UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JANE MILLER,	:	CASE NO. 3:16-cv-174 (AWT)
Plaintiff,	:	
	:	
v.	:	
	:	
THOMAS DUNKERTON, et al.	:	
Defendants.	:	MARCH 28, 2016

MEMORANDUM OF LAW IN OPPOSITION
TO MOTION FOR PRELIMINARY INJUNCTION

TABLE OF AUTHORITIES

Page(s)

CASES

STATUTES

PRELIMINARY STATEMENT

This 42 U.S.C. § 1983 action arises out of Brookfield's Republican Registrar of Voters' decision to remove the plaintiff from the Republican Party pursuant to Connecticut law. The plaintiff claims that the defendants somehow violated her constitutional rights and caused her $1,000,000 in damages during the removal process. She has now filed a motion for preliminary injunction seeking immediate reinstatement to the Brookfield Republican Party before the merits of her underlying claims can be heard. The Court should deny her motion.

As an initial matter, the plaintiff cannot show a likelihood of success on the merits because she already raised many of her claims (and lost) in the Connecticut Superior Court.[1] Indeed, the Superior Court rejected the plaintiff's arguments in a thorough and well-reasoned decision that essentially absolved the defendants of any wrongdoing. It was only *after* the plaintiff received the unfavorable Superior Court decision that she filed this action, making nearly identical claims that arise out of the same underlying conduct.

Having failed to convince the Superior Court that her removal from the Republican Party was improper or that the underlying statue is unconstitutional, she now asks the federal courts to reach the opposite conclusion and give her the result she desires. But there are a number of well-established doctrines that prevent plaintiffs from abusing the federal judiciary in this fashion. For good reason: our federalist system would be unworkable if plaintiffs could seek review of failed state court claims in the federal court or litigate the same case in state and federal courts simultaneously. For this reason alone, the plaintiff's motion for preliminary injunction must be denied.

[1] The plaintiff's state case is currently pending in the Connecticut Supreme Court. *See* Exhibit 2.

But even if the plaintiff had not already litigated these issues, she still could not prove a likelihood of success on the merits of her claims. Her allegations of wrongdoing are conclusory, not supported by fact, and flout relevant case law. Thus, even if the Superior Court's decision is ignored, the plaintiff cannot show a likelihood of success on the merits.

Not only are the plaintiff's merits-based arguments unavailing, but public policy also weighs against the plaintiff's motion. Distilled to its essence, this case is about the power of a political party to define its membership. By enacting the removal statute, the Connecticut legislature endorsed the view that political parties should have the right to exclude individuals who do not support their principles or candidates. The plaintiff's motion asks this Court to deny that right to the Brookfield Republican Party by overturning the registrar's finding that she was not a good faith member, a finding that the Connecticut Superior Court reviewed and upheld. Her motion for preliminary injunction is contrary to the public policy that political parties in Connecticut should be allowed to police themselves.

Lastly, even if the Court were to determine that a preliminary injunction was appropriate (even though it should not), Mr. Walker and Mr. Dunkerton do not hold elected office. They are not state actors for purposes of a § 1983 action, and they are not legally capable of re-enrolling Ms. Miller in the Republican Party.

Each of the reasons described herein are sound, beyond challenge, and independently mandate that the Court deny the plaintiff's motion for preliminary injunction.

FACTUAL BACKGROUND

I. The Statutory Framework

Under Connecticut law, municipal registrars have authority to remove party members if they determine they are not affiliating in good faith and do not intend to support the party's principles or candidates. CONN. GEN. STAT. § 9-60. Removal is a three-step process. First, the registrar of voters may issue a "citation" to a party member who has engaged in behavior (within two years) that demonstrates that he or she is not affiliating in good faith. *Id.* General Statutes § 9-61 enumerates certain conduct that the Connecticut legislature has deemed *prima facie* evidence that a member is not affiliating in good faith, including: enrollment in any other political party or organization, active affiliation with any other political party or organization, knowingly being a candidate at any primary or caucus of any other party or political organization, or being a candidate for office under the designation of another party or organization. *See* CONN. GEN. STAT § 9-61. Discretion to issue a citation lies solely with the Registrar of Voters. *See id.* Party committee members have no role in the issuance of a citation. *See id.*

The recipient of a citation must appear at a hearing wherein the Registrar of Voters and the party chairperson hear evidence to determine whether there is reasonable proof that the cited member was not affiliating with the party in good faith. CONN. GEN. STAT. § 9-62. This hearing is the first and only involvement that the party chairperson has in the removal of a party member. *See* CONN. GEN. STAT. § 9-60. If, after the hearing, the Registrar of Voters and the party chairperson agree that there is reasonable proof to that the cited member was not affiliating in good faith as defined in the statute, the cited member is removed from the party for a period of two years from the date of the last detrimental act. CONN. GEN. STAT. §§ 9-60, 9-61.

Individuals who believe they were unjustly or improperly removed from a political party have the right to seek emergency review of in the Connecticut Superior Court. CONN. GEN. STAT. § 9-63. Upon appeal, the Superior Court must conduct a hearing at the earliest date to determine whether removal was proper. *Id.* If the Superior Court determines that the petitioner was improperly removed from his or her political party, it must order the registrar to restore the petitioner to the political party. *Id.*

II. The Parties

The plaintiff is Jane Miller, a resident of the Town of Brookfield. The defendants are: Thomas Dunkerton (the Republican Registrar of Voters for the Town of Brookfield), Martin Flynn (a current member of the Brookfield Republican Town Committee), George Walker (a former member of the Brookfield Republican Town Committee), and Matthew Grimes (a former member and former Chairman of the Brookfield Republican Town Committee).

III. The Underlying Conduct

Thomas Dunkerton issued a removal citation to Jane Miller in March 2015. *See* Dunkerton Aff. at ¶ 6, attached hereto as Exhibit 3. Ms. Miller had recently engaged in a series of acts that convinced Mr. Dunkerton that she was not a good faith member of the Brookfield Republican Party. *Id.* at ¶ 16-21. For example, in 2013, while still enrolled as a Republican, Ms. Miller secured financing from the Democratic Party to run for elected office (against Republicans) as a Democrat. *See id.* at 19-21. But that was not the only act that influenced Mr. Dunkerton's decision to cite Ms. Miller. Ms. Miller also openly supported a Democratic candidate who was running against a Republican in a February 2015 special election. *Id.* at ¶ 21.

Shortly after Mr. Dunkerton issued the citation to Ms. Miller, Mr. Dunkerton and Mr. Grimes convened an evidentiary hearing as required by statute. *See* Exhibit 3 at ¶ 17. Ms. Miller

and several witnesses testified regarding the merits of the registrar's citation. *See id.* After hearing all of the evidence presented, Mr. Dunkerton and Mr. Grimes issued a unanimous decision concluding that there was ample support for her citation, thus removing her from the Republican Party. *See* Exhibit 1. Mr. Walker was not present at the hearing, and he played no role in the decision to uphold Ms. Miller's removal citation. Walker Aff. at ¶¶ 8-11, attached hereto as Exhibit 4.

