

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE**

JOHN BRAGORGOS,)	
Plaintiff,)	
)	
JOHN MCFERREN,)	
Plaintiff,)	
)	
JOHN LEAKE,)	
Plaintiff,)	
)	
v.)	Docket No.
)	
MARK GOINS, TRE HARGETT, FAYETTE)	
COUNTY ELECTION COMMISSION,)	
JAMIE JENKINS in his official capacity,)	
HELYN KEITH, MAXINE MIDDLECOFF,)	
ERNESTINE BROWN, SYLVAN MEYER,)	
ALEX ARMOUR in their official capacity as)	
members of the Fayette County Election)	
Commission, TENNESSEE ELECTION)	
COMMISSION, JUDY BLACKBURN,)	
TOM DUBOIS, GREG DUCKETT, TOMMY)	
HEAD, JIMMY WALLACE, TOM WHEELER,)	
and KENT YOUNCE, in their official capacity)	
as members of the Tennessee Election Commission,)	
Defendants.)	

COMPLAINT

Plaintiff, John Bragorgos (“Plaintiff Bragorgos”), Plaintiff, John McFerren and Plaintiff, John Leake (“Plaintiff Voters”), by and through legal counsel, for their Complaint against Tennessee Coordinator of Elections Mark Goins (“Defendant Goins”), in his official capacity; Tennessee Secretary of State, Tre Hargett (“Defendant Hargett”), in his official capacity; Fayette County Administrator of Elections, Jamie Jenkins (“Defendant Jenkins”), in his official capacity; the Fayette County Election Commission and members of the Fayette County Election Commission in their official capacity (collectively, the “Fayette County Election Commission”);

the Tennessee Election Commission and its members, in their official capacity (collectively, the “Tennessee Election Commission”), allege as follows, upon information and belief:

JURISDICTION AND VENUE

1. Plaintiffs bring this action pursuant to 42 U.S.C. § 1983 to redress violations of his rights under the Civil Rights Act of 1964, 42 U.S.C. § 1971(a)(2)(B), and the First and Fourteenth Amendments to the United States Constitution.

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) and (a)(4). Jurisdiction is also appropriate under 28 U.S.C. § 1367 and 42 U.S.C. § 1983.

3. The claim for the unconstitutionality of the Tennessee Election Code is brought pursuant to the ancillary jurisdiction of the Court. This Court’s Supplemental Jurisdiction under 28 U.S.C. §1367 is invoked over such claim because such claims are so related that they form part of the same case and controversy.

4. Venue is proper pursuant to 28 U.S.C. 1391(b)(1) and (b)(2) because a substantial part of the events giving rise to the Plaintiffs’ claims took place or will take place in this judicial district, and the Defendants reside in this judicial district.

5. The violation of Plaintiff’s constitutional and statutory rights alleged to have been committed against Plaintiff were committed in the State of Tennessee and by employees of the State of Tennessee in their official capacities.

PARTIES

6. Plaintiff Bragorgos, a resident of Fayette County, is a qualified independent candidate for the public office of Tennessee State Representative from the 94th District, consisting of Fayette and McNairy Counties as well as a portion of Hardeman County, State of Tennessee.

7. Plaintiff Bragorgos is also a qualified candidate for the public office of Fayette County School Board.

8. Plaintiff Voters are each registered voters in Fayette County, Tennessee.

9. Defendant Mark Goins is the Tennessee State Election Coordinator, and he resides in Davidson County.

10. Defendant Jamie Jenkins is the Fayette County Election Commission Chairman, and he resides in Fayette County.

11. Defendant Fayette County Election Commission is a duly authorized commission pursuant to *Tenn. Code Ann. § 2-12-101 et. seq.* and is located in Fayette County, Tennessee.

12. Defendants Helyn Keith, Maxine Middlecoff, Ernestine Brown, Sylvan Meyer, and Alex Armour are the members of the Fayette County Election Commission. Each member resides in the County of Fayette.

