly National Republican Congressional Committee) intervened in the lawsuit to protect the interests of the Republican Party's ballot position and its candidates. The NRCC argued that that the statute was clear on its face and did not set a strict deadline for the Board to extend the deadline; the statute did not require any good cause but rather required the Board to extend the deadline for all candidates for a fixed time period to ensure equal treatment of all candidates; and, moreover, that singling out

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## Practice Areas

Election Law & Government Ethics

only two Republican candidates for discriminatory treatment would violate the First Amendment and Equal Protection Clause of the Constitution.

A hearing before the Circuit Court of the City of Richmond was held on August 17. The court ruled in favor of the NRCC and the candidates and sustained their demurrers to the DCCC's complaint. The DCCC's complaint was dismissed and no appeal was taken, securing the ballot position of candidates Bob Good and Nick Freitas.