Ms. Miller promptly appealed Mr. Dunkerton's and Mr. Grimes' decision to the Superior Court. Exhibit 1. There, she claimed, among other things: (i) that Mr. Dunkerton "conducted a hearing where the evidence did not support [his] actions;" (ii) that the "conduct of the hearing violated [her] right to due process of law;" (iii) that "[Mr. Dunkerton] failed to establish a standard of conduct to qualify as a member of the Brookfield Republican Party and, as a result, [she] was prejudiced;" (iv) that Mr. Dunkerton's actions held her to "a standard not required by others;" and (v) that "General Statutes § 9-60 is unconstitutional on its face and as applied." *Id.* at 1.

The Superior Court held an evidentiary hearing and issued a decision rejecting each and every one of the plaintiff's arguments. *See id.* The Superior Court (Truglia, *J.*) found that there was "more than sufficient evidence from which the court can conclude that the plaintiff did commit specific acts under § 9-61 which constitute prima facie evidence supporting defendant's discretionary erasure or exclusion of the plaintiff from the enrollment list." *See id.* at 7. The Court also rejected Ms. Miller's constitutional challenges to the underlying statute and its application to her. *Id.*

Ms. Miller appealed the Superior Court's decision, and her case is currently pending in the Connecticut Supreme Court, where she has obtained two extensions of time to file her

appellate brief. *See* Exhibit 2.[2] Ms. Miller is currently scheduled to file her appellate brief on April 1, 2016. *Id.* This assumes, of course, that she does not obtain a *third* extension of time.

Approximately five months after appealing her state case to the Connecticut Supreme Court, Ms. Miller filed this action raising the same claims that the Superior Court rejected. She claims that the defendants violated her right of freedom of association, right to vote, right to due process, and right to equal protection. She seeks $1,000,000 in damages, reinstatement to the Republican Party, and reimbursement of her costs in bringing this action.

There is a further background to this litigation. Ms. Miller's husband, Larry Miller, has been actively involved in Brookfield Politics for many years. *See* Exhibit 5 at ¶ 16. In January 2016, the Brookfield Republican Town Committee held its bi-annual caucus to determine its membership for 2016-2018 term. *See id.* at ¶ 17. Defendants Walker, Flynn, and Grimes ran for re-election. *Id*. Coincidentally, Mr. Miller supported a slate of candidates to oppose the defendants in their bid for re-election. *Id.* at ¶ 18. Mr. Walker and Mr. Grimes each received party endorsement at the caucus. *See* Exhibit 4 at 12-13 and Exhibit 5. at ¶ 19. But Mr. Miller later secured enough signatures to require a primary election. *Id.* The primary, in which the defendants again faced a challenge to Mr. Miller's slate of candidates, took place on March 1, 2016, approximately four weeks after Ms. Miller filed this lawsuit.

Against this backdrop, Ms. Miller's behavior becomes a telling indication of her real motivations here. Weeks before the primary election in which three of the defendants (two of whom had nothing to do with the underlying conduct whatsoever) were running for re-election, Ms. Miller engaged in a relentless media campaign to promote the purported merits of her

[2] Ms. Miller's delay in the Connecticut Supreme Court belies her claimed need for the extraordinary relief she seeks in this Court. Indeed, by delaying the Connecticut Supreme Court case while simultaneously pressing immediate action in this Court, Ms. Miller displays all of the indications of impermissible forum shopping.

lawsuit and to create the public impression that the defendants violated her "fundamental" constitutional rights and caused her a million dollars in damages. Exhibit 5 at ¶¶ 21-26. Her media blitz included submissions to newspapers and television news interviews. *Id.* Her counsel even broadcasted a factually incorrect press release that invited the public to call her with questions. *Id.* at ¶ 22.

The effects of this media campaign rippled through the community, and even prompted the Connecticut Secretary of State to suggest new legislation to the Connecticut General Assembly. Exhibit 6. On March 1, 2016, Mr. Walker and Mr. Grimes lost their bid for re-election to the Brookfield Republican Town Committee to the candidates that Ms. Miller's husband supported. *See* Exhibit 3 at ¶ 13 and Exhibit 4 at ¶ 27.

STANDARD

"A preliminary injunction is an extraordinary remedy never awarded as of right." *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 24, 129 S.Ct. 365 (2008) (internal citation omitted). "Generally, a party seeking a preliminary injunction must demonstrate that it will suffer irreparable harm absent injunctive relief and either (1) that it is likely to succeed on the merits of the action, or (2) that there are sufficiently serious questions going to the merits to make them a fair ground for litigation, provided that the balance of hardships tips decidedly in favor of the moving party;" and "(3) that the public's interest weighs in favor of granting an injunction." *Mullins v. City of New York*, 626 F.3d 47, 52-53 (2d Cir. 2010) (*citing Citigroup Global Mkts., Inc. v. VCG Special Opportunities Master Fund Ltd.*, 598 F.3d 30, 34-35 (2d. Cir. 2010)); *Red Earth LLC v. U.S.*, 657 F.3d 138, 143 (2d Cir. 2011). Ms. Miller cannot meet this burden.

ARGUMENT

I. The Superior Court's Judgment is Fatal to Ms. Miller's Claims

This Court cannot overturn the Superior Court's judgment that rejected Ms. Miller's claims. Both the Full Faith and Credit Clause of the United States Constitution, U.S. Const. art. IV, § 1, and Full Faith and Credit statute, 28 U.S.C. § 1738, require federal courts to accord state court judgments the same preclusive effect that it would merit under the law of the state from which it originated. *See Migra v. Warren City Sch. Dist. Bd. of Educ.*, 465 U.S. 75, 81, 104 S.Ct. 892 (1984); *Kremer Chem. Constr. Corp.*, 456 U.S. 461, 466, 102 S.Ct. 1883 (1982); and *Hoblock v. Albany Co. Bd. of Elec.*, 422 F.3d 77, 93 (2d Cir. 2005). This fundamental principle of mutual respect between the state and federal judiciaries is a key component to our federalist system; it ensures the conclusive resolution of legal disputes and prevents successive litigation.

With this principle in mind, courts have established several doctrines that prevent plaintiffs such as Ms. Miller from re-litigating previously decided claims or simultaneously litigating the same claims in state and federal court. Three of those doctrines are fatal to Ms. Miller's claims against Mr. Walker and Mr. Grimes.

A. Non-Mutual Collateral Estoppel Bars Ms. Millers Claims

First and foremost, Ms. Miller's claims are foreclosed by the doctrine of collateral estoppel. Connecticut law governs the preclusive effect of a state court judgment for purposes of collateral estoppel, also known as "issue preclusion." *Faraday v. Blanchette*, 596 F.Supp.2d 508, 514 (D. Conn. 2009) (*citing Kulak v. City of New York*, 88 F.3d 63, 71 (2d Cir. 19960). In Connecticut, collateral estoppel arises when an issue is actually litigated and determined by a valid and final judgment, and that determination is essential to the judgment . . . . Collateral estoppel express[es] no more than the fundamental principle that once a matter has been fully

and fairly litigated, and finally decided, it comes to rest." *Gladysz v. Planning & Zoning Commission*, 256 Conn. 249, 260, 773 A.2d 300 (2001). A party may assert the doctrine where (1) the issue has been fully and fairly litigated; (2) the issue has actually been decided; and (3) the decision must have been necessary to the judgment. *See Wiacek Farms, LLC v. City of Shelton*, 132 Conn. App. 163, 169, 30 A.3d 27 (2011).[3]

Ms. Miller already litigated her claim that she suffered a violation of her rights to (i) freedom of association; (ii) right to vote; (iii) due process; (iv) and equal protection in the Superior Court. During the state court proceeding, Ms. Miller had a full opportunity to make all of the legal arguments she deemed relevant to her case and to present evidence in support of those arguments. After hearing all of Ms. Miller's evidence (or lack of evidence) in a fair and open hearing, the Superior Court rejected each and every one of Ms. Miller's arguments in a thirteen page decision. *See* Exhibit 1.