13. Defendant Tennessee Election Commission is a duly authorized commission pursuant to *Tenn. Code Ann. § 2-11-101 et. seq.* located in Nashville, Tennessee.

14. Defendants Judy Blackburn, Tom DuBois, Greg Duckett, Tommy Head, Jimmy Wallace, Tom Wheeler and Kent Younce are duly appointed members of the Tennessee Election Commission.

FACTS

15. Plaintiff Bragorgos seeks to run for public office as an independent candidate in the public office election for State House of Representatives in District 94.

16. Plaintiff Bragorgos also seeks to run for public office of Fayette County School Board.

17. Plaintiff Voters were supporting Plaintiff Bragorgos' election campaigns until he was removed from the ballot.

18. Plaintiff Voters planned on voting for Plaintiff Bragorgos for both Fayette County School Board and Tennessee House of Representatives until Plaintiff Bragorgos' name was removed from the ballot.

19. In 2010, Plaintiff Bragorgos ran for the public offices of Fayette County Mayor and Alderman in Somerville (a city in Fayette County) and was certified by Defendants as a Fayette County resident and eligible to run for such offices.

20. When Plaintiff Bragorgos ran for public office in 2010 for Fayette County Mayor and for office as an Alderman in Somerville where he is a resident, Plaintiff Bragorgos was a member of the Republican Party and associated himself and his beliefs with the Republican Party.

21. When Plaintiff Bragorgos sought the public offices of Fayette County Mayor and Alderman in Somerville, Plaintiff met with an attorney representing Somerville and who also represents the Fayette County School Board to discuss his residency in Fayette County.

22. Plaintiff Bragorgos was ultimately determined to be a resident of Fayette County for those election contests, certified as a qualified candidate and his name was placed on the ballot.

23. Plaintiff Bragorgos now seeks to run for public office as an independent candidate.

24. In 2011, Plaintiff Bragorgos filed for Chapter 13 bankruptcy and such was ultimately dismissed after being converted to a Chapter 7 bankruptcy.

25. Sometime on or about November, 2011, Plaintiff Bragorgos' residence and several parcels of real property, all located in Fayette County, were foreclosed on due to difficult circumstances as the result of the financial downturn in the economy.

26. Plaintiff Bragorgos re-filed for bankruptcy in 2012 after experiencing difficult circumstances as a real estate developer and based on the advice of an attorney specializing in such matters.

27. Plaintiff Bragorgos lost his residence and subsequently obtained habitation at his current address, 306 Hiawatha Street, Somerville, Tennessee.

28. Plaintiff Bragorgos always intended to remain a Fayette County resident and remained active and involved in Fayette County. He never intended to permanently leave Fayette County and has continued to consider Fayette County his residence.

29. While Plaintiff Bragorgos spent some time in Shelby County after his numerous properties in Fayette County were lost to foreclosure and bankruptcy, he remained a resident of Fayette County.

30. While Plaintiff Bragorgos temporarily stayed in Shelby County, Plaintiff Bragorgos was still active in Fayette County affairs and preparing for his two political campaigns for Fayette County public offices.

31. Plaintiff Bragorgos has maintained his legal residency in Fayette County since February 2010 with an intent to be a resident of Fayette County and to return to Fayette County when he is absent from such county.

32. Plaintiff Bragorgos has been active in the Fayette County community as a business owner, developer, and community member.

33. Plaintiff Bragorgos regularly attends meetings of the Fayette County local government organizations.

34. On January 6, 2012, Plaintiff Bragorgos retrieved a nominating petition to run for public office of Fayette County School Board.

35. On February 7, 2012, Plaintiff Bragorgos retrieved a nominating petition to run for public office of State House of Representatives from the 94th Municipal District, all of Fayette and McNairy Counties, and a portion of Hardeman County, Tennessee.

