

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JOHN P. SCHMITZ, ANNA SVEC,
GOLDA BAU, and JUAN RAMOS,

GOLDA BAU, and JUAN RAMOS,

Plaintiffs,

V.

**MARION COUNTY BOARD OF
ELECTIONS, CONNIE LAWSON, and
MYLA ELDRIDGE,**

ELECTIONS, CONNIE LAWSON, and

MYLA ELDRIDGE,

Defendants.

Defendants.

Defendants.

Defendants.

Defendants.

Defendants.

Case No. 1:19-cv-03314-TWP-MPB

The Secretary of State's Response in Opposition to Plaintiffs' Motion for Preliminary Injunction

John P. Schmitz and the other plaintiffs filed an “Emergency Motion for a Preliminary Injunction,” asking this Court to give them what they refer to as an “easy ‘fix.’” ECF 11 at 5. But granting the requested relief would require this Court to override a unanimous vote by the Marion County Election Board and effectively find unconstitutional several Indiana statutes. There is nothing “easy” about such an outcome, especially since election preparations are well underway.

The plaintiffs protest that the Indiana law is somehow contradictory, and, therefore, any reliance on that law by the Board would be arbitrary and capricious. But the problem with this argument is that the statutes do not contradict themselves. The statutes describe what the entity (voter registration office) that certifies the signatures is supposed to do when certifying the signatures. The county election officials applied the straightforward language of the statutes as they are legally required to do. Their

decision should stand. The plaintiffs' extraordinary request to strike down statutes and overturn the unanimous decision of an election board should be denied.

I. All factors in the standard of review for a preliminary injunction favor the defendants.

The plaintiffs' "emergency" motion for a preliminary injunction is, like all requests for a preliminary injunction, a request for extraordinary relief. While a court may exercise the "very far-reaching power" of a preliminary injunction, such power should never "be indulged in except in a case clearly demanding it." *Roland Mach. Co. v. Dresser Indus., Inc.*, 749 F.2d 380, 389 (7th Cir. 1984) (internal quotations and citation omitted).

A court should consider several factors when a party seeks a preliminary injunction: the moving party must show a likelihood of success on the merits, no adequate remedy at law, and irreparable harm if the court does not grant the preliminary injunction. *Reid L. v. Illinois State Bd. of Educ.*, 289 F.3d 1009, 1020–21 (7th Cir. 2002). After considering these factors, a court should balance any irreparable harm that an injunction would cause to an opposing party, adjusting the calculus depending on the party's likelihood of success. *Girl Scouts of Manitou Council, Inc. v. Girl Scouts of U.S. of America, Inc.*, 549 F.3d 1079, 1086 (7th Cir. 2008). This harm must be real and a court may award relief only "upon a clear showing that the plaintiff is entitled to such relief." *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008) (citing *Mazurek v. Armstrong*, 520 U.S. 968, 972, 117 S.Ct. 1865, 138 L.Ed.2d 162 (1997)). The court should also consider the public interest, including the interests of any nonparties to the

litigation. *Girl Scouts of Manitou Council, Inc.*, 549 F.3d at 1100. Because the statutes do not conflict, the plaintiffs are unlikely to succeed on the merits. In addition, the plaintiffs' have an adequate remedy at law in the form of a judicial review, so injunctive relief is inappropriate. Finally, the equities in this case favor the defendants. Nullifying several state statutes (statutes with requirements the Seventh Circuit found to be perfectly fine) would throw Indiana's election system into chaos and would irreparably harm the defendants and, indeed, the public itself.

II. The plaintiffs challenge Indiana Code sections that provide consistent direction to county election officials.

Indiana law requires independent candidates like Mr. Schmitz to submit a certain number of signatures in support of that candidate's candidacy for an office. Although Mr. Schmitz was surely aware of the statutory requirements for independent candidacy, only now, after falling short of the requisite number of verified petitioners for his candidacy, does he bring this challenge in federal court.