Ms. Miller cannot re-litigate her claims in federal court and hope to receive a conflicting decision. Ultimately, the doctrine of collateral estoppel will doom Ms. Miller's claims. And for this reason alone, Ms. Miller cannot prove a likelihood of success on the merits.

B. *Younger* Abstention Bars Ms. Miller's Claims

For essentially the same reasons that collateral estoppel bars Ms. Miller's case, *Younger* abstention is also fatal to her claims. The *Younger* abstention doctrine "generally requires federal courts to abstain from taking jurisdiction over federal constitutional claims that involve or call

[3] Collateral estoppel applies to Ms. Miller's claims against Mr. Walker and Mr. Grimes even though they were not parties to the state court litigation because their interests are directly aligned with Mr. Dunkerton's interests. *Young v. Metropolitan Property and Cas. Ins. Co.*, 60 Conn. App. 107, 114, 758 A.2d 452 (2000); *Joe's Pizza v. Aetna Life & Casualty Co.*, 236 Conn. 863, 868, 675 A.2d 441 (1996); *Mazziotti v. Allstate Ins. Co.*, 20 Conn. 799, 813-14, 695 A.2d 1010 (1997).

into question ongoing state proceedings." *Diamond "D" Const. Corp. v. McGowan*, 282 F.3d 191, 198 (2d Cir. 2002) (*citing Younger v. Harris*, 401 U.S. 37, 43-44, 91 S.Ct. 746 (1971)). This doctrine applies equally to civil proceedings. *Ohio Civil Rights Comm'n v. Dayton Christian Schs., Inc.*, 477 U.S. 619, 627, 106 S.Ct. 2718 (1986). The *Younger* abstention doctrine is founded on the principal that "a state proceeding provides an adequate forum for the vindication of federal constitutional rights." *Cullen v. Fliegner*, 18 F.3d 96, 103 (2d Cir. 1994) (internal citation omitted). The doctrine applies where "(1) there in an ongoing state proceeding; (2) an important state interest is implicated in that proceeding; and (3) the state proceeding affords the federal plaintiff an adequate opportunity for judicial review of the federal constitutional claims." *Diamond "D" Const. Corp.*, 282 F.3d at 191.

All of the *Younger* abstention elements are met here. First, Ms. Miller cannot dispute that her state case is "ongoing" because her case is currently pending in the Connecticut Supreme Court. *See* Exhibit 2. Second, there is an important state interest involved because the plaintiff is seeking judicial review of a state statute that is designed to give political parties control over their own membership. Third, it is clear from the Superior Court's decision that Ms. Miller's federal claims were raised, heard, and continue to be heard on appeal. Exhibit1; Exhibit 2. Thus, *Younger* abstention should apply to Ms. Miller's claims, and ultimately result in their dismissal. At a minimum, the doctrine makes it impossible for Ms. Miller to prove a likelihood of success on the merits.

C. *Colorado River* Abstention Bars Ms. Miller's Claims

The Court should also abstain from exercising jurisdiction over Ms. Miller's federal lawsuit pursuant to *Colorado River Water Conservation Dist. v. United States*. "Under the *Colorado River* doctrine, a federal court may decline to hear a case when parallel state court

proceedings are pending and 'reasons of wise judicial administration' counsel dismissal.'" *Smulley v. Mut. of Omaha Bank*, 2016 WL 736397, at *1 (2d Cir. Feb. 25, 2016) (quoting *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 818 (1976)). Actions are "parallel when substantially the same parties are contemporaneously litigating substantially the same issue in another forum." *Niagara Mohawk Power Corp. v. Hudson River–Black River Regulating Dist.*, 673 F.3d 84, 99 (2d Cir. 2012).

Whether "*Colorado River* abstention is justified turns on a balancing of six factors: (1) whether either the state or federal court has assumed jurisdiction over a res; (2) the relative inconvenience of the federal forum; (3) the desirability of avoiding piecemeal litigation; (4) the order in which the actions were filed; (5) whether state or federal law provides the rule of decision; and (6) whether the state action will protect the federal plaintiff's rights. *Id.* (quoting *Colorado River*, 424 U.S. at 818 and *Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 23–26 (1983)). Courts in this circuit also consider whether the plaintiff has engaged in forum shopping when deciding if abstention is appropriate. *See e.g.*, *Dunne v. Doyle*, 2014 WL 3735287, at *13 (D. Conn. July 28, 2014).

Ms. Miller's state case is "parallel" to this one because it involves the same underlying conduct, the same underlying arguments, and substantially the same parties (Ms. Miller and Mr. Dunkerton are named parties in each case). Moreover, the relevant factors weigh in favor of abstention.[4] With respect to the need to avoid piecemeal litigation, one of the most important factors in the *Colorado River* analysis, allowing Ms. Miller to simultaneously litigate her case in the state and federal courts provides the possibility of inconsistent or even conflicting judgments. Abstention, on the other hand, would avoid the potential embarrassment of such an absurd result.

[4] The first two *Colorado River* factors are not relevant to the Court's inquiry in this case.

Dunne v. Doyle, 2014 WL 3735287, at *11 (D. Conn. July 28, 2014) (recognizing that abstention is appropriate where the court could be asked to re-decide motions, waste judicial resources on duplicative litigation, and risking conflicting outcomes in the state and federal forums).

The order in which the actions were filed also weighs decidedly in favor of abstention. "This factor does not turn exclusively on the sequence in which the cases were filed, 'but rather in terms of how much progress has been made in the two actions.'" *Vill. of Westfield v. Welch's*, 170 F.3d 116, 121 (2d Cir. 1999). Ms. Miller already obtained a final judgment from the Superior Court, and her state case is currently pending in the Connecticut Supreme Court. Conversely, her federal action is in the earliest stages of litigation.

As for whether state or federal law will provide the rule of decision, the defendants recognize that Ms. Miller's claims arise under federal law. Nonetheless, all of the alleged conduct occurred pursuant to a state statute that implicates Connecticut's public policy. This Court should abstain from this case and permit the Connecticut Supreme Court to rule on the merits of her challenge of the state statute and its application to her.

As for the protection of Ms. Miller's federal rights, the Connecticut judiciary is more than capable of hearing and deciding her federal claims. There is no reason to believe that the Connecticut Supreme Court will not protect her federal rights.