36. On March 22, 2012, the Fayette County Election Commission informed Plaintiff Bragorgos he needed additional signatures for the nominating petition for Fayette County School Board. The Fayette County Election Commission did not question Plaintiff Bragorgos' residency at such time.

37. Plaintiff Bragorgos subsequently obtained the required signatures.

38. On February 29, 2012, Plaintiff Bragorgos timely filed a nominating petition for the public office of Tennessee State Representative from the 94th Municipal District, all of Fayette and McNairy Counties, and a portion of Hardeman County, Tennessee.

39. On April 2, 2012, Plaintiff Bragorgos filed a nominating petition for the public office of Fayette County School Board.

40. On or about April 16, 2012, Plaintiff Bragorgos received a letter from Janet Williams, Tennessee Bureau of Ethics and Campaign Finance, recognizing that Plaintiff Bragorgos was qualified as a candidate for the 2012 Tennessee State House of Representatives election.

41. The aforementioned petition for State Representative was for candidacy as an Independent candidate in the general election to be held on November 6, 2012.

42. The aforementioned petition for Fayette County School Board was for candidacy in the general election to be held on August 7, 2012.

43. The Fayette County Election Commission accepted, examined, and approved said nominating petition as being in legal compliance to allow Plaintiff Bragorgos to be placed on the ballot. Plaintiff Bragorgos was listed on the Tennessee Secretary of State website as an Independent candidate for House District 94.

44. On or about April 27, 2012, Plaintiff Bragorgos received a telephone call from Mark Goins, Tennessee Coordinator of Elections (“Goins”), an officer for the State of Tennessee with ministerial duties.

45. Goins left a message for Plaintiff Bragorgos and told Plaintiff Bragorgos that Goins was, “forwarded information from law enforcement officials and essentially they raised the question of whether [Plaintiff Bragorgos is] a resident of Fayette County.”

46. During the telephone voicemail message, Goins told Plaintiff Bragorgos that he drafted a letter regarding Plaintiff Bragorgos. Goins stated that he was “sending it to Jamie Jenkins today, and it is directing him not to place [Plaintiff Bragorgos] on the ballot for State Rep or school board.”

47. The Tennessee Coordinator of Elections arbitrarily and capriciously violated Tennessee election law and its own rules and regulations by unilaterally declaring the Plaintiff Bragorgos unqualified to be placed on the ballot.

48. On April 27, 2012, Goins, as promised, sent a letter to Jamie Jenkins, Fayette County Election Commissioner, directing him to remove Plaintiff Bragorgos’ name from the ballot for the election of public office.

49. The letter contained information gathered by Goins without Plaintiff Bragorgos’

knowledge or input and declared that Plaintiff Bragorgos was unqualified to run for office in Fayette County.

50. Plaintiff Bragorgos was never given any opportunity to provide information regarding his residency before Goins unilaterally, arbitrarily and maliciously directed the Fayette County Election Commission to remove Plaintiff Bragorgos' name from the ballot for both Fayette County School Board and Tennessee House of Representatives in District 94 based upon factually incorrect inclusions, and omissions of fact which render the conclusions made in the letter incorrect and unjust.

51. Much of the information in Goins' letter is untrue, misleading and unsubstantiated.

52. On Thursday, May 3, 2012, Plaintiff Bragorgos received an email from Defendant Jamie Jenkins, Coordinator of Elections for Fayette County, stating:

The Fayette County Election Commission will meet Monday, May 7, 2012 beginning at 5:30 PM at the Election Office at 45 Dogwood Lane, Somerville, TN. This is a regular scheduled meeting and the letter which Coordinator Mark Goins sent to Chair Helyn Keith concerning your candidacy is included on the agenda and **the required action will be taken at this time.**"

This and [] all CEC meeting are open to the public.

(emphasis added).

53. Neither the email nor any communication from Defendants presented Plaintiff Bragorgos with any opportunity to be heard, present evidence on his behalf, or have a hearing regarding Plaintiff Bragorgos' residency in Fayette County.

