

MD Court of Appeals removes Perez from ballot in Maryland AG's race.
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And then there were three.

The Court of Appeals has ordered stricken from the ballot the name of Thomas E. Perez, who was vying for the Democratic nomination for attorney general.

Perez is not qualified to run because he has not "practiced Law in Maryland for a period of ten years" as required by the state constitution. The order, which will be explained at a later date, was signed by Chief Judge Robert M. Bell and noted that "a majority of the Court" concurred.

Rockville lawyer Stephen N. Abrams, who challenged Perez's qualifications before the Anne Arundel County Circuit Court and argued the case on appeal Friday, said he is "thrilled and gratified" by the court's decision.

"I didn't know whether the court was going to wear more of a policy hat or a legal hat, and I was hoping they were going to wear a legal hat," said Abrams, who is also a Republican candidate for comptroller.

Andrew M. Dansicker, who argued the case for Perez, said he was surprised at the result in light of the court's questions Friday morning; some of the judges seemed skeptical of Abrams' arguments.

"They didn't seem to ask any questions to me to indicate they had a problem with his qualifications...," he said.

State Board of Elections Election Reform Director Nikki Trella said the order "could certainly present insurmountable challenges," especially since many absentee ballots have already been mailed and some counties have loaded their ballots. She said the board's attorneys will ask the court, "What can we do to comply with the order right now?"

There are now three candidates for attorney general: Democrats Douglas F. Gansler and Stuart O. Simms and Republican Scott Rolle. When the candidates filed their campaign finance reports earlier this month, Gansler had a clear lead in terms of cash on hand, but Perez was only slightly behind him in funds raised since January, raking in \$301,896.

Gansler's campaign manager, Mike Morrill, said Friday that Gansler has been focused on getting his own message out.

"This doesn't change that," Morrill said.

Simms declined to comment Friday evening. Rolle did not return a call to his office, and Perez did not return a message left with Dansicker by press time Friday.

The issue in the case was whether the constitutional requirement that a candidate for attorney general have practiced law in Maryland for at least 10 years means that the candidate must have been a member of the Maryland Bar for at least that long.

Perez was admitted to the bar in 2001, but for several years before that, his lawyers argued in their brief, he "practiced law" in Maryland through his activities as a federal prosecutor.

Anne Arundel County Circuit Court Judge Paul A. Hackner backed Perez's interpretation of the Constitution. Abrams appealed and the Court of Appeals expedited oral arguments.

'Terrible dilemma'

Abrams said he believes the court "agreed with me that there was only one material fact" -- that Perez has only been a member of the Maryland bar for five years.

But he also pointed to the court's interest Friday morning in what would happen if the governor, in his role as arbiter of an elected official's qualifications, decided after Perez was elected that he was not qualified and refused to swear him in.

Abrams told the court that the Court of Appeals, which would have to decide if the governor had acted arbitrarily, would have "a terrible dilemma" that could precipitate a "constitutional crisis."

The court heard the case with retired Judge John C. Eldridge sitting in for Judge Lynne A. Battaglia. Battaglia did not explain the reason for her recusal, but her name was mentioned in Perez's brief; the two worked together when Battaglia was U.S. Attorney for the District of Maryland, Perez wrote.

Abrams said he feels bad for Perez but had to stand up for "the importance of rule of law, the importance of law applying equally to every citizen, the importance of process."

"I certainly am sympathetic to Mr. Perez because I know that a passion burns in him to serve," Abrams said. "An equal passion burns in me to protect the things that I believe in."