Lastly, Ms. Miller, not the defendants, chose to initiate her claims in the state court first. Now, apparently not optimistic about her chances for success in the Supreme Court, she has filed this successive action. Tellingly, instead of pursuing emergency relief in the Connecticut Supreme Court, Ms. Miller has instead delayed that action by obtaining two extensions of time to file her appellate brief. And while she is delaying the Supreme Court action, she is pressing immediate relief in the federal court. There can be no debate that exercising jurisdiction in this

case would encourage the type of forum shopping federal courts generally prohibit. This factor weighs in favor of abstention. *DLJ Mortg. Capital, Inc. v. Kontogiannis*, 2011 WL 611836, at *3 (S.D.N.Y. Feb. 17, 2011) ("The interests of efficiency and judicial economy would clearly be served, and forum-shopping (however indirect) discouraged, by remand of this action to state court for prompt continuation of the previously-pending proceedings."); *Lorentzen v. Levolor Corp.*, 754 F.Supp. 987, 993 (S.D.N.Y.1990) ("Of greatest significance in our review of factor 4—and most influential to our decision to abstain—is the fact that it was plaintiff who chose to trigger the jurisdiction of the state court in this matter . . . . [Filing in federal court] appears to be an attempt by plaintiff to change his original choice of forum in violation of the federal policy against plaintiff removal and forum-shopping.").

All of these reasons make it clear that the Court should abstain from hearing Ms. Miller's case, and prove that cannot show a likelihood of success on the merits of any of her claims.

D. Freedom of Association and Right to Due Process

Ms. Miller is not the first plaintiff to claim that the removal from a political party under General Statues § 9-60 constitutes a violation of the rights to freedom of association and due process. In the highly analogous case of *Marchitto v. Knapp*, several residents of Derby, Connecticut brought an action against the Republican Registrar of Voters and Republican Town Chairman. They claimed that General Statutes § 9–60 violated the plaintiffs' rights to freedom of association and due process. *Id.* at 916. Chief Judge Daly rejected their claims outright. *See id.* at 917-918. In rejecting the plaintiffs' freedom of association claim, just as the Superior Court concluded in Ms. Miller's case, Judge Daly recognized that "individual voters and political parties share a reciprocal right to define themselves politically," and therefore, "a political party may deny membership to an individual voter who acts in a manner clearly inconsistent with a

party's interests." *Id.* at 917 (citing *Democratic Party of United States v. Wisconsin ex rel. LaFollette*, 450 U.S. 107 (1981) and *Roberts v. United States Jaycees*, 468 U.S. 609 (1984)). Judge Daly also rejected the plaintiffs' due process claims, holding that the plaintiffs failed to sufficiently plead a violation of due process and that it would be improper for the Court to substitute its own judgment for that of the political party. *Id.* at 918.

The Court's reasoning in *Marchitto is* persuasive and should be followed here. Ms. Miller has presented no sounds reason why the Brookfield Republican Party should not be permitted to define its own membership. Moreover, Ms. Miller had the opportunity to present evidence regarding her "good faith membership" (or lack thereof) ***at two separate hearings***, including one before the registrar and party chairman and one before a Superior Court judge. To claim that she was somehow denied due process is nonsensical. Ms. Miller cannot show a likelihood of success on the merits.

E. Right to Vote

Ms. Miller overstates her right to vote in the Republican primary, which is not absolute. Indeed "[t]he Supreme Court has emphasized—with increasing firmness—that the First Amendment Guarantees a political party great leeway in governing its own affairs." *Maslow v. Bd. of Elections of City of New York*, 658 F.3d 291, 296 (2d Cir. 2011) (citing, *inter alia*, *N.Y. State Bd. of Elections v. Lopez Torres*, 552 U.S. 197 (2008), *Cal. Democratic Party v. Jones*, 530 U.S. 567, 120 S.Ct. 2402 (2000), and *Tashjian v. Republic Party of Conn.*, 479 U.S. 208, 107 S.Ct. 544 (1986)). This power reaches its apex in the primary context. *Tashjian*, 479 U.S. at 216 ("selecting the Party's candidates" is the "critical juncture at which the appeal to common principles may be translated into concerted action, and hence political power in the community"). Indeed, "[i]n no area is the political association's right to exclude more important

than in the process of selecting its nominee . . . ." *See Jones*, 530 U.S. at 575. As the Second Circuit recently concluded after surveying *Jones* and other relevant precedent, "[b]ecause political parties have a strong associational right to exclude non-members from their candidate nomination process, [individuals seeking non-member participation in partisan primaries] have no constitutional right pursuant to which such participation may be effected." *Maslow v. Bd. of Elections in City of New York*, 658 F.3d 291, 296 (2d Cir. 2011). Indeed, the Supreme Court has drawn an important distinction between casting a ballot in a general election, which implicates the "fundamental" right to vote, and nominating a candidate for general election, which does not. *Jones*, 530 U.S. at 575.

Ms. Miller's claim that the defendants violated her right to vote by applying General Statutes § 9-60 flies in the face of this controlling case law. For this reason, cannot show that she will succeed on the merits as to her claim regarding the right to vote.

F. Equal Protection

Ms. Miller attempts to distinguish her federal lawsuit from her Superior Court case by making conclusory and unsupported allegations of gender discrimination. But her efforts fall woefully short stating a legally cognizable claim for a violation of her right to equal protection and are insufficient to obtain a preliminary injunction.

"Traditionally, the Equal Protection clause of the Fourteenth Amendment protects against [classification-based] discrimination." *Goldfarb v. Town of West Hartford*, 474 F. Supp.2d 356, 366 (D. Conn. 2007) (internal quotation marks omitted). "Closely related to a class-of-one claim, a claim of selective enforcement or selective prosecution arises when the government seeks to apply the law to a plaintiff differently than it would to other similarly situated individuals for constitutionally impermissible reasons such as on grounds of plaintiff's race or malicious intent."

Gray v. Town of Easton, 115 F.Supp.3d 312, 319 (D. Conn 2015). Such a claim requires plaintiff to show that "(1) the [plaintiff] compared with others similarly situated, was selectively treated; and (2) that such selective treatment was based on impermissible considerations such as race, religion, intent to inhibit or punish the exercise of constitutional rights, or malicious bad faith intent to injure a person." *Brown v. City of Syracuse*, 673 F.3d 141, 151-52 (2d Cir. 2012). The Second Circuit has not yet specified "the degree of similarities between comparators that must exist to prove a selective-enforcement claim. But because the two theories themselves are so similar, there is little reason to suppose why a selective-enforcement claim should not require the same high degree of similarity between comparators as the Second Circuit requires for a class-of-one claim." *Gray v. Town of Easton*, 115 F.Supp.3d at 319. Thus, there must be "an extremely high degree of similarity" that provides "an inference that the plaintiff was intentionally singled out for reasons that so lack any reasonable nexus with a legitimate governmental policy that an improper purpose . . . is all but certain." *Clubside, Inc. v. Valentin*, 468 F.3d 144, 159 (2d. Cir. 2006).

Ms. Miller points to the Brookfield Republican Party's treatment of two alleged comparators in her complaint as "proof" of the defendants' discrimination against her. But there is not "an extremely high degree of similarity" between Ms. Miller and her two comparators. *Clubside, Inc.*, 468 F.2d at 159. Indeed, there are stark differences in the circumstances surrounding her removal and the actions of her purported comparators. Most significantly, the two comparators both changed their party affiliation *before* running on a Democratic ticket. Ms. Miller, however, registered to run on the Democratic ticket while still enrolled as a member of the Republican Party. *See* Exhibit 3 at ¶ 18. And, unlike her supposed comparators, Ms. Miller obtained financing from the Democratic Party while still enrolled as a Republican in July 2013.

Id. ¶¶ 18-20.