Indiana Code chapter 3-8-6 governs the process for an independent candidate for nomination to an elected office. Ind. Code § 3-8-6-1. While an independent candidate is not required to run in the primary, such a candidate must gather a certain number of signatures in order to be placed on the ballot for mayor.¹ In order for those signatures to count toward the requisite total, the voters who sign the petition must be "registered to vote at the residence address set forth on the petition on the date the county voter

¹ On the other hand, candidates for Indianapolis mayor from one of the major parties must announce her candidacy and then run against others from her party in the primary. Ind. Code § 3-8-2-1 (Indiana code chapter 3-8-2 applies to each party whose nominee received at least 10% of the total vote cast for secretary of state at the last election).

registration office certifies the petition under section 8 of this chapter” and be “qualified to vote for the candidate.” Ind. Code § 3-8-6-2. The candidate’s petition of nomination must be signed by “the number of voters equal to two percent (2%) of the total vote cast at the last election for secretary of state in the election district that the candidate seeks to represent.” Ind. Code § 3-8-6-3. For Indianapolis mayor, the independent candidate seeking to be on the ballot needed 6,104 petition signatures. *See* Decl. of Brienne Delaney, ECF 23-1 at 4, ¶ 10.

Independent candidates may declare their candidacy no earlier than 118 days before the primary election. Ind. Code § 3-8-6-10(b) (referencing Ind. Code § 3-8-2-4). After making this formal declaration, candidates gather the signatures of petitioners in support of their candidacy using a state form, CAN-44, “Petition of Nomination for City or Town Office in 2019.” ECF 10-1. This form has ten lines for signatures, where petitioners sign their names, print their names, provide their dates of birth, and provide their residence addresses. ECF 10-1. Requiring petitioners to provide certain identifying information serves as a way to verify the nominating petitions are signed by the actual registered voters. *Nader v. Keith*, 385 F.3d 729, 734 (7th Cir. 2004).

Indiana law explains what a county voter registration office must do to certify the petition to ascertain whether a candidate has gathered the requisite number of petitioner signatures. Indiana Code section 3-8-6-2 provides the general, overall requirements for who is a qualified petitioner. Petitioners may only be voters who are “registered to vote at the residence address set forth on the petition on the date the county voter registration office certifies the petition under section 8 of this chapter” and

are “qualified to vote for the candidate.” Ind. Code § 3-8-6-2. Section 8, in turn, specifies that “the county voter registration office in the county where the petitioner is registered must certify that each petitioner is a voter at the residence address listed in the petition at the time the petition is being processed.” Ind. Code § 3-8-6-8. In addition, Indiana Code section 3-8-6-6 explains, again referring back to section 8 of the same chapter, that a petitioner may not be counted toward the minimum signature requirement unless “the petitioner is registered and qualified to vote in conformity with section 8 of this chapter,” and that the petition must contain the signature of the petitioner, the legibly printed name of each petitioner, and the “residence address of each petitioner as set forth on the petitioner's voter registration record.”

In summary, what this all means is that an independent candidate gathers the signatures of petitioners, who provide their respective residence addresses on the CAN-44. Officials at the county voter registration office then, at a necessarily later date, compare the petitioners’ information with the information maintained in the voter registration system. If the address on the petition does not match the address reflected in the voter registration system, the county voter registration office may not count that petitioner.

III. Argument

A. Plaintiffs will not succeed on the merits.

While Plaintiffs seem to raise several amorphous claims in their complaint, they limit their claims in their request for a preliminary injunction to a couple paragraphs that rest solely on the assertion that the statutes and the instructions on the CAN-44 are

inconsistent. They are not. All of the statutes in question relate to what a county election official is supposed to do before certifying that certain petitioners count toward a candidate's total number of petitioners. Ellipses and selective cutting and pasting cannot make these statutes conflict. The instructions on the CAN-44 give effect to these statutes. And because the statutes (along with the CAN-44) are consistent, they place no undue burden on the plaintiffs. Accordingly, Plaintiffs' request for a preliminary injunction should be rejected.

1. *There is nothing contradictory about Indiana's legal requirements for petition signatures for independent candidates.*

There is nothing contradictory about the statutes or the state form, CAN-44. The CAN-44 state form² requires petitioners to provide their signature, print their name, and provide a date of birth and their residence address. ECF 10-1. The petitioners must represent that they reside at the address provided, that they are duly-qualified registered voters in Indiana, and that they would like to be able to vote for the candidate listed on the form. After the candidate submits the CAN-44, the county voter registration office takes certain steps, as required by law, to verify the information provided by the petitioners. One of these steps is to check whether the addresses on the form match the information in the voter registration system. This certification is a mechanism for the voter registration office to ensure a petitioner has provided the correct information and is, in fact, the same individual listed on the voter registration. If

