

Citizens in Charge Foundation Report:

**South Dakota's Prosecution
of
Dr. Annette Bosworth**

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ABOUT PAUL JACOB

Paul Jacob is president of Citizens in Charge, a grassroots citizens' lobby working to protect and expand the initiative and referendum rights of every American without regard to politics or party, and Citizens in Charge Foundation, which educates and litigates to protect petition rights.

Jacob is perhaps best known for leading the term limits movement as it swept the nation in the 1990s. For more than a decade, Paul was the term limits movement's strongest voice, running U.S. Term Limits, the largest such group in the nation.

"Jacob is one of the most honest men in Washington," wrote Paul Weyrich, the late conservative icon. On the other hand, for his work to impose term limits on Congress, the late columnist Robert Novak good-naturedly dubbed Jacob "the most hated man in Washington."

Through his work for term limits, as well as for spending caps, property rights measures and candidate ballot access, Paul has been involved in over 175 statewide petition drives. He has also testified in court as an expert witness regarding the petition process.

"If there's anyone who's been involved in more citizen initiative campaigns in the history of this country [than Paul Jacob]," said *Los Angeles Times* reporter Joe Mathews, "I'm not aware of them."

Paul Jacob hosts Common Sense, an online and print opinion program sponsored by Think Freely Media, reaching tens of thousands of online readers and e-mail subscribers. Paul also writes a weekly column for Townhall.com, appearing each Sunday.

"The best way to assure freedom of expression, no matter where it may be threatened," Pulitzer-prize winning columnist, Paul Greenberg, wrote, "would be to have an army of utterly determined Paul Jacobs fighting for it."

Jacob won the "Courage Under Fire" award at the 2009 Conservative Political Action Conference for his successful battle against the Attorney General of Oklahoma, who indicted Jacob and two others – the Oklahoma 3 – on conspiracy charges relating to a petition drive. After a year and a half under indictment, the AG dismissed all charges.

Paul Jacob is also president of the Liberty Initiative Fund, a national organization helping citizens place issues on state and local ballots to hold politicians accountable, fight crony capitalism and protect our liberties. Additionally, Jacob currently serves on the board of directors of FairVote and U.S. Term Limits.

Paul lives with his wife Rhonda in Woodbridge, Virginia. They have three children and two grandchildren.

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EXECUTIVE SUMMARY

This is the story of a medical doctor, a wife and mother of three boys, Dr. Annette Bosworth, who, after years of a running battle the state attorney general regarding various medical care issues, was inspired to seek public office.

Her first-ever foray into big league politics not surprisingly fell far short of the United States Senate seat she had sought. However, not only did she lose in the Republican Primary, but on that same day – June 4, 2014 – she found herself suddenly facing a whopping 24 years in prison over 12 felony charges filed against her by South Dakota Attorney General Marty Jackley.

The case is ***The State of South Dakota v. Annette Bosworth*** and the trial begins May 18. The indictment breaks down to six counts of Offering a False or Forged Instrument for Filing and six more counts of Perjury relating to six nominating petitions for the Bosworth for U.S. Senate campaign that Dr. Bosworth signed personally as the circulator.

On those six petitions are 37 signatures affixed to the petition on dates when the doctor was overseas on a medical mission providing help to typhoon victims in the Philippines. Dr. Bosworth has been thoroughly honest and open about the dates she went on the medical mission. In fact, most of the evidence presented against her is her own campaign's statements and her Facebook posts about her work in the Philippines.

Petitions were kept at her medical office and signed by patients and visitors – unfortunately, even during the time that Bosworth was not there. The affidavit petition circulators must sign states that all the signatures were signed in their presence. That was simply not the case for these 37 people.

Indeed, no one has questioned the validity of these signatures, i.e. that they are registered voters and truly wanted their names counted for the purpose of getting Annette Bosworth on the ballot. For instance, one signature belongs to Bosworth's sister. Still, if the doctor wasn't there when her sister or others actually signed the petition, she should not have signed as the circulator.

