

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LIBERTARIAN PARTY OF ILLINOIS,)
ILLINOIS GREEN PARTY, DAVID F.)
BLACK, SHELDON SCHAFER,)
RICHARD J. WHITNEY, WILLIAM)
REDPATH, BENNETT W. MORRIS,)
MARCUS THRONEBURG,)
Plaintiff,)

v.)

Case No.: 20 CV 2112

J.B. PRITZKER, in his official capacity)
as Governor of Illinois,)
WILLIAM J. CADIGAN, KATHERINE)
S. O'BRIEN, LAURA K. DONAHUE,)
CASSANDRA B. WATSON, WILLIAM)
R. HAINE, IAN K. LINNABARY,)
CHARLES W. SCHOLZ, WILLIAM M.)
MCGUFFAGE, in their official capacities)
as Board Members for the Illinois State)
Board of Elections,)

Defendants.)

**OBJECTOR LIGHT'S MOTION TO DISMISS INTERVENOR RUGGIERI'S
COMPLAINT FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY
INJUNCTION AS MOOT**

Now comes Objector, GERMAINE LIGHT, by her attorneys, Andreou & Casson, Ltd., and for her Motion to Dismiss Ruggieri's Complaint for a Temporary Restraining Order and Preliminary Injunction as moot states as follows:

INTRODUCTION

Through this action, Mr. Ruggieri sought dispensation for his failure to comply with the Election Code, and not the deprivation of any rights guaranteed by the U.S. Constitution or federal law. Mr. Ruggieri has now received relief from the Illinois State Board of Elections, which on

August 3, 2020, voted to place Mr. Ruggieri's name on the November 3, 2020 ballot. Because Mr. Ruggieri lacks any available relief, his motion must now be dismissed as moot.

FACTS AND PROCEDURAL POSTURE

On April 23, 2020, the Court entered an order enjoining the Illinois' required numbers of signatures for independent and minor-party candidates to gain access to the November 2020 general election ballot. [Dkt 27].

On June 23, 2020, Mr. Ruggieri moved to intervene in the present action seeking to benefit from the Order's relaxed ballot access requirements. *See* Motion to Intervene, [Dkt 44]. Mr. Ruggieri filed a Complaint for a Temporary Restraining Order and Preliminary Injunction on July 2, 2020, arguing that his signature gathering had been significantly hampered due to the emergency orders issued by the Governor and public health concerns. [Dkt 53]. The Complaint sought an order permitting Mr. Ruggieri access the General Election ballot with 10% of the statutory minimum number of signatures otherwise required and enjoining the State Board of Elections from enforcing the statutory minimum signature requirement against him in the pending objection to his nomination papers. *Id.*

On July 14, 2020, Mr. Ruggieri also filed a Motion to Deem his Motion to intervene an emergency. [Dkt. 61]. In the Motion Mr. Ruggieri argued that "[i]f the SBE [was to accept] the Hearing Officer's Recommendation on July 20, as expected, Ruggieri's name [would] not appear on the General Election ballot unless otherwise ordered by a court of law." *Id.*

On August 3, 2020, the Electoral Board issued its decision declining to follow the Hearing Officer's Recommendation and allowed Ruggieri's name to appear on the General Election ballot. *See* Exh 1. As a result, the matter in front of the Board is now concluded. Ruggieri has been placed on the ballot. Accordingly, Objector Light brings this Motion to Dismiss Mr. Ruggieri's Complaint

for a Temporary Restraining Order and Preliminary Injunction as moot because he cannot receive any relief from this Court.

STANDARD

The court may dismiss a claim pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure if the plaintiff fails “to state a claim upon which relief can be granted.” Fed.R.Civ.P. 12(b)(6). To survive a Rule 12(b)(6) motion, a complaint must “state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Adams v. City of Indianapolis*, 742 F.3d 720, 728 (7th Cir. 2014) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). Factual allegations that are merely consistent with a defendant’s liability, conclusory statements, and formulaic recitations of the elements of a cause of action are, by themselves, insufficient. *Iqbal*, 556 U.S. at 678.

To obtain a preliminary injunction and temporary restraining order the plaintiff must show (1) they are reasonably likely to succeed on the merits; (2) no adequate remedy at law exists; (3) they will suffer irreparable harm which, absent injunctive relief, outweighs the irreparable harm the respondent will suffer if the injunction is granted; and (4) the injunction will not harm the public interest. *Joelner V. Vill. Of Washington Park, Illinois*, 378 F.3d at 613 (7th Cir 2004); *Long v. Bd. of Educ., Dist. 128*, 167 F.Supp.2d. 988, 990 (N.D.Ill.2001) (“The standards for issuing temporary restraining orders are identical to the standards for preliminary injunctions.”). The party seeking a preliminary injunction bears the burden of showing that it is warranted. *Courthouse News Serv v. Brown.*, 908 F.3d at 1068 (7th Cir 2020).