54. At the time the email was received, Plaintiff Bragorgos was traveling out of state and had previously informed Defendant Jamie Jenkins that he would be out of state at such time.

55. On May 7, 2012, only four (4) days after notification to Plaintiff Bragorgos of the upcoming meeting, the Fayette County Election Commission met to “take the required action.”

56. Plaintiff Bragorgos had not been notified of his opportunity to speak or that he would be permitted to have the opportunity to present any countervailing proof in relation to the letter Goins sent to Defendants Helyn Keith and Jamie Jenkins.

57. At the meeting, the members of the Fayette County Election Commission were present along with the Fayette County Sheriff and a Sheriff’s Deputy. Plaintiff Bragorgos was the only citizen present at the meeting.

58. At the meeting, Defendant Fayette County Election Commission held a meeting to vote on taking the action as directed by Goins.

59. As instructed by the letter from Goins, the Fayette County Election Commission voted to remove Plaintiff Bragorgos from the ballot without proper notice or opportunity to present countervailing evidence despite Plaintiff Bragorgos’ request for additional time to do so and to retain counsel to represent his rights at the hearing.

60. Prior to the vote, Plaintiff Bragorgos requested time to retain counsel and stated that he was not afforded the opportunity to present any evidence or his case at the hearing.

61. After Plaintiff Bragorgos informed the Fayette County Election Commission of such at the hearing, Plaintiff Bragorgos was informed to wait and see if he needed counsel after the vote was taken.

62. Then, within minutes of informing Plaintiff Bragorgos that he should wait and see if he needed to obtain counsel, the Defendant Fayette County Election Commission and the members of the Fayette County Election Commission, acting under color of state law, arbitrarily and illegally removed Plaintiff Bragorgos’ name from the ballot for both Fayette County School

and Tennessee House of Representatives in District 94 in violation of the First and Fourteenth Amendments to the United States Constitution.

63. Fayette County Election Commission and its members removed Plaintiff Bragorgos' name from the Tennessee House of Representatives ballot which involves representation of counties other than Fayette County, apparently without notice or participation from the other counties represented by such seat.

64. Tennessee law contains no provision or remedy for actions taken against citizens seeking access to the ballot. The law does not provide any administrative process or course of action to allow citizens to seek redress when they have been removed from the ballot without due process.

65. Plaintiff Bragorgos challenges the constitutionality of the Tennessee rules, laws, and state enforced processes that pertain to persons who are removed from ballots by the State Coordinator of Elections, the Fayette County Election Commission, the Tennessee Election Commission, and particularly those rules, laws, and state enforced processes, or lack thereof, for removing a previously qualified candidate from the ballot without proper notice or due process.

66. The combined effect of said rules, laws, and state enforced processes is to create unnecessary, burdensome, and expensive barriers to the detriment of legitimate candidates who seek access to the ballot. These laws and rules are not uniformly applied and are used as tools by state officials to exclude candidates who are not part of status quo political operations.

67. The aforesaid rules and laws, and lack thereof, as well as the application of such, are constitutionally defective because they erect unnecessary barriers to elective office.

68. The aforesaid rules and laws' combined effect by application impermissibly burden and effectively deny Plaintiff Voters' their First Amendment rights to free speech, to

vote, to associate so as to form and support a political candidate of their choice and to secure access to the ballot for their choice of candidate.

69. The aforementioned rules, laws, and state endorsed processes, or lack thereof, and the application of such, violate the Plaintiff Bragorgos' and Plaintiff Voters' First and Fourteenth Amendment rights.

70. Plaintiffs seek equitable and injunctive relief.

CAUSE OF ACTION #1 (Due Process Violation)

71. Paragraphs 1-70 are incorporated herein.

72. The Defendants, acting under color of state law and violating the Civil Rights Act of 1964, subjected Plaintiff Bragorgos or caused Plaintiff Bragorgos to be subjected to the deprivation of his rights, specifically his right to due process.