² Plaintiffs erroneously assert that the Indiana Secretary of State produced and issued the CAN-44 state form. ECF 11 at 6. The Indiana Election Division creates and produces all election forms used in the State of Indiana. *See* Ind. Code § 3-6-4.4-12(8). While the Division is within the Office of the Secretary of State, the Division has duties and responsibilities distinct from the Secretary. Ind. Code. ch. 3-6-4.2.

the addresses are different, there is no guarantee that the person listed in the voter registration actually signed the CAN-44 or is registered to vote in that county. The CAN-44's requirement for a residence address and the Indiana Code's requirement for a voter registration address, *see* Ind. Code § 3-8-6-6(a)(3), serve as a screening mechanism to check for the ineligibility to nominate and vote for the candidate in question.

Despite the plaintiffs' assertions, never fully explained, of statutory inconsistency, Indiana Code section 3-8-6-2, Indiana Code section 3-8-6-8, and the CAN-44 do not conflict with Indiana Code section 3-8-6-6(a)(3). Indiana Code section 3-8-6-6(a)(3) lays out the process for an independent candidate to procure signatures to petition to be placed on the ballot. The statute provides as follows:

- (a) The signatures to a petition of nomination need not be appended to one (1) paper, but a petitioner may not be counted unless the petitioner is registered and qualified to vote in conformity with section 8 of this chapter. Each petition must contain the following:
 - (1) The signature of each petitioner.
 - (2) The name of each petitioner legibly printed.
 - (3) *The residence address of each petitioner as set forth on the petitioner's voter registration record.*

Ind. Code § 3-8-6-6(a)(3) (emphasis added).

For a petition to be valid, it must contain a petitioner's address as it appears on his or her voter registration record. When compared to the sections preceding and following Indiana Code section 3-8-6-6(a)(3), there is no contradiction. Indeed, the sections preceding and following Indiana Code section 3-8-6-6(a) exist to support section 3-8-6-6(a)(3)'s mandate.

Indiana Code section 3-8-6-2 establishes the method for independent candidates to seek elected office; independent candidates must be nominated by petition of voters who are:

- (1) *registered to vote at the residence address set forth on the petition on the date the county voter registration office certifies the petition under section 8 of this chapter; and*
- (2) qualified to vote for the candidate.

Ind. Code § 3-8-6-2 (emphasis added).

This statute does not conflict with Indiana Code section 3-8-6-6(a)(3). Indiana Code section 3-8-6-2 merely sets out a petitioner's eligibility requirements: that a voter be registered to vote at the residence he or she lists on the petition; that is, a voter (petitioner) who lists an address different than the address on his or her voting registration will not be counted towards an independent candidate's required number of signatures. *See* Ind. Code § 3-8-6-3.

Turning to the next section, Indiana Code section 3-8-6-8 lays out the certification process to be conducted by the local county voter registration office. The local county voter registration office certifies that each petitioner on an independent candidate's petition is eligible to vote by cross-referencing the petitioner's residence address on the CAN-44 form with where the petitioner is registered to vote. It provides:

For a petition of nomination to be considered valid by the officer required to receive the petition, the county voter registration office in the county where the petitioner is registered must certify that *each petitioner is a voter at the residence address listed in the petition at the time the petition is being processed*. The certification must accompany and be part of each petition. The certification must indicate that each petitioner is eligible to vote for the candidates being nominated by the petition.

Ind. Code § 3-8-6-8 (emphasis added).

This statute is not in conflict with Indiana Code section 3-8-6-6(a)(3). Section 8 – which is cited by Indiana Code section 3-8-6-2 – requires local county voter registrations offices to certify that a petitioner is registered to vote at the address he or she listed in the petition. Thus, if a petitioner lists an address different than that reflected in the voter registration system, the local county voter registration office could not verify that the voter is eligible to vote, or is even the same person. This conforms to Indiana Code section 3-8-6-6(a)(3), which requires that the address listed by a petitioner in the petition match the address listed in that person’s voter registration.