These differences in Ms. Miller's case and the circumstances of her comparators should be enough dispense of her equal protection claim, but there is an additional, perhaps more obvious difference. When Mr. Dunkerton cited Ms. Miller for removal, the constitutionality of General Statutes § 9-60 was not under judicial review. *Id.* ¶ 34. Conversely, when Ms. Miller's alleged comparators sought reinstatement to the Republican Party, Ms. Miller had already appealed her Superior Court case to the Connecticut Supreme Court. This argument is another indication of forum shopping. In the state court, Ms. Miller is arguing that the General Statutes § 9-60 is unconstitutional on its face, but claims in this court that the defendants have acted improperly because Mr. Dunkerton has not applied it to her purported comparators while that appeal is pending. Mr. Dunkerton still has several months within which to cite Ms. Miller's comparators for removal, he has the right to do so pending a determination of the constitutionality of General Statutes § 9-60. *Id.* ¶¶ 28, 33. Waiting until the Supreme Court completes its review of General Statutes § 9-60 before issuing any additional citations does not constitute a violation of her constitutional rights or indicate gender discrimination.

Lastly, Ms. Miller's allegations of gender discrimination are conclusory and have no basis in fact. The defendants wholeheartedly deny her claims, and Ms. Miller cannot provide any evidence in support of her allegations. *See* Exhibits 3 and 5.

For these reasons, Ms. Miller cannot demonstrate a likelihood of success on the merits as to her equal protection claim.

G. Plaintiff Cannot Demonstrate a Likelihood of Success as to Her Conspiracy Claim

Plaintiff has alleged, in conclusory fashion, a conspiracy between Mr. Dunkerton and Mr. Grimes pursuant to 42 U.S.C. § 1985. A cognizable claim under § 1985 has four elements: "(1) a

conspiracy, (2) for the purpose of depriving any person of class of persons of the equal protection of the laws or of equal privileges and immunities under the laws, (3) an act in furtherance of the conspiracy, and (4) whereby a person is injured in his person or property or deprived of a right or privilege of a citizen." *Turkmen v. Hasty*, 789 F.2d 218, 262 (2d Cir. 2015). A successful claim also requires "some racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirators' action." *Griffin v. Breckenridge*, 403 U.S. 88, 102, 91 S.Ct. 1790 (1971); *accord Reynolds v. Barrett*, 685 F.3d 193, 201-02 (2d Cir. 2012). It is well established that "a complaint containing only conclusory, vague, or general allegations of conspiracy to deprive a person of constitutional rights" is insufficient as a matter of law. *Ericson v. City of Meriden*, 113 F.Supp.2d 276, 291 (D. Conn. 2000) (*citing Sommer v. Dixon*, 709 F.2d 173, 175 (2d Cir. 1983)).

As with the rest of her complaint, Ms. Miller only makes conclusory allegations regarding the alleged "conspiracy" between Mr. Grimes and Mr. Dunkerton. She vaguely alleges that Mr. Grimes and Mr. Dunkerton entered into an agreement, but offers no specifics aside from broad speculation. Such conclusory allegations are not sufficient to state a cognizable claim under § 1985. Moreover, as demonstrated above, there is no merit to her predicate civil rights claims. Thus, Ms. Miller cannot demonstrate a likelihood of success on the merits as to her conspiracy claim.

II. The Public Interest Weighs Against Injunctive Relief

The public interest weighs decidedly against the imposition of a preliminary injunction. By enacting General Statutes § 9-60, the Connecticut legislature recognized that political parties have a vested interest in defining their own membership. By seeking immediate reinstatement to the Republican Party, Ms. Miller is asking this Court to force the Republican Party to accept her

into its ranks even though it has determined that she was not associating in good faith. It is not the federal judiciary's role to second guess the decisions of political parties in such a fashion. *Marchitto*, 807 F. Supp. at 919 ("Given the Republican Party's right to define its political association and to remove those members whose interests directly conflict with those of the Party, this court is loathe to second guess the defendants' decision.").

Ms. Miller's motion for preliminary injunction invites this Court to ignore the public interest in allowing political parties to freely conduct their affairs and define their membership. It should deny her invitation.

III. Mr. Grimes and Mr. Walker Cannot Reinstate Ms. Miller to the Republican Party

Mr. Grimes and Mr. Walker are not public officials.[5] In Connecticut, ordinary citizens cannot admit electors into political parties. *See* CONN. GEN. STAT. § 9-17a ("As used in sections 9-17, 9-19b, 9-19c, 9-20, 9-23a, 9-24, 9-31a, 9-31b and 9-31*l*, unless otherwise provided, the term 'admitting official' means a town clerk, assistant town clerk, registrar of voters, deputy registrar of voters or assistant registrar of voters or the board for admission of electors). Thus, Mr. Walker and Mr. Grimes are incapable of affording Ms. Miller the relief she seeks by way of her motion for preliminary injunction. Indeed, it appears from Ms. Miller's pleadings that the only reason that Mr. Walker or Mr. Grimes got dragged into this lawsuit is a result of their prior affiliation with the Brookfield Republican Town Committee, even though they had no authority to issue her removal citation in that role.

CONCLUSION

For all of these reasons, Ms. Miller's motion for preliminary injunction must be denied.

[5] For this reason, Mr. Walker and Mr. Grimes also submit that they are not "state actors" under § 1983, and therefore not subject to liability under that statute.

DEFENDANTS,
MATTHEW GRIMES
GEORGE WALKER

By: */s/ Nathaniel J. Gentile*
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CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2016, a copy of the foregoing Motion for Extension of Time to Plead was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing.

/s/ Nathaniel J. Gentile
Nathaniel J. Gentile

EXHIBIT 1

DOCKET NO.: DBD-CV-15-6017272-S	)	SUPERIOR COURT
JANE MILLER	)	JUDICIAL DISTRICT OF
	)	DANBURY
v.	)	AT DANBURY
THOMAS DUNKERTON	)	AUGUST 18, 2015

MEMORANDUM OF DECISION
RE: PLAINTIFF'S PETITION PURSUANT TO GENERAL STATUTES § 9-63

Before the court is a petition filed by the plaintiff, Jane Miller, a resident of the town of Brookfield, Connecticut, to have her name restored to the list of Republican electors in Brookfield. The plaintiff alleges that the defendant, Thomas Dunkerton, the Republican Registrar of Voters for the town of Brookfield, on or about April 23, 2015, unlawfully and improperly erased her name from the town's list of Republican electors. The defendant has filed an answer to the plaintiff's petition admitting that he removed her name from the enrollment list of the Brookfield Republican Party, but denying any improper actions on his behalf. The plaintiff petitions this court from the decision of the defendant and seeks a writ of mandamus compelling the defendant to restore her name to the enrollment list.

The plaintiff brings this petition on the following specific grounds. First, that the defendant "conducted a hearing where the evidence presented substantiates a finding which does not support the Defendant's actions." Second, that the "conduct of the hearing violated the Petitioner's right to due process of law." Third, that "the Defendant failed to establish a standard of conduct to qualify as a member of the Brookfield Republican Party and, as a result, the Petitioner has been prejudiced." Fourth, that "the accepted standard for membership in the Brookfield Republican Party allows active membership in other political parties and encourages members to run for political office on other political slates while enrolled in the Brookfield Republican Party." Fifth, that the "action of the Defendant holds Petitioner to a standard not required by others." Finally sixth, that General Statutes § 9-60 is unconstitutional both on its face and as applied by the defendant.

