

10-4-2006

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Supreme Court Ruling Supports Independent Candidacies

by LADB Staff

Category/Department: Mexico

Published: 2006-10-04

In a decision that could have some repercussions for the next presidential election in 2012, Mexico's high court (Suprema Corte de Justicia de la Nacion, SCJN) has ruled that political candidates can participate in state elections without having to affiliate with any political party. The SCJN decision, approved by a narrow 6-5 margin, overturns a 60-year-old interpretation of the Mexican Constitution, which required any political candidate to belong to a registered political party.

"Political parties can't limit the rights of individuals," said Justice Jose Ramon Cossio Diaz, one of six justices who favored independent candidacies.

"Therefore, independent candidacies have to be constitutional." Also voting with the majority were Justices Juan Silva Meza, Olga Sanchez Cordero, Margarita Luna Ramos, Guillermo Ortiz Mayagoitia, and Genaro Gongora Pimentel.

Five justices opposed the measure, including Chief Justice Mariano Azuela, Juan Diaz Romero, Sergio Salvador Aguirre, Jose de Jesus Gudino Pelayo, and Sergio Valls. Speaking for the minority, Diaz Romero argued that the proliferation of independent candidates "would introduce anarchy to the electoral system."

Chief Justice Azuela argued that the SCJN was overstepping its authority by assuming legislative powers and, in essence, reforming the Constitution. Decision upholds vote in Yucatan state legislature The court's decision upheld a May vote by the Yucatan state legislature to allow independent candidates to run for state and local offices. Sonora is the other state that has approved independent candidacies. The issue came before the court because a local party, the Alianza por Yucatan, challenged the Yucatan legislative action.

The Partido de la Revolucion Democratica (PRD) and the Partido Alternativa Socialdemocrata y Campesina (PASC) supported the challenge. The SCJN decision was well-received in Yucatan state. "Our state set the example for the modernization of laws governing independent candidacies," state electoral counselor Nestor Santin told El Diario de Yucatan.

The six justices who voted in favor of the independent candidacies emphasized, however, that it was a very narrow decision. "There is no reason to enter into speculation on whether independent candidacies should be allowed at the federal level," said Cossio. "Our decision applies strictly and exclusively to Yucatan."

The SCJN already issued a decision on the matter in 2005, ruling against ex-foreign relations secretary Jorge Castaneda, who was seeking to run in the Mexican presidential election as an independent (see SourceMex, 2005-10-26). After being turned down by the SCJN, Castaneda brought the matter to the Inter-American Commission on Human Rights (IACHR) in Washington,

which then referred the matter to the Costa Rica-based Inter-American Court on Human Rights (IACHR). The court decided not to take the case because it did not involve an urgent matter where a party was threatened with irreparable damage (see SourceMex, 2005-11-30).

The prohibition against independent candidacies also prevented pharmaceutical magnate Victor Gonzalez Torres from seeking the presidency in 2006. Gonzalez, more commonly known as Dr. Simi, gained strong name recognition through a 43-city tour in which he put out his agenda promoting universal health care, improved education, and a tougher tax code.

Congress unlikely to approve independent candidacies

The SCJN decision sets a precedent that could be used in other states and in federal congressional and presidential elections. The ultimate decision on whether to allow independent candidacies in state and federal elections is in the hands of the Mexican Congress and the 29 state legislatures that have not yet approved such a measure.

Political analysts say the federal Congress is not likely to rush to approve independent candidacies, since Mexico's electoral system continues to rely heavily on the party system. "The significance of the Supreme Court decision is more political than legal," Armand Peschard-Sverdrup, a Mexico expert with the Center for Strategic and International Studies (CSIS) in Washington told the Los Angeles Times. "If you look at the decisions of the Congress, they're about making decisions to strengthen their political parties, individually and collectively."

Some members of Congress criticized the high court's decision to even consider the Yucatan case. Deputy Jorge Zermeno Infante, president of the Chamber of Deputies, said any decision related to independent candidacies was the exclusive domain of the legislative branch. "I don't think that the court should be involved in creating legislation," said Zermeno, a member of the governing Partido Accion Nacional (PAN). [Sources: El Economista, 09/27/06, 10/04/06; La Jornada, 09/27/06, 09/28/06, 10/04/06; Reforma, 09/27/06, 09/28/06, 09/30/06, 10/04/06; La Crisis, 09/29/06, 10/04/06; Por Esto, El Diario de Yucatan, El Universal, Los Angeles Times, The Herald-Mexico City, La Cronica de Hoy, Milenio Diario, Excelsior, Notimex, 10/04/06]

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