Taken together, Indiana Code section 3-8-6-2 and Indiana Code section 3-8-6-8 do not conflict with Indiana Code section 3-8-6-6(a)(3). Indiana Code section 3-8-6-6(a)(3) requires petitioners’ addresses to be the same as what they listed in their voter registrations. Indiana Code section 3-8-6-2 requires the same: independent candidates may run for office only if nominated by a petition of voters who are registered to vote at the addresses the petitioners listed in the petition. Indiana Code section 3-8-6-8 completes the process by requiring the local county voter registration office to certify that each petitioner is registered to vote at the address listed in the petition (i.e., the petition address matches the voter registration address). The statutes operate together to ensure that a given voter (petitioner) is who he or she purports to be and is eligible to vote for the independent candidate he or she is petitioning to nominate. This interlocking system of statutes makes even more sense given that a person cannot legally possess more than one residency. Ind. Code § 3-5-5-3.

Far from contradicting, these statutes serve as a bulwark against abuses or mistakes by ensuring that only signatures from those eligible to vote for the particular candidate are counted towards that candidate's required number of signatures under Indiana Code section 3-8-6-3.

The CAN-44 state form also does not contradict Indiana Code section 3-8-6-6(a)(3). That subsection, as explained above, tells a voter registration office how to verify the information of petitioners. On the other hand, the CAN-44 instructs what information a petitioner is supposed to put down on that form; a petitioner lists his or her residence address. Indiana law requires a petitioner to register to vote at his or her residence address. *See* Ind. Code § 3-7-13-1 *et seq.* Later, when a voter registration office reviews the CAN-44 forms, if the residence address on the form matches the petitioner's residence address in the voter registration system, the voter registration office could then check off that box on the list of factors to determine whether the petitioner's signature will count. If, for whatever reason, the addresses do not match, that petitioner's signature will not count. There's nothing contradictory there.

Simply put, the statutes are not in conflict with each other or the CAN-44; indeed, they operate in unison for the express purpose of ensuring that the addresses listed by petitioners in a petition to nominate an independent candidate match the voter registration addresses on file for those petitioners. This ensures that only persons registered to vote for a particular candidate may petition for the addition of an independent candidate to the ballot. And because the various statutes provide

consistent safeguards, there is nothing arbitrary or capricious about applying them.

Accordingly, Mr. Schmitz's request to be forced onto the ballot should be denied.

2. *The petition signature requirement does not place a burden on an individual's right to vote.*

It should be emphasized that Mr. Schmitz's request for a preliminary injunction is about whether certain signatures should be counted towards a candidate's total number of required petitioners under Indiana Code section 3-8-6-3, not whether certain persons will be prevented from voting in a municipal election. The Marion County Election Board did not deny any person the right to vote in this case; the Marion County Election Board denied Plaintiff Schmitz's nomination on the mayoral ballot by determining that 1,115 nominations were ineligible under Indiana Code section 3-8-6-3. This action does not deny a voter the right to vote, and the onus is on the *candidate* to secure the requisite number of signatures for placement on the ballot. *See* Ind. Code § 3-8-6-3; *see also Populist Party v. Orr*, 595 F. Supp. 760, 763 (S.D. Ind. 1984) ("The State of Indiana has a compelling interest in requiring *candidates* to make a preliminary showing of substantial support in order to qualify for a place on the ballot, because it is both wasteful and confusing to encumber the ballot with the names of frivolous candidates.") (emphasis added) (*citing Anderson v. Celebrezze*, 460 U.S. 780 (1983)). If the candidate does not secure enough support, then the candidate is essentially frivolous and the right to vote is not implicated. *See id.*

To be sure, "[t]he impact of candidate eligibility requirements on voters implicates basic constitutional rights" to associate politically with like-minded voters and to cast a meaningful vote. *Stone v. Bd. of Election Comm'rs for City of Chicago*, 750 F.3d

678, 681 (7th Cir. 2014) (quoting *Anderson*, 460 U.S. at 786). But “not all restrictions . . . on candidates’ eligibility for the ballot impose constitutionally-suspect burdens.” *Id.* (quoting *Anderson*, 460 U.S. at 788). Indeed, “States may, and inevitably must, enact reasonable regulations of parties, elections, and ballots to reduce election- and campaign-related disorder.” *Id.* (quoting *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 357 (1997)). *Stone* further recognized that “[t]he Supreme Court has often stated that in this area there is no ‘litmus-paper test’ to ‘separate valid from invalid restrictions.’” *Id.* (quoting *Anderson*, 460 U.S. at 789). Instead,

[A] court . . . must first consider the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate. It then must identify and evaluate the precise interests put forward by the State as justifications for the burden imposed by its rule. In passing judgment, the [c]ourt must not only determine the legitimacy and strength of each of those interests; it also must consider the extent to which those interests make it necessary to burden the plaintiff’s rights. Only after weighing all these factors is the reviewing court in a position to decide whether the challenged provision is unconstitutional.

