

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JAMES "JIM" TOMASIK, J. DANIEL TOMASIK,)
and LIBERTARIAN PARTY OF TENNESSEE,)

....Plaintiffs,)

v.)

MARK GOINS, Coordinator of)
Elections for the State of Tennessee; and)
TRE HARGETT, Secretary of State)
for the State of Tennessee,)

....Defendants.)

Case No. 3:13-01118

Judge Nixon

Magistrate Judge Griffin

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

COME now the Plaintiffs herein, by and through their counsel of record, James C. Linger and W. Gary Blackburn, and, pursuant to Fed.R.Civ.Proc. 65(a), hereby move this Court for a preliminary injunction enjoining the Defendants herein, their agents, servants, and employees, and all those in active concert or participation with them, from enforcing the provisions of TCA, §§ 2-1-104(a)(14), 2-1-104(a)(24), 2-1-104(a)(31), 2-5-208(d)(1), 2-13-107(a)(2), 2-13-201(a), and 2-14-202, as they apply to the Plaintiffs herein for the November 21, 2013 Special General Election in Tennessee State House District 91, so as to enforce a combined unconstitutional early petition deadline for minor party formation of 90 days before the Special General Election and petition signature requirement of 2½ percent of the last gubernatorial vote, and shortened petitioning time period for the aforesaid November 21, 2013 Special General Election for State House District 91 because of the requirement that the Special General Election must be set within 100 to 107 days of the writs of election being issued, until a final hearing and determination of the merits in the above-entitled action. Plaintiffs specifically request that the Court in its preliminary injunction and Order require the Defendants to place James "Jim" Tomasik on the ballot listing him as a Libertarian

rather than an Independent for the Special General Election on November 21, 2013, for State House District 91.

Unless Defendants are restrained and enjoined by order of this Court, Plaintiffs will suffer immediate and irreparable injury, loss, and damage in that the Plaintiff Libertarian Party of Tennessee will be denied party identification status on the ballot for the aforesaid Special General Election in the State of Tennessee, Plaintiff J. Daniel Tomasik will be denied his right to cast his vote effectively, Plaintiff James “Jim” Tomasik will be denied his right to cast his vote effectively and to appear on the ballot as the candidate of the party which he is identified with in contrast to a listing as an Independent candidate, and the general public will be denied valuable information as to the political affiliation of one of the candidates in State House District 91 for the Special General Election on November 21, 2013--as more fully described and set forth in the Affidavit of James “Jim” Tomasik, attached hereto, marked Plaintiffs’ Exhibit “1,” and made a part of this motion as though fully set forth herein. This motion is made on the additional ground that Plaintiffs have no adequate remedy at law.

Prior to issuance of the injunction prayed for herein, Plaintiffs are ready, willing, and able to execute a bond payable to the Defendants, or provide other security in such sums as this Court deems proper for such costs and damages, if any, as may be incurred or suffered by any party found to have been wrongfully enjoined or restrained. Also, Counsel for Plaintiffs had contacted Senior Counsel Janet Kleinfelter of the Tennessee Attorney General’s office about the filing of the instant case and Plaintiffs’ intention to file a Motion for Preliminary Injunction and the emailing of said motion and a brief to the Attorney General’s office.

Dated this 15th day of October, 2013.

JAMES “JIM” TOMASIK, J. DANIEL
TOMASIK, and LIBERTARIAN PARTY
OF TENNESSEE,
Plaintiffs

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Counsel for Plaintiffs

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that a true and exact copy of the foregoing has been served on all counsel of record via the Court's CM/ECF e-mail notification system on the 15th day of October, 2013. Additionally, I hereby certify that on this 15th day of October, 2013, a true and exact copy of the foregoing was e-mailed to Janet Kleinfelter, Senior Counsel, Office of Tennessee Attorney General at janet.kleinfelter@tn.gov.

/s/ James C. Linger
James C. Linger