Mootness has been described as “the doctrine of standing set in a time frame.” *United States Parole Comm’n v. Geraghty*, 445 U.S. 388, 397 (1980). A corollary to the controversy requirement

is that “an actual controversy must be existent at all stages of review, not merely at the time the complaint is filed.” *See Official English v. Arizona*, 520 U.S. 43,72 (1997); *See also Holstein v. City of Chicago*, 29 F.3d 1145, 1147 (7th Cir.1994) (“a case becomes moot when the dispute between the parties no longer rages, or when one of the parties loses his personal interest in the outcome of the suit.”)

ARGUMENT

RUGGIERI’S COMPLAINT FOR A PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER MUST BE DISMISSED AS MOOT.

Ruggieri’s Complaint for a Temporary Restraining Order and Preliminary Injunction is now moot and must be dismissed. Courts have held that “the requisite personal interest that must exist at the commencement of the litigation must continue throughout its existence.” *United States Parole Comm’n v. Geraghty*, 445 U.S. 388, 397 (1980). Thus, if an intervening circumstance deprives the plaintiff of a “personal stake in the outcome of the lawsuit,” at any point during litigation, the action can no longer proceed and must be dismissed as moot. *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477–478 (1990).

In *Wilson v. Allen Cty. Bd. of Commissioners.*, plaintiff Marshall claimed ineffective assistance of legal counsel in violation of the Sixth and Fourteenth Amendments and sought an injunction against the Allen County Board of Commissioners in regard to her ongoing criminal case. *Wilson v. Allen Cty. Bd. of Commissioners*, No. 1:15-CV-402-TLS-SLC, 2020 WL 564165, at *1 (N.D. Ind. Feb. 5, 2020). The defendants filed a motion to dismiss arguing that since the criminal matter was now adjudicated, there no longer was “a live controversy” and her claim was moot. *Id* at *4. The court agreed and dismissed Marshall’s claim because Ms. Marshall no longer has a personal stake in the litigation or the injunction sought as relief. *Id* at *5.

In *Ghiles v. Municipal Electoral Bd*, Plaintiffs sought an injunction against the Municipal Electoral Board on “the [then-]upcoming April 2, 2019 general election for the city of Chicago Heights until [...] adequate safeguards [were placed] to ensure a free and fair election.” *Ghiles v. Municipal Electoral Bd./Commissioners of Chicago Heights, Illinois*, No. 19-CV-1775, 2020 WL 919002 (N.D. Ill. Feb. 26, 2020). Defendants moved to dismiss the claim for injunctive relief arguing that since the election date had passed the relief sought could no longer be granted. *Id.* The court dismissed the claim and reasoned that since the election has already passed, it would be impossible for the Court to grant this relief. *Id.* at *4.

Here, much like in *Wilson* and *Ghiles*, Mr. Ruggieri’s Complaint for a Temporary Restraining Order and Preliminary Injunction must now be dismissed as moot because there no longer is a live controversy. Through his Complaint, Mr. Ruggieri sought an injunctive order permitting him access the General Election ballot with 10% of the statutory minimum number of signatures otherwise required and enjoining the State Board of Elections from enforcing the statutory minimum signature requirement against him. On August 3, 2020, the Electoral Board issued its decision declining to follow the Hearing Officer’s Recommendation and allowed Ruggieri’s name to appear on the General Election ballot. *See* Exhibit 1. Mr. Ruggieri has now received relief from the Illinois State Board of Elections. Mr. Ruggieri has been placed on the ballot and the matter in front of the Board is now concluded. Mr. Ruggieri no longer has a personal interest in the outcome of the present matter and the Court is no longer in a position to grant him a relief. Accordingly, Ruggieri Ruggieri’s Complaint for Temporary Restraining and Preliminary Injunction must be dismissed.

CONCLUSION

WHEREFORE, Objector Light, respectfully requests that this Honorable Court enters an order dismissing Intervenor Ruggieri’s Complaint for Temporary Restraining and Preliminary

Injunction and further denying Intervenor Ruggieri's Motion to Intervene as moot.

Respectfully Submitted,

ANDREOU & CASSON, LTD.

By: /s/ **Luke Casson**

Luke Casson

Cook County #39203
Andreou & Casson, Ltd.
Attorney for Plaintiff
661 West Lake Street, Suite 2N
Chicago, Illinois 60661
Main: (312) 935-2000
Facsimile: (312)935-2001
casson@andreou-casson.com
okpota@andreou-casson.com