It does speak to criminal intent, however, that Dr. Bosworth inquired of her campaign's attorney about whether she needed to get those 37 people to sign the petition again, and was apparently told that wasn't necessary. This latter point may be an important consideration in her upcoming trial.

Beyond Bosworth's guilt or innocence, there remains a serious issue of whether important public policy goals are being served by her prosecution or are being seriously harmed by it. In a nation ruled by law, rather than by men, how our laws are enforced is of vital importance.

Enforcement must be consistent, non-partisan and corrective, not arbitrary, partisan or excessive.

This is nowhere more critical than regarding election laws, which play a role in determining who holds the power to shape and enforce all the laws. Where lax enforcement can encourage fraudulent behavior, Draconian enforcement can chill the interest of citizens in participating at all – in both instances, undermining the health of the election process.

This report specifically examines the legal case against Dr. Annette Bosworth, inquiring: Is she guilty? Should she be prosecuted? What impact will her prosecution have on the election process in South Dakota?

I also compare and contrast the Bosworth prosecution with recent petition controversies in South Dakota and other states.

The severity of the possible penalty – 24 years in prison, nearly \$50,000 in fines, a felony record and loss of her livelihood as a physician – completely dwarfs the nature of the alleged violations. Even the mere threat of such severe punishment sends a frightening message to the public to stay clear of political action.

Meanwhile, Dr. Bosworth's apparent actions, while ill-advised and possibly illegal, don't exhibit any of the hallmarks of criminal intent. Her decision to sign as the circulator of those six petitions was not unreasonable. Nor were her actions dictated by greed or malice, designed for personal gain or to give her campaign (not needing the signatures in question to qualify) an unfair advantage.

I conclude that the prosecution of Dr. Annette Bosworth is unwarranted and will have a chilling effect on political participation in South Dakota and undermine respect for the integrity of the state's election laws.

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WHO IS ANNETTE BOSWORTH?

A 42-year-old native of South Dakota, Annette Bosworth, grew up on a modest family farm in Plankinton. She is a doctor of internal medicine, who owns her own private medical practice, Meaningful Medicine.

Dr. Bosworth treats a large percentage of indigent patients and has been a regular participant in medical mission trips to Haiti and the Philippines.

She has also been a very vocal critic of medical bureaucracy and government regulation for poorly serving the needs of patients. She and other media observers believe her outspokenness led to a multi-year tussle with the state's medical establishment, including the attorney general's office, "threatening to take her medical license away."

In 2014, motivated by her survival against the "powerful government bureaucrats" that "unjustly attacked her," Bosworth decided to run for an open U.S. Senate seat. As her campaign website explained, "She believes God is calling her to serve a higher purpose and to fight back against an intrusive federal government."

A first-time-ever candidate seeking the Republican Party nomination for United States Senate, she finished fourth in a crowded field. To qualify for the primary ballot, Bosworth's campaign turned in numerous petitions containing 2,868 signatures – well more than enough to earn a spot on the ballot.

Six of those petitions, on which Dr. Bosworth signed as the circulator, stating that she witnessed each person affix his or her signature, contain 37 signatures dated when the doctor was out of the country performing medical services for typhoon victims in the Philippines. The day of her loss in the Republican primary, South Dakota Attorney General Marty Jackley charged Annette Bosworth with 12 felony counts of election fraud and perjury for those six petitions.

Annette Bosworth is married to Chad Haber, who in 2014 was the Libertarian Party nominee for state attorney general, unsuccessfully challenging incumbent Marty Jackley – yes, the same AG prosecuting his wife.

Bosworth and Haber are parents to three boys.

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THE STORY

That terribly disappointing primary election day, when Dr. Annette Bosworth lost her quest to be the Republican Party nominee for the United States Senate from South Dakota, suddenly became much more than merely disappointing. Let's call it frightening, surreal. Her electoral defeat was mightily compounded by legal woes, when on that same day the state's attorney general charged her with 12 felony counts carrying a possible 24 years in prison.