73. Plaintiff Bragorgos possesses an interest in his right to run for elected office and his right to access the ballot.

74. Plaintiff Bragorgos was not afforded an adequate pre- or post-deprivation remedy.

75. The Fayette County Election Commission removed Plaintiff Bragorgos' name from the ballot at the direction of Goins for both the Fayette County School Board election and election of Tennessee House of Representatives District 94, which includes Fayette, McNairy and Hardeman Counties.

76. Goins conducted a seemingly detailed and extensive investigation of Plaintiff Bragorgos' residency without informing Plaintiff Bragorgos of the same, and without allowing Plaintiff Bragorgos to provide any evidence of his residency.

77. Goins acted as prosecutor, judge, and jury in determining Plaintiff Bragorgos' residency without giving Plaintiff Bragorgos any opportunity to respond to the allegations made against him.

78. Plaintiff Bragorgos was not made aware of the investigation by Goins regarding Plaintiff Bragorgos' residency until Goins had already concluded his investigation and issued his directive to the Fayette County Election Commission to remove Plaintiff Bragorgos' name from the ballot for both election contests.

79. Plaintiff Bragorgos submits that he has a good faith argument that the law in this area should be changed to allow Plaintiff Bragorgos to seek redress for limiting his access to the ballot and limiting his right to run for elected office as a resident of Fayette County without due process. *See Randall v. Scott*, 610 F.3d 701 (11th Cir. 2010).

80. *Tenn. Code Ann.* §2-5-204 addresses "Placing of names on ballots – Withdrawal or disqualification of candidate – Death of candidate." In relation to removing a candidate's name from the ballot, such statute provides,

If no less than four (4) members of the county election commission vote in the affirmative that a candidate's name on the ballot would be confusing or misleading, the county election commission may require further identifying information or may omit any confusing or misleading portion of the name. **In an election where the candidate's name will appear on the ballot in more than one (1) county, this authority shall rest with the state election commission.**

Tenn. Code Ann. §2-5-204(c) (emphasis added).

81. There is no other law provided to allow authority for Defendants to remove Plaintiff Bragorgos' name from the ballot after he has been certified as a qualified candidate.

82. The deprivation of the right to due process has caused Plaintiff Bragorgos damage and has infringed upon his fundamental right to run for elected office.

CAUSE OF ACTION #2 (Stigma Plus)

83. Paragraphs 1-82 are incorporated herein.

84. The Defendants, acting under color of state law and violating the Civil Rights Act of 1964, subjected Plaintiff Bragorgos or caused Plaintiff Bragorgos to be subjected to the deprivation of his rights.

85. Goins made injurious statements against Plaintiff Bragorgos in his letter dated April 27, 2012 which was published to the Fayette County Election Commission and Jamie Jenkins.

86. The injurious statements are false, misleading and unsubstantiated.

87. The Fayette County Election Commission ratified the injurious statements made by Goins and subsequently removed Plaintiff Bragorgos' name from the election ballot subsequent to his original qualification.

88. Plaintiff Bragorgos was not afforded a pre-deprivation hearing.

89. The injurious statements were in conjunction with limiting Plaintiff Bragorgos' access to the ballot and in violation of his First and Fourteenth Amendment rights.

90. The actions of Defendants damaged Plaintiff Bragorgos.

CAUSE OF ACTION #3 (Substantive Civil Rights Violation)

91. Paragraphs 1-90 are incorporated herein.

92. The Defendants, acting under color of state law and violating the Civil Rights Act of 1964, subjected or caused Plaintiff Bragorgos to be subjected, to the deprivation of his liberty rights, specifically his fundamental right to run for elected office and his First Amendment freedom to associate for the advancement of political beliefs.

93. In this matter, Plaintiff Bragorgos and similarly-minded voters' rights to vote are infringed upon because by eliminating Plaintiff Bragorgos from the ballot, there is no choice of candidates on the ballot.