Id. (quoting *Anderson*, 460 U.S. at 789).

Moreover, the plaintiffs do not appear to be challenging the nominating process or general petition requirements themselves. And for good reason. The courts have already found similar requirements to be constitutional. With respect to the Indiana Code’s requirement that independent candidates obtain a certain number of petitioners’ signatures specifically, this Court has already affirmed such requirement to be constitutionally sound. *See Populist Party v. Orr*, 595 F. Supp. 760, 763 (S.D. Ind. 1984).

Thus, it has been recognized that not all requirements on a candidate's attempt to obtain placement on the ballot are burdens on the right to vote.

Refusing to count a petitioner's signature because his or her listed address does not match her voter registration is similarly designed to combat "election-and campaign-related disorder. *Stone*, 750 F.3d at 681 (quoting *Timmons*, 520 U.S. at 357). As explained above, Indiana Code sections 3-8-6-2, 3-8-6-6, and 3-8-6-8 operate in unison to ensure that a given petitioner is who he or she purports to be and is eligible to vote in the county in which he or she is petitioning to nominate an independent candidate. This is a "reasonable regulation[]" to "reduce election-and campaign-related disorder." *Stone*, 750 F.3d at 681 (quoting *Timmons*, 520 U.S. at 357). This is simply a common sense requirement given that a person cannot legally possess more than one residency. Ind. Code § 3-5-5-3.

In sum, despite Plaintiffs' many citations and references to suggest that the right to vote is implicated, it is not. Instead, this case concerns only whether Mr. Schmitz complied with the Indiana Code's requirement to obtain the necessary number of petitioners. This he did not do and so is properly precluded from placement on the ballot.

B. Plaintiffs have an adequate remedy at law in form of judicial review.

Again, a preliminary injunction is extraordinary relief, which is why a plaintiff seeking such relief must show that he or she has no adequate remedy at law. *Reid L. v. Illinois State Bd. of Educ.*, 289 F.3d 1009, 1020–21 (7th Cir. 2002). But Mr. Schmitz has an adequate remedy, so his request should be denied for this reason as well.

Under Indiana Code § 3-6-5-34, someone unsatisfied with a decision of a county election board may appeal such a decision to the circuit court, superior court, or probate court. Essentially, this is the option for a judicial review of the board's decision. Consequently, there was an adequate remedy at law: the judicial review itself. Both federal and state courts have recognized that an option for judicial review is an adequate remedy at law. *Scales v. Hosp. House of Bedford*, 593 N.E.2d 1283, 1286 (Ind. Ct. App. 1992); *Wisconsin Cent. Ltd. v. Pub. Serv. Comm'n of Wisconsin*, 95 F.3d 1359, 1370 (7th Cir. 1996). Accordingly, as an adequate remedy at law exists, Plaintiffs are not entitled to extraordinary, injunctive relief.

C. Plaintiffs cannot demonstrate a likelihood of success on the merits for the additional reason that the Secretary of State cannot redress the plaintiffs' alleged injury.

Article III of the Constitution of course confines the federal courts to adjudicating actual "cases" and "controversies." *Allen v. Wright*, 468 U.S. 737 (1984). The Seventh Circuit has characterized standing as "an essential and unchanging part of the case-or-controversy requirement of Article III." *DH2, Inc. v. U.S. S.E.C.*, 422 F.3d 591, 596 (7th Cir. 2005). Specifically, "the elements [that] must [be] show[n] are: (i) an injury in fact, which is an invasion of a legally protected interest that is concrete and particularized and, thus, actual or imminent, not conjectural or hypothetical; (ii) a causal relation between the injury and the challenged conduct, such that the injury can be fairly traced to the challenged action of the defendant; and (iii) a likelihood that the injury will be redressed by a favorable decision." *Id.* Mr. Schmitz (and the other plaintiffs, too) cannot

establish standing specifically against the Secretary of State because he has not suffered an injury in fact traceable to the Secretary of State that she could possibly redress.