The charges may also impose as much as \$48,000 in fines – not to mention that even a single felony conviction would mean the loss of Dr. Bosworth's license to practice medicine.

How did a medical doctor and a mother of three go from tilting at political windmills to facing a quarter of a century behind bars and the loss of her livelihood?

Dr. Annette Bosworth was drawn into politics after an incredible multi-year battle with South Dakota medical authorities, including Attorney General Marty Jackley and his office, who made repeated attempts to take away Bosworth's medical license, raided her bank account, made accusations of Medicaid fraud, pronounced Bosworth mentally ill, and more.

All without ever convicting the doctor of any wrongdoing.

Bosworth was also a fierce and outspoken critic of Attorney General Jackley over state policy regarding foster care and, specifically, the horrific Mette case of child rape and torture against four Lakota Indian girls placed by the state with a pedophile and rapist. Dr. Bosworth has treated children in that community.

Now, a federal judge has weighed in to declare South Dakota's policies and actions regarding these Indian foster children to be illegal under federal law.

This report does not attempt to determine the culpability of AG Jackley or others in the Mette rape case, or in the series of conflicts between the AG's office and Dr. Bosworth. However, the nasty, long-term feud between them must be recognized as the lengthy precursor to the current battle between the AG and the doctor.

As a first-time candidate for public office, seeking the Republican Party nomination for United States Senate in South Dakota, it was not surprising that Dr. Bosworth failed to gain that nomination against a very crowded field that included former Governor Mike Rounds, the eventual winner. It might have surprised some, however, that Annette Bosworth raised more than a million dollars to execute her campaign.

That made her something of a threat. But first, Bosworth had to gain a place on the Republican Party primary ballot, which required gathering 1,955 signatures from

registered voters on nominating petitions. Her campaign turned in 2,868 – easily eclipsing the requirement.

During the ballot drive, nominating petitions were available at Dr. Bosworth's medical office for patients and visitors to sign. And during at least some of the time that petitions were signed at her medical office, the doctor was gone, having left on a medical mission to assist the victims of the typhoon in the Philippines.

Upon the doctor's return, as the petitions were due to be turned in to state officials, Bosworth gathered the petitions she had been circulating in the office and reportedly first read the affidavit she was required to sign as circulator of those petition sheets. It states that the signatures were all affixed in her presence. They weren't.

What did Bosworth do?

"I checked [with counsel] to see is that person the real person and did you sign my petition," she explained on a local radio program. "Do I need to have her sign it again? No, they didn't think I did."

It's worth noting that most of the signers were patients and visitors well known to the doctor. One signer was her sister.

Her campaign attorney and campaign manager was Joel Arends, a friend, who even traveled with Annette to help out in the Philippines. Arends is also a public notary and notarized the petitions in question. Bosworth claims Arends told her it was okay to sign as circulator on the petitions.

The correct legal advice is that it is decidedly not okay. It is against the law, and can obviously, in rare cases, lead to criminal prosecution.

But after speaking out on the radio, Annette Bosworth turned around the next day to sign a written statement, then released by her campaign, announcing that her on-air comments had been "incorrect."

Weeks later, Bosworth disavowed that written disavowal of those radio comments, now saying she did indeed ask Arends and that Arends advised her it was lawful for her to sign the petitions as the circulator.

"Because of Joel Arends' advice, Dr. Bosworth was indicted," argued Lee Stranahan, a new spokesperson for the Bosworth campaign. Stranahan, an investigative journalist, filmmaker and protégé of the late Andrew Breitbart, publicly charged that Arends wrote the statement and "pressured" Bosworth to sign it in order to protect himself from legal jeopardy.

Stranahan described Bosworth's flip-flopping statements as simply a result of her being soft-hearted and wanting to protect a very worried Joel Arends – "someone she was very close to." Then, later, believing she had been betrayed, something Stranahan said "hit her

on an emotional level, which makes it very difficult for her to deal with," Bosworth returned to her original statement: Arends advised her it was legal to sign those six petitions as the circulator.