General Statutes § 9-63[1] provides an expedited summary appeal procedure for persons claiming

[1] General Statutes § 9-63 provides in relevant part: "Any elector whose name has been removed from an enrollment list in the manner provided in sections 9-60 and 9-61, and any elector whose application to have his name

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to be aggrieved by a registrar's erasure or exclusion from a party enrollment list. Pursuant to § 9-63, the court held an evidentiary hearing on the petition on July 27, 2015, in which both parties appeared.

Having heard the testimony of the parties and reviewed the evidence presented in support of their respective positions, the court makes the following de novo findings:

1. The plaintiff in this action is a resident of Brookfield, Connecticut. She moved to Brookfield in 1992 and, in 2002, registered as a member of the Brookfield Republican Party.

2. In 2009 municipal elections, she ran successfully for a seat on the Brookfield Board of Education as a Republican. Prior to that election, the plaintiff was a loyal party member and worked actively on behalf of Republican candidates for election. While serving as an incumbent Republican member on the Board of Education, she remained an active and loyal party member.

3. In June of 2013, the plaintiff spoke with members of the Brookfield Republican Party's vacancy committee regarding the upcoming November 2013 election. The committee interviewed the plaintiff for one of the Republican vacancies on the Board of Education for that year, but chose not to give her a nomination. The plaintiff was informed on July 17, 2013 that she would likely not be nominated at the party caucus to be held later that month to stand for election to the Board of Education in November of 2013. The plaintiff attended the caucus on July 23, 2013, notwithstanding, hoping to receive a floor nomination to the Board of Finance from supporters.

4. Earlier that same day, July 23, 2013, the plaintiff filed a form SEEC 1 registering herself as an unaffiliated candidate for the Board of Finance for the 2013 election (Defendant's Ex. B), and certifying

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placed upon an enrollment list has been refused, and who is aggrieved thereby, may, within ten days after such removal or refusal, bring a petition before any judge of the superior court, setting forth that the name of the petitioner has been unjustly or improperly removed from such list or excluded therefrom, as the case may be, and praying for an order directing such registrar . . . by whom such name was removed or excluded to restore such name or place the same upon such list. . . . Such petition shall be returnable not more than six days from the date thereof, and to the same shall be attached a citation commanding such registrar . . . in the name of the state to appear and show cause why such name should not be restored to such list or placed thereon. A true copy of such petition shall be served upon such registrar or deputy registrar at least four days before the return day thereof, and the judge before whom such petition is returnable shall assign the same for a hearing at the earliest practicable date; and if, upon due hearing thereof, he finds that the petitioner is entitled to relief, such judge shall issue an order directing such registrar or deputy registrar to forthwith restore the name of such elector to the list from which it was removed or to place the name of such elector upon the list applied for, as the case may be; and any registrar . . . who fails to obey such order shall be deemed guilty of contempt and may be fined not more than one hundred dollars."

under penalties of false statement that her campaign would be sponsored by the Brookfield Democratic Town Committee.

5. The Brookfield Democratic Party also held its nominating caucus on July 23, 2013. The plaintiff did not attend the Democratic caucus, but had been advised previously by members of the Democratic Party that she might receive the party's endorsement to run for the Board of Finance. The plaintiff learned either later that night or the following morning that she had been endorsed to run on the November 2013 ballot on the Democratic line (Defendant's Ex. A). On the following day, July 24, 2013, the plaintiff changed her party affiliation from Republican to unaffiliated (Plaintiff's Ex. 3, p. 2).

6. The plaintiff's name appeared on the November 5, 2013 ballot on the Democratic line (Defendant's Ex. E) for the Town of Brookfield Board of Finance. The plaintiff's name also appeared on campaign literature distributed by the Brookfield Democratic Party for the 2013 election (Defendant's Exhibits C & D). The plaintiff worked to promote her candidacy and the candidacies of the other Democratic nominees in the November 2013 election by, among other things, allowing Democratic Party lawn signs to be placed on her property and by distributing Democratic campaign literature outside polling places on election day (Plaintiff's Ex. 4).

7. The plaintiff did not prevail in her bid for a seat on the Board of Finance, losing instead to the Republican candidates.

8. On December 3, 2013, the plaintiff filed a party enrollment change form declaring her intention to be re-enrolled in the voter list of the Brookfield Republican Party (Plaintiff's Ex. 3, p. 1).

9. In January of 2015, the plaintiff attended a Republican Town Committee meeting.

10. In February of 2015, the plaintiff supported a Democratic candidate for state representative in a special election and also made the maximum financial contribution to his campaign allowed by law (Plaintiff's Ex. 4).

11. By letter dated March 19, 2015, and in accordance with General Statutes § 9-60,[2] the

[2] General Statutes § 9-60 provides in relevant part: "Whenever the registrar of voters of any political party, . . . , is of the opinion that any person on the enrollment list, or any person applying to be placed upon the enrollment list, of the political party which such registrar represents . . . is not affiliated with, or in good faith a member of, that political party and does not intend to support its principles or candidates, such registrar . . . shall cite such person to appear before him and the chairman of the town committee of such political party . . . to show cause why his name

defendant issued a citation to the plaintiff requesting her to appear before the Republican Registrar of Voters and the Brookfield Republican Town Committee Chairman, Matthew Grimes, Jr., to show cause as to why her name should not be erased from the Brookfield Republican Party enrollment list.

12. The plaintiff, through her counsel, objected to the manner of service of the citation. After consultation with defendant's counsel, however, the parties agreed to waive "any potential service of process issues," and re-scheduled the hearing for the evening of April 9, 2015 (Plaintiff's Ex. 4).

13. The plaintiff, represented by counsel, appeared at the hearing and spoke in opposition to the defendant's intention to erase her from the Republican Party enrollment list. Other persons also appeared at the hearing and spoke in support of, and in opposition to, the defendant's citation (Plaintiff's Ex. 1).

14. At the conclusion of the hearing, the defendant and Grimes found "reasonable proof" that the plaintiff had recently been "a candidate for office under the designation of another party." The defendant and Grimes found specifically that the plaintiff's name "was on the ballot exclusively as a Democrat and, had she been elected to office, Connecticut Law would have recognized her as a Democrat in that office." The defendant and Grimes also found that the plaintiff had "actively worked against the Republican Party's efforts," and that she had "been an ally of the Democratic Party." Citing General Statutes §§ 9-61[3] and 9-167a(g),[4] the defendant and Grimes concluded that the plaintiff

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should not be erased or excluded from such enrollment list. Such citation shall be in writing and shall state the time when and place where such person shall appear, and shall be served upon or left at the usual place of abode of such person at least two days before the time fixed for such hearing upon such citation, which time shall not be less than one week before the next succeeding caucus or primary of such political party. . . . If, at any such hearing, it appears to such registrar and such chairman . . . that it is not the bona fide intention of such person to affiliate with, or that such person is not affiliating with, such political party and does not intend to support the principles or candidates of such party, his name may thereupon be erased or excluded from the enrollment list of such party.

[3] General Statutes § 9-61 provides: "Enrollment in any other political party or organization, active affiliation with any other political party or organization, knowingly being a candidate at any primary or caucus of any other party or political organization, or being a candidate for office under the designation of another party or organization, within a period of two years prior to the date of the notice as provided in section 9-60 shall be prima facie evidence that any elector committing any such act is not affiliated with, or in good faith a member of, and does not intend to support the principles or candidates of the party upon the enrollment list of which his name appears or in which his application for enrollment is pending; and, upon reasonable proof of the commission of any one of such acts, the name of any such elector may be stricken or excluded from such list and such erasure or exclusion shall be effective for a period of two years from the date of any such act."