Here, the plaintiffs have failed to present evidence linking Mr. Schmitz's failure to gather enough signatures to qualify as a candidate with some act by the Secretary of State or even the state law that he seeks to challenge. That is, Mr. Schmitz merely points to the fact that he falls short, and then asserts without evidence that, but for the statutes in question, he would have enough signatures. That is not enough, and what it means here is that Mr. Schmitz, in particular, is asking for an order to tell Marion County to put him on the ballot as a candidate for mayor. The plaintiffs point to no evidence linking the Secretary of State to their supposed injury or how she would redress this supposed injury. Therefore, Mr. Schmitz's claims are not redressable by the Secretary of State, so he is unlikely to succeed on the merits against her.

D. Public policy and the balance of equities favors the State because the government's interest in regulating elections far outweighs any alleged harm to Plaintiffs.

A plaintiff "must show that the probability of success on the merits is sufficiently high—or the injury from the enforcement of the order sufficiently great—to warrant a conclusion that the balance of error costs tilts in favor of relief." *Ill. Bell Tel. Co. v. WorldCom Techs., Inc.*, 157 F.3d 500, 503 (7th Cir. 1998). When the party opposing the motion for preliminary injunction is a political branch of government, the restraint for issuing such an injunction is particularly high due to public policy considerations, as "the court must consider that all judicial interference with a public program has the cost of diminishing the scope of democratic governance." *Id.* Indeed, "the government's

interest is in large part presumed to be the public's interest." *United States v. Rural Elec. Convenience Coop. Co.*, 922 F.2d 429, 440 (7th Cir. 1991).

States, as a practical matter, have the right to outline for potential candidates requirements to participate in the democratic process and have their name placed on the ballot in an election. States have a great interest in preserving the autonomy in "substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic process." *Storer v. Brown*, 314 U.S. 724, 730 (1974).

Without a doubt, and as recognized by numerous courts, states have an interest in maintaining election requirements, including those like Indiana's signature requirements set out in Indiana Code chapter 3-8-6, which ensure an individual obtains a certain number of verifiable signatures before his or her name is placed on the ballot. States' interest in preserving such requirements include "(1) limiting the number of candidates to avoid ballot overcrowding; (2) preserving the fairness and integrity of the electoral process; and (3) avoiding confusion, deceptions or frustration of the democratic process." *Jones v. McGuffage*, 921 F.Supp. 2d 888, 896 (N.D.Ill. 2013) (quoting *Jenness v. Fortson*, 403 U.S. 431, 442 (1970)). Plaintiffs would have this court skip the statutory requirements and place Mr. Schmitz's name on the mayoral ballot whether or not he obtained the requisite number of signatures. Further, the plaintiffs would have this Court discount the certification process the Marion County Election Board conducted under Indiana law, and include over 1,000 signatures as petitions for Mr. Schmitz despite a lack of why all of these petitioners should be verified. Granting

Plaintiffs' request relief would sow confusion and frustration, causing the very chaos such requirements were set in place to prevent.

There is a compelling state interest in ensuring individuals registered to vote in a particular county nominate individuals they can vote for. Verifying, in conformity to Indiana law, that Petitioners are registered to vote at the residence address provided promotes the integrity of the electoral process. The State has an interest in ensuring all voters are eligible and nomination petitions are submitted by qualified voters within a particular jurisdiction to prevent the submission of petitions who are not otherwise eligible to vote for the candidate. The requirements set forth further the State's interest in ensuring accurate voting and proper regulation during campaigns and elections. *Stone*, 750 F.3d at 681. Qualified voters must, at a minimum, be at least eighteen years old and registered to vote. Without the enforcement as provided in Indiana Code section 3-8-6-8, individuals not otherwise eligible to nominate candidates within their county would give some individuals, such as Mr. Schmitz, an unfair advantage to obtain signatures outside of the jurisdiction of their potential elected office.

IV. Conclusion

Indiana's election system is built on an interlocking system of laws and mechanisms designed to provide fair, orderly, and honest elections. Allowing Mr. Schmitz to bypass this system through extraordinary, injunctive relief would run counter to these goals. Moreover, Mr. Schmitz and the other plaintiffs stake their claims on a faulty premise that the statutes are inconsistent. As they are not, there is no reason

why Mr. Schmitz's name should be on the ballot. The Court should deny Plaintiffs' request for a preliminary injunction.

Respectfully submitted,

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