Stranahan also claims there are witnesses to that Bosworth conversation with Arends, who will come forward to testify at trial.

There were also two petition sheets of signatures gathered by Bosworth from citizens at several Hutterian colonies. The Hutterites are a devout Christian and communal people who askew much of the modern world. Dr. Bosworth has a long relationship with the Hutterite communities, having served as a doctor to many, and was likely to receive the votes of the Hutterites, who, if and when they vote, tend to vote together as a block.

But after a number of visits and interrogations by the South Dakota Department of Criminal Investigation concerning their signatures on the Bosworth petition, none of the Hutterites voted in the 2014 primary election.

After the Bosworth campaign turned in well more than the required signatures, and South Dakota's Sec. of State Jason Grant certified Annette Bosworth for the GOP primary ballot, Cory Heidelberger, a liberal blogger and ferocious Bosworth critic, filed a challenge to more than 1,000 of her petition signatures. Though his challenge wasn't successful in knocking her off the ballot, his allegations that people signed the petition when Dr. Bosworth was outside the country caught the eye of Attorney General Jackley, who filed a criminal complaint against Bosworth . . . on the very day of the primary election.

The case is *The State of South Dakota v. Annette Bosworth*. The indictment breaks down to six counts of Offering a False or Forged Instrument for Filing and six more counts of Perjury relating to six nominating petitions for the Bosworth for U.S. Senate campaign that Dr. Bosworth signed personally as the circulator.

There are several issues to consider:

(1) Is Annette Bosworth guilty of the charges or not?

That appears to be a decision that will be made by a jury at her May 18 trial.

Dr. Bosworth has certainly been consistently straightforward and honest in acknowledging the dates she was away on the medical mission. In fact, most of the evidence presented against her is her own campaign's statements and her Facebook posts about her work in the Philippines.

"Did my sister sign the petition while I was in the Philippines? Yes, she did," Bosworth told reporters when the issue was first raised. "Did I sign that I know her, and that I affirmed that was her signature? Yes, I did."

She added, "Did I know the people that signed the petition? Yes. Are they South Dakotans? Yes. Do they support me? Yes."

As former campaign worker Stranahan put it, "So, you have a woman who's facing 24 years in prison for legitimate signatures."

What seems clear is that Bosworth's signed circulator affidavits on six petitions are not entirely truthful. What is less clear, but might constitute a winning defense, is the question of whether a judge or jury will agree that her actions were taken in good faith under the advice of counsel.

(2) Does it make common sense to prosecute these charges?

As felonies, the answer is no. Perhaps lesser charges, misdemeanors, would be warranted.

There is an important public interest in encouraging election participants to follow election laws, which argues for prosecuting violations of the law to 'set an example' and 'send a message.' Yet, there is also an important public interest in encouraging political participation, which argues against excessive penalties and prosecutions driven by what might appear to be arbitrary or partisan motives.

Attorney General Jackley has called Bosworth's violations "serious" and "deliberate" and argues they "must be addressed in order to preserve the integrity of our elections."

But even should Bosworth be convicted, the public is unlikely to view her actions as warranting prison time (she faces 24 years), massive fines (as high as \$48,000), or the loss of her medical license (even a single felony conviction would compromise her livelihood).

"There was no criminal intent to deceive," counters Bosworth, "nor was there any reason to" since her campaign, even without those six petition sheets, easily had enough signatures to qualify for the ballot.

Former State Senator Gordon Howie took issue with AG Jackley's comments, writing for South Dakota's The Right Side Blog,

Let me tell you that these 'serious and deliberate' 'crimes' are COMMONPLACE in South Dakota politics. During the frenzy of political seasons, MANY (and I do mean MANY) South Dakota politicians circulate petitions and sign as circulators when they are not 'in the room.' At Lincoln Day dinners across the state, Republicans routinely send their petitions around the room. They do not personally witness each signature, but sign the 'oath' that they did. I would venture to say that even our Attorney General may be guilty of this practice. PLEASE, Marty, say it isn't so . . . not even ONE?"