[4] General Statutes § 9-167a (g) provides in relevant part: "For the purposes of this section, . . . any person whose candidacy for election to an office is solely as the candidate of a party other than the party with which he is enrolled shall be deemed to be a member of the party of which he is such candidate."

committed one or more of the acts within two years of the March 19, 2015 date in which the citation was originally issued, which served as prima facie evidence supporting the defendant's discretionary erasure or exclusion of the plaintiff from the enrollment list (Plaintiff's Ex. 4).

15. By letter dated April 23, 2015, the defendant notified the plaintiff of the decision to erase her name from the Brookfield Republican Party's enrollment list.

16. The plaintiff requested that her name be restored to the list, but her request was refused.

The court rules as follows on each of the grounds asserted in the plaintiff's petition for a writ of mandamus and other relief:

I. The plaintiff is aggrieved by the defendant's decision to remove her list from the enrollment list and by his refusal to honor her request to restore her name to the list. The plaintiff's petition, therefore, is properly before this court.

II. The evidence presented at the hearings held on April 23, 2015, and July 27, 2015 supports the finding that the plaintiff stood for office as a candidate for the Democratic Party in November of 2013. The evidence also supports the finding that the plaintiff actively affiliated herself with the Democratic Party within two years prior to the issuance of the March 19, 2015 citation.

In support of her petition, the plaintiff relies on two Connecticut Supreme Court cases, *In re Gilhuly's Petition*, 124 Conn. 271, 199 A. 436 (1938), and *Kiernan* v. *Borst*, 144 Conn. 1, 126 A.2d 569 (1956). *Gilhuly* and *Kiernan* both make clear that a trial court, when hearing a petition pursuant to § 9-63, hears the matter de novo, rather than acting as an appellate court with limited review. In *Gilhuly*, the Court held that "[§] 703 in effect provides for a special statutory proceeding in the nature of mandamus. In functioning thereunder a judge is exercising a judicial as distinguished from an administrative or executive power. This power is not dependent, however, upon his being engaged in an appellate review of the proceedings had before the registrar, but is exemplified in his original determination of what is the plaintiff's legal right to enrollment and whether this right has been violated." Id., 277.

The court in *Gilhuly* continued: "These statutes give rise to an unequivocal right in a qualified elector to be enrolled on the party list of his expressed choice upon his statement that he is not a member of or connected with any other political party. They further give him such right to have his name continued on that list as long as he chooses, unless and until it is no longer his intention to affiliate with such party and to support its principles and candidates. This right is neither dependent upon nor subject

to the will of the registrar and town committee chairman. Whether an elector shall be enrolled upon the party list rests no more within their discretion than does the determination of whether a hunter's license shall be granted under section 3110 of the General Statutes rests in that of the town clerk to whom application is made. The statute prescribes certain definite prerequisites to the granting of the request in each case, and requires compliance upon the official's part when these exist. The further provision in certain of the statutes quoted, that under specified circumstances the registrar and town committee chairman are to determine whether the prerequisites do exist, is not effective to enlarge their administrative duty into one involving an exercise of discretion and judgment." Id., 279-80.

In other words, the question before this court is whether the plaintiff meets the "prerequisites" for enrollment on a party list. If the court finds the answer to be in the affirmative, then the registrar has no discretion in the matter, and a writ of mandamus is appropriate to compel the registrar to honor the elector's wish and restore his or her name to the enrollment list. If the court finds the opposite, however, then a writ of mandamus is inappropriate in that instance because the registrar has discretion under § 9-60 to erase or exclude that person when, in the registrar's judgment, the person "is not affiliated with, or in good faith a member of, that political party and does not intend to support its principles or candidates."

"A writ of mandamus is an extraordinary remedy, available in limited circumstances for limited purposes. . . . It is fundamental that the issuance of the writ rests in the discretion of the court, not an arbitrary discretion exercised as a result of caprice but a sound discretion exercised in accordance with recognized principles of law." (Internal quotation marks omitted.) *Morris* v. *Congdon*, 277 Conn. 565, 569, 893 A.2d 413 (2006). "[I]n deciding the propriety of a writ of mandamus, the trial court exercises discretion rooted in the principles of equity . . . [M]andamus neither gives nor defines rights which one does not already have. It enforces, it commands, performance of a duty. It acts at the instance of one having a complete and immediate legal right; it cannot and it does not act upon a doubtful or a contested right . . . A party seeking a writ of mandamus must establish: (1) that the plaintiff has a clear legal right to the performance of a duty by the defendant; (2) that the defendant has no discretion with respect to the performance of that duty; and (3) that the plaintiff has no adequate remedy at law." (Citations omitted; internal quotation marks omitted.) *Stewart* v. *Watertown*, 303 Conn. 699, 711-12, 38 A.3d 72 (2012).

In *Kiernan*, the plaintiff successfully challenged the local Republican party registrar's decision to remove his name from the enrollment list. The plaintiff had been removed from the party enrollment list

after he promoted the candidacy of a Democratic nominee in a local election, and participated afterward in the Democratic Party's victory parade. The plaintiff sought to have his name restored, and the local Republican Party Registrar of Voters refused the request. After a hearing on the plaintiff's petition, the trial judge found that "[t]he plaintiff had the bona fide intention of affiliating with the Republican party. He was not affiliated with the Democratic party. He was supporting the principles and candidates of the Republican party and is entitled to have his name restored to the enrollment list of that party." *Kiernan* v. *Borst*, supra, 144 Conn. 3. On appeal the court held that these conclusions were warranted based on the facts found, and upheld the trial court's reversal of the registrar's action. Id., 6.

In contrast to the present case, however, the court in *Kiernan* noted that "the plaintiff had not committed any of the specific acts which under § 562d[5] would have created a presumption that he was not affiliated with the Republican party. He had not enrolled in another party. He had not been actively affiliated with any other party. The most he had done was to advocate the election of a single candidate of another party. He had not been a candidate for nomination by another party or a candidate on another party's ticket. It was therefore open to the trial judge to decide on all the evidence whether the plaintiff in good faith intended to affiliate with the Republican party." *Kiernan* v. *Borst*, supra, 144 Conn. 5-6.

In the present case, there is more than sufficient evidence from which the court can conclude that the plaintiff did commit specific acts under § 9-61 which constitute prima facie evidence supporting the defendant's discretionary erasure or exclusion of the plaintiff from the enrollment list. The plaintiff, by her own admission, did stand as a candidate for office under the designation of the Democratic Party in the November 2013 election, and actively affiliated with the Democratic Party within two years prior to the March 19, 2015 notice and citation. In the case of *Miner* v. *Marsh*, 102 Conn. 600, 129 A. 547 (1925), for example, a case involving a recount, the court held that "those [persons] appearing upon the Independent Republican ticket automatically separated themselves from the original Republican organization, each one of them by knowingly becoming 'a candidate for office . . . of another party or organization,' different from that to which each had formerly belonged." Id., 10. The evidence is clear in the present case that the plaintiff affiliated herself with the Democratic Party and stood for office on the local Democratic ticket two years before the March 19, 2015 letter, and is not in good faith a member of

[5] The predecessor statute to § 9-61.

the Brookfield Republican Party.

