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## Judge rules against Kucinich on Democrat's loyalty oath

### Presidential candidate left off primary ballot may appeal

By [W. Gardner Selby](#)

AMERICAN-STATESMAN STAFF

Saturday, January 12, 2008

U.S. District Judge Lee Yeakel on Friday rejected presidential candidate Dennis Kucinich's challenge to a loyalty oath required of presidential candidates by the Texas Democratic Party.

Barring a successful appeal, Yeakel's ruling means Kucinich's name will not be on the party's March 4 primary ballot.

Don McTigue, an Ohio lawyer for Kucinich, said he would confer with the Ohio congressman on whether to appeal to the 5th U.S. Circuit Court of Appeals.

Kucinich and musician Willie Nelson, a supporter, filed a lawsuit last week accusing the party of violating the candidate's constitutional rights by not putting him on the ballot.

Kucinich had attempted to file as a candidate without agreeing entirely to a loyalty pledge; he scratched out a portion stating that he would support the party's nominee for president, whoever it is. The party said the pledge could not be altered and that Kucinich's filing could not be accepted.

Yeakel noted that candidates are free to interpret the oath pretty much as they please and said he did not find it "to be a burden of such an extent that it mandates striking down the oath."

He said that the oath "may be inartfully worded, may be, in fact, an anachronism," but it is "legally enforceable."

Yeakel also noted that Kucinich accepted the Texas oath when he ran for president in 2004. Kucinich drew nearly 2 percent of the vote in the 2004 Texas primary, placing seventh in the field.

McTigue said Kucinich's concern that a nominee would employ war as an instrument of foreign policy has escalated since 2004. He noted that GOP presidential candidates don't have to take a similar oath in Texas and argued that Democrats had failed to explain why the oath is required for presidential aspirants and not candidates for other offices.

Gary Yokie of Houston, Kucinich's Texas campaign coordinator, said that if Kucinich doesn't get on the primary ballot, his supporters will have options. For instance, they could flock to another candidate, such as Cynthia McKinney, a former Democratic U.S. House member seeking the Green Party's nomination.

Boyd Richie, chairman of the Texas Democratic Party, said the oath is required by rules adopted by delegates to the party's state convention.

Speaking personally, he said, "If people want to have the benefit of running under a particular party's banner, they ought to be willing to support that party's nominee."

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