Howie also sees a pattern of arbitrary enforcement: “The Speaker of the House notarized his own petitions, which is a clear violation of law. No prosecution. No consequence. There are other violations of law regarding political petitions and campaigns. Most of them are simply ignored. So why the big fuss over the Bosworth petitions?”

In fact, the “big fuss” might be generated from any one of multiple sources or a combination:

- * Dr. Bosworth and the Attorney General have been engaged in a very bitter multi-year battle over various issues from attempts to take away Bosworth’s medical license to foster care policies in South Dakota regarding Lakota children.
- * Bosworth happened to be challenging Jackley’s political friend and mentor, former Governor and now U.S. Sen. Mike Rounds. It was Rounds, then governor, who appointed Jackley to be attorney general. (Jackley was elected AG last November.)
- * Annette Bosworth’s husband, Chad Haber, challenged Jackley in that AG race and both have made serious allegations against Jackley for gross negligence or outright corruption for ignoring or covering up the child abuse in the Mette rape case.
- * Bosworth’s campaign was decidedly anti-establishment, attacking career politicians, running to “turn the tide on corruption,” and telling voters, “We’re losing our country, while politicians get rich.” Certainly established politicians, including Jackley, might have cause to want her campaign – or future ones – short-circuited.

Bosworth has called this a “political prosecution,” which this report doesn’t have enough evidence to reach a conclusion on. However, the possibility that the public views the prosecution as personal or politically motivated is an important and warranted concern.

(3) Are these charges overblown, making the prosecution counterproductive to greater participation in elections and respect for election laws?

Rules should be followed, but not every rule violation makes sense to prosecute — especially in arbitrary or partisan fashion.

Of crucial importance – in public opinion and also in law – is the intent of the person charged with a violating the law. In the case of Annette Bosworth, the circumstances surrounding the allegations are not ugly or sinister, but something else altogether.

For starters, one key incident in the case is the doctor traveling to help people in need after a deadly storm wrecked the Philippines – not the usual behavior of a criminal suspect.

Additionally, no one has questioned the validity of these 37 signatures. They are registered voters and truly wanted their names counted for the purpose of getting Dr. Bosworth on the ballot. Indeed, one signature belongs to Bosworth’s sister.

Moreover, the motivation of Bosworth's actions seems to have been to keep faith with and facilitate the democratic participation of others, rather than to personally gain a spot on the ballot, since it was clear the campaign had far more than enough signatures to gain a ballot position without turning in the six petitions in question.

Given the circumstances of this case, the running antagonism between the AG and Dr. Bosworth, the lack of criminal intent or personal gain, and the outrageous penalties being sought, the charges are overblown and the impact of the prosecution on the election process in South Dakota will be very negative.

24 YEARS?

Across the country, the idea of someone facing 24 years in prison for what Dr. Annette Bosworth is alleged to have done elicits shock. After all, the average sentence for someone convicted of homicide is less.

Will Dr. Bosworth spend 24 years in prison?

"Because the offenses are low-level nonviolent felonies," claims an Argus Leader story, "Bosworth is extremely unlikely to receive any prison time."

That's the newspaper's opinion, and though it may well be accurate (let's hope), the penalty hanging over Bosworth's head and, likewise, to be considered by any South Dakotan considering a role in a political campaign is indeed 24 years in prison. Not to mention the possible \$48,000 in fines.

Furthermore, a conviction for Annette Bosworth, even with no prison time at all and no fine assessed, would be devastating, because it means the loss of her medical license. That certainly doesn't serve any public purpose.

ACCOUNTABILITY NOT ATROCITY

The arbitrary and partisan application of election laws serves to both encourage unlawful behavior, by not punishing some violations, and discourage participation, by over-punishing other transgressions, creating a chillingly fearful environment for candidates and citizens circulating petitions.