94. "[R]estrictions on access to the ballot impinge on the fundamental right to associate for the advancement of political beliefs and the fundamental right to vote." *Goldman-Frankie v. Austin*, 727 F.2d 603, 605 (6th Cir. 1988) (citing *Illinois State Board of Elections v. Socialist Workers Party*, 440 U.S. 173, 184 (1979)).

95. The State's actions, statutes, and application of Election Code statutes operate as a mechanism for the Defendants to exclude certain classes of candidates from the electoral process without affording recourse to the removed candidates prior to the election.

96. The Tennessee Election Code, the authority, or lack thereof, granted to the State Coordinator of Elections, and the Defendants' application of such statutes, unfairly and unnecessarily burden the availability of political opportunity and ultimately violate Plaintiff Bragorgos' First and Fourteenth Amendment rights.

97. Plaintiff Bragorgos has been damaged by Defendants' actions.

CAUSE OF ACTION #5 (Constitutionality of Tennessee Election Code Statutes)

98. Paragraphs 1-97 are incorporated herein.

99. The Defendants, acting under color of state law and violating the Civil Rights Act of 1964, subjected Plaintiff Bragorgos or caused Plaintiff Bragorgos to be subjected to the deprivation of his rights by the application of the Tennessee Election Code in a manner to exclude Plaintiff Bragorgos' access to the ballot.

100. Defendant Goins exceeded his statutory authority granted by the Tennessee Election Code, or applied such statutes in an unconstitutional manner, to deny Plaintiff Bragorgos access to the ballot.

101. The Tennessee Election Code, specifically, *Tenn. Code Ann.* §§ 2-11-202(a)(3), 2-11-202(a)(4), and 2-11-202(a)(12), are unconstitutional and/or the application of such by Defendants, and/or the combined effect of both, is unconstitutional in depriving Plaintiff Bragorgos of his fundamental Constitutional rights.

102. The Tennessee Election Code, specifically, *Tenn. Code Ann.* §§ 2-11-202(a)(3), 2-11-202(a)(4) and 2-11-202(a)(12), and/or the application thereof by Defendant Goins, violates the separation of powers between the legislative, executive and judicial branches of government pursuant to the Tennessee Constitution, Article 2, §1 and Article 2, §2.

103. Defendants, under Tennessee law, are ministerial officers and are prohibited from exercising discretion or judgment, a role reserved for the judicial branch of government. *See City of Memphis v. Shelby County Election Comm'n*, 146 S.W.3d 531 (Tenn. 2004)

104. Defendants exceeded their statutory authority in conducting an investigation of Plaintiff, making a judicial determination of his residency without providing Plaintiff Bragorgos any opportunity to respond to the allegations, and denying Plaintiff Bragorgos his Constitutional right to access the ballot.

105. Likewise, Defendants exceeded their authority in removing Plaintiff Bragorgos' name from the ballot after he was deemed to be a qualified candidate.

106. Goins, the Fayette County Election Commission and its members exceeded their statutory authority by voting on removal of a candidate from the ballot for an election contest where Plaintiff Bragorgos' name would appear on the ballot in more than one county.

107. If any election commission were to decide Plaintiff Bragorgos' residency for Tennessee House of Representatives in District 94, it would have to be the Tennessee Election Commission and its members as the election for such office involves more than one county.

108. In the recent decision of *Green Party of Tennessee v. Hargett, et al.*, 2012 WL 379774 (M.D. Tenn. Feb. 3, 2012), this Honorable Court held part of the Tennessee Election Code, as it relates to the authority of Goins as the State Coordinator of Elections, to be unconstitutional. In doing so, this Court cited to *Deoro v. Delaware Co.*, 2009 WL 2245067 at *2 (E.D.Pa. July 27, 2009) for the proposition that "[g]ranted unfettered discretion to [] officials [] is unconstitutional because it can lead to 'arbitrary deprivations of [constitutionally protected] interests' and/or create the potential to abuse power at the expense of another."