III. The court finds that the proceedings initiated against the plaintiff in accordance with § 9-60 et seq. did not violate her procedural rights to due process of law. The plaintiff clearly received advanced notice of the hearing, specific notice of the charges levied, and received an opportunity to be heard on the matter. The plaintiff was also represented by counsel at the hearing. Any possible defects in the citation itself or service of the citation were knowingly and voluntarily waived by the plaintiff and cannot form the basis of a collateral attack after conclusion of the hearing.

IV. At any hearing for a petition for relief under § 9-63, the burden of proof rests on the plaintiff to prove that his "unequivocal right . . to be enrolled on the party list of his expressed choice" has been violated. *In re Gilhuly's Petition*, supra, 124 Conn. 282. With respect to the third and fifth grounds asserted by the plaintiff in support of her petition, the court finds that insufficient evidence was produced from which the court can conclude that the defendant's actions were unlawful and improper. In the first instance, § 9-60 does not impose upon the defendant a burden of proof to establish by a preponderance of the evidence a specific "standard of conduct" before exercising his discretion to remove an elector from a party's enrollment list. Section 9-61 sets forth actions which a registrar can rely on in making the determination of whether a party member is not affiliated with the party or "does not intend to support the principles or candidates of the party," which are precisely the standards which the defendant and Grimes relied upon in rendering the decision.

V. With respect to the fifth ground asserted, i.e., that the defendant's actions hold the plaintiff to a standard not required of others, the plaintiff argues that she is a victim of selective enforcement in that she is being unfairly targeted by the defendant, and perhaps by the Brookfield Republican Town Committee, in retaliation for running on the Democratic ballot line and supporting the Democratic ticket in November of 2013. Part of the evidence presented in support of this contention was the defendant's concession on cross-examination that to the best of his knowledge, the plaintiff is the only person in recent memory to be the subject of a discretionary erasure. In the court's opinion, the defendant's failure to cite other persons in recent years for similar actions, without more, is insufficient evidence of unfair and discriminatory treatment or of malicious intent toward the plaintiff.

The other evidence offered in support of this contention is testimony elicited from the defendant and Grimes that other members of the Brookfield Republican Party have committed similar acts of

disloyalty to the party in recent years, and none of them have been erased from the party's enrollment list. The plaintiff offered evidence that Grimes himself in recent years had founded a separate, competing political party, A Brookfield Party, and was still listed as its agent at the time of the hearing. These actions notwithstanding, Grimes has never been the subject of a discretionary erasure. The plaintiff also offered evidence that two other persons ran against Republican nominees in the 2009 and 2013 municipal elections, either as unaffiliated candidates or as a member of A Brookfield Party, but have not been erased or excluded from the Republican Party.

In the court's opinion, the foregoing examples are insufficient proof of selective enforcement or arbitrary and capricious discrimination against the plaintiff. The mere fact that the defendant chose not to proceed, in accordance with § 9-60, against the two other individuals indicated does not lead ineluctably to the conclusion that the defendant acted with invidious intent toward the plaintiff. The plaintiff presented no specific evidence of discriminatory or retaliatory intent toward her. Furthermore, the court finds insufficient evidence of a pattern of illegal and improper conduct from which the court can draw an inference that the process is constitutionally flawed. The evidence on this point supports the defendant's contention that he simply exercised his statutory discretion to exclude the plaintiff from the enrollment list for acts indicating that she did not intend to support the party or its candidates.

The plaintiff further argues that the defendant applied a double standard to her, in that other Republican party members have received cross-endorsements in recent years and none have been cited pursuant to § 9-60. In response, the defendant argues that standing for election as a member of a different party is not the same as receiving a cross-endorsement, and this court agrees.[6] The plaintiff did not receive a cross-endorsement while standing for office as a Republican; the evidence clearly demonstrates she ran for office exclusively on the Democratic Party ballot line in 2013 against the Republican party nominees.

VI. The court considers next the question of the constitutionality of §§ 9-60 through 9-63. The plaintiff argues that the court should find that the statutory framework for discretionary removal of an

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[6] The defendant cites a portion of the minority representation statute, § 9-167a (g), in support of this position. Subsection (g), however, by its very terms applies to cross-endorsements for determining minority representation. The court does not reach the question of whether the statute also applies to cross-endorsements in the context of discretionary erasure from voter enrollment lists.

elector from a party's enrollment list is unconstitutional on a number of grounds. Reduced to their essential elements, the plaintiff's arguments are as follows: (1) the statutory scheme for discretionary erasure or exclusion is unconstitutionally vague; (2) the statutes impermissibly burden the plaintiff's first amendment right of association; and (3) the statutes impermissibly burden the plaintiff's fundamental right to vote by preventing her from participating in the Republican primary.

With respect to the first argument, the plaintiff argues that §§ 9-60 and 9-61 are unconstitutional and void for vagueness under the first and fourteenth amendments to the United States constitution,[7] and Article First, §8, of the Connecticut constitution.[8] The plaintiff argues that her "First Amendment right to freedom of association is implicated by her removal from the party of her choice via § 9-61. Accordingly, the statute is subject to more exacting scrutiny." In support of this contention, the plaintiff cites *State* v. *Linares*, 232 Conn. 345, 655 A.2d 737 (1995), which stated that "[p]erhaps the most important factor affecting the clarity that the Constitution demands of a law is whether it threatens to inhibit the exercise of constitutionally protected rights. If, for example, the law interferes with the right of free speech or of association, a more stringent vagueness test should apply." (Internal quotation marks omitted.) Id., 355. The plaintiff argues that § 9-60 vests a party's local registrar and town chairman with the power to erase or exclude from their party's list any person who, in their opinion, has demonstrated that he or she "is not affiliated with, or in good faith a member of, that political party and does not intend to support its principles or candidates." This, according to the plaintiff, is an impermissibly vague standard that leaves "the ultimate determination of whether an individual intends to support the principles of a party, as well as the definition of those principles, . . . to the unfettered and biased discretion of the registrar - the very person who would have generated the citation in the first place . . . and the party committee chair, who is rarely a neutral party with respect to his views on the principles of

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[7] The first amendment to the United States constitution provides: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The fourteenth amendment, §1, provides in relevant part: " No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

[8] Article First, § 8 of the Connecticut constitution provides in relevant part: "No person shall be . . . deprived of life, liberty or property without due process of law."

the party at issue." In other words, the hearing process of §§ 9-62 and 9-63 is constitutionally flawed because the statutes allow the registrar and the town chairman to sit in judgment on the very charging document that they themselves brought. In the plaintiff's case, "[r]espondent Dunkerton acted as both prosecutor and judge. His role in the hearing process was to determine the veracity of the very facts alleged in the citation. The other hearing officer, Grimes, was far from a neutral party, and was not obligated to adhere to any guidelines, other than those dictated by his own agenda, as to what constituted the principles of the Brookfield Republican Party." The plaintiff maintains that such an arrangement is inherently unfair and can only lead to examples of arbitrary and discriminatory enforcement. In short, the plaintiff argues that she has a fundamental right to belong to the Brookfield Republican Party and that any restrictions on that right must receive the same strict scrutiny applied to other laws that burden fundamental rights - that is, they must be the least restrictive means to achieve a compelling state interest.

The court