The laws governing the petition process should be simple and straightforward, and gently but consistently enforced. Certainly citizens seeking to run for public office, support a

candidate, sponsor or work on a ballot referendum, initiative or recall campaign should not have to fear criminal prosecution for innocent mistakes.

“The reasonable thing to do in the Bosworth case would seem to be a misdemeanor charge with a penalty and no felony charges,” Mr. Howie publicly proposed. “That would be a win-win situation. Bosworth accepts a reasonable consequence and the integrity of the election process is preserved.”

Attorney General Jackley has many options in seeking justice in the Bosworth case. Continuing to prosecute the doctor for 12 felonies is a harmful, counterproductive option. Howie, a former legislator, makes a very common sense suggestion.

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VARIOUS STATE CASES ON PETITIONS

Dr. Annette Bosworth is facing 12 felony charges with a possible punishment of 24 years in prison and \$48,000 in fines regarding alleged violations of South Dakota's laws on petitioning. It appears to be the harshest potential punishment for petition-related charges anywhere in the nation throughout American history.

This section presents examples of other petition controversies to compare and contrast them with the Bosworth case.

NATIONAL REPORT ON FRAUD

Citizens in Charge Foundation conducted an open records research project in the 26 states with a statewide process of initiative and/or referendum to help determine the extent of verified fraud in petition gathering for initiatives and referendums.

The survey results are publicly available online [link below]. Twenty of the 26 states with initiative and/or referendum at the statewide level responded, reporting a total of 17 convictions for forgery or fraud in the petition process – that's 1 instance for every 4.7 million signatures gathered. Those cases were contained to only 5 states – Idaho, Maine, Nebraska, North Dakota and Ohio – with 15 states reporting no instances of forgery or fraud in ballot measure petitioning.

These results suggest very little fraud in the process. However, prosecutions and resultant convictions may be lacking due to a failure to prosecute. There have been numerous complaints about blatant instances of fraud being completely ignored by state officials, with violators going unpunished. Meanwhile, the case of Annette Bosworth in South Dakota is not the first time (as you'll see below) that a prosecution has been overly aggressive with political overtones and threats of lengthy jail time, massive fines and a mark as a felon for life.

"Is the F-Word Overused? A *Truth in Governance* Report in Petition Signature Fraud"
<http://www.citizensinchargefoundation.org/files/Is%20The%20F-Word%20Overused.pdf>

ARKANSAS

In 2013, the Arkansas General Assembly passed Senate Bill 821 to address "widespread instances of apparent fraud, forgery, and false statements in the signature-gathering process." The controversial SB 821 added numerous new regulations on petitioners and

created additional technical errors that if made by petition circulators can now be used to throw out the otherwise valid signatures of registered voters in Arkansas.

Yet, it is what Arkansas officials did *not* do that stands out as odd. Arkansas officials declared “widespread” fraud, decried a trampling of the laws governing petitions, but nonetheless declined to prosecute a single person for even a single instance of fraud.

Not one.

The answer to law-breaking in Arkansas appears to be: first, ignore the criminal activity, and second, pass new laws.

The fraudulent behavior alleged, but not addressed directly in Arkansas, again includes signing fake names and addresses on the petition in an attempt to fool state officials. That’s different than the valid signatures of registered South Dakota voters on Annette Bosworth’s petitions.

MICHIGAN

Former U.S. Congressman Thaddeus McCotter (R-Mich.) lost his seat in the Congress not by the decision of constituents voting in an election, but due to a failed petition drive attempting to simply gather enough signatures to place the incumbent’s name on the ballot.

Two of Thaddeus McCotter's aides filled petition sheets with forged signatures and information in a blatant attempt to trick election officials. The trick didn’t work. McCotter failed to make the ballot and both aides were charged with crimes for their roles.

McCotter District Director Paul Seewald pled guilty to nine misdemeanor counts of falsely signing a nominating petition and received a sentence of two years on probation and to perform 100 hours of community service. Seewald was also required to pay court costs.

Deputy District Director Don Yowchuang pled no contest to 10 felony counts of forgery and 6 misdemeanor counts of falsely signing a petition. He was sentenced to three years on probation, to perform 200 hours of community service, and to pay court costs.

NORTH DAKOTA

Neighboring North Dakota has witnessed the most instances of fraud in initiative and referendum petitions of any state. The latest convictions came in a highly publicized 2012 case against ten North Dakota State University football players who were hired to gather signatures on two separate ballot measures.

The football players pled guilty to making up false names and addresses and forging phony signatures to defraud both ballot measures, which subsequently failed to make the ballot because of the illegal actions of these circulators. State investigators reported that the players could not identify the legitimate signatures they collected from the ones they fraudulently made up.

These cases are far different from the South Dakota case against Annette Bosworth. The petitions circulated by Bosworth had no fake names or forged signatures on them. Nonetheless, the football players were charged with misdemeanors, not the felonies Bosworth faces.

While 24 years in prison and fines as high as \$48,000 are on the table against Bosworth if she is convicted, not to mention the loss of her medical license, the ten convicted NDSU players were given unsupervised probation – for 360 days – and 50 hours of community service as well as having to pay \$325 in court fees. Plus, their convictions will be expunged from their records once they complete their sentences.

Dr. Bosworth may want to practice her football skills.

OKLAHOMA

I know first-hand what it feels like to be indicted and charged with petition fraud. In 2007, the Oklahoma attorney general filed a felony indictment against me alleging Conspiracy to Defraud the State. The charge carried a maximum 10 year prison term and a \$25,000 fine.

Three of us, dubbed “The Oklahoma 3,” were each alleged to have purposely conspired to employ non-residents to gather signatures in violation of Oklahoma’s petition residency law. The truth? No such conspiracy ever took place. In fact, those actually managing the petition drive had asked state officials for guidance and followed that guidance.

But for a grueling year and a half, the three of us were politically frozen by the indictment. When the Oklahoma AG finally dismissed the charges and expunged any record of the indictment, we had still never received even a full preliminary hearing to have a judge make a determination if there was enough evidence to take us to trial.

I know the fear of prison, and also the fear of financial ruin just from the cost of hiring an adequate legal defense. (Though, thankfully, I was lucky enough that supporters covered my legal fees in this matter.)

In my case, I didn’t commit any legal offense, so of course I should not have been prosecuted. Yet, to prosecute any person, to threaten prison time, to mark someone with a felony conviction has serious consequences and should be carefully considered.

Unless a person has committed a violation with clearly fraudulent intent such harsh punishments are destructive to a healthy election process. People will reduce their participation in politics as candidates, as ballot measure sponsors, and as petition circulators for either cause, if they risk not only lost time and money, but also the threat of serious legal punishments on the vagary of various legal interpretations or for making an innocent mistake.

SOUTH DAKOTA

The day that Dr. Annette Bosworth was charged with election fraud, so was another South Dakota candidate for the U.S. Senate, independent Clayton Walker. The big difference between the two cases is that unlike Bosworth's otherwise valid signatures by real registered voters in South Dakota, who truly wanted their signature to help put a candidate on the ballot, the allegations against Walker include forging signatures to falsely claim the support of voters. The Secretary of State removed Mr. Walker from the ballot for not acquiring the requisite number of legitimate signatures.

Walker's alleged actions show an obvious intent to defraud state officials. Bosworth's do not.

WASHINGTON

In 2010, Claudia McKinney, a Seattle woman working for the Service Employees International Union (SEIU) as a petition circulator, forged and turned in to state officials as many as 349 signatures in what the secretary of state called the worst petition fraud case in decades.

McKinney was charged with a single Class C felony for signing a false name to the petition, which is punishable by up to five years imprisonment and a \$10,000 fine. She could have been charged with 19 counts, since state investigators had identified at least 19 individuals found on her petitions, who said they had not signed.

After pleading guilty to the charge, McKinney was sentenced to 160 hours of community service and required to pay nearly \$2,500 in restitution to the secretary of state's office.

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