109. Less than three (3) months after the release of the *Green Party* decision, Goins chose to again act in a manner of exercising unfettered discretion and abusing his power at the expense of Plaintiff Bragorgos and Plaintiff Voters.

110. Plaintiff Bragorgos has been injured by Defendants' conduct, the unconstitutional Tennessee Election Code statutes and/or the unconstitutional application of the Tennessee Election Code statutes.

CAUSE OF ACTION #6 (Plaintiff Voters' First Amendment Rights)

111. Paragraphs 1 - 110 are incorporated herein.

112. Plaintiff Voters, by the unconstitutional Tennessee Election Code, application of the Tennessee Election Code, and the combined effect of Defendants' actions have impermissibly been denied freedom of association so as to support the political candidate of their choice, freedom of speech, and to secure ballot access for their candidate as guaranteed by the

First Amendment of the United States Constitution and been denied rights under the Civil Rights Act of 1964

113. Plaintiff Voters have been denied the right to effectively cast their votes.

114. Defendants' actions in eliminating Plaintiff Bragorgos from the ballot limit Plaintiff Voters' right to associate in supporting Plaintiff Bragorgos and the views expressed by Plaintiff Bragorgos.

115. Plaintiff Voters rely upon *Anderson v. Celebrezze*, 460 U.S. 780 (1983), where the United States Supreme Court held that “[t]he exclusion of candidates also burdens voters’ freedom of association, because an election campaign is an effective platform for the expression of views on the issues of the day, and a candidate serves as a rallying-point for like-minded citizens.”

116. In *Anderson v. Celebrezze*, 460 U.S. 780 (1983), the United States Supreme Court recognized “...the right of qualified voters, regardless of their political persuasion, to cast their votes effectively.” *Anderson v. Celebrezze*, 460 U.S. 780, 87-88 (1983).

117. Plaintiff Voters also rely upon *Anderson v. Celebrezze*, 460 U.S. 780 (1983), where the United States Supreme Court held that “[t]he right to vote is heavily burdened if that vote may be cast only for major-party candidates at a time when other parties or other candidates are clamoring for a place on the ballot.” *Anderson v. Celebrezze*, 460 U.S. 780, 787-88 (1983) (citing *Lubin v. Panish*, 415 U.S. 709, 716 (1974)).

118. Further in *Anderson v. Celebrezze*, 460 U.S. 780 (1983), the United States Supreme Court said, “...the state laws place burdens on two different, although overlapping, kinds of rights-the right of individuals to associate for the advancement of political beliefs...” *Anderson v. Celebrezze*, 460 U.S. 780, 87 (1983).

119. Defendants have denied Plaintiff Voters' First Amendment rights by Defendants' exclusion of all non-Republican party candidates from the ballot.

120. By Defendants' actions in arbitrarily removing Plaintiff Bragorgos from the ballot, Plaintiff Voters cannot vote for Plaintiff Bragorgos, the candidate Plaintiff Voters wish to support for Fayette County School Board and Tennessee House of Representatives for District 94.

121. Plaintiff Voters right to vote has been burdened by Defendants' actions in limiting the ballot to only Republican Party candidates.

122. Plaintiff Voters have been or will be irreparably damaged by Defendants' actions in excluding Plaintiff Bragorgos from the ballot.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court will enter an order:

- A. Assuming jurisdiction over this matter;
- B. Hearing this matter on an expedited basis due to the sensitive time frame and upcoming election in this matter;
- C. Issuing a judgment finding that Defendants' conduct violates the constitutional rights of Plaintiffs;
- D. Granting injunctive relief in the form of an order compelling Defendants, their employees, and their agents to place Plaintiff's name on the ballot in State House District 94 and for Fayette County School Board;
- E. Granting Plaintiffs all costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and

F. Retaining jurisdiction of this case and granting Plaintiffs such other and further relief as may be appropriate by law.

Respectfully submitted, this 15th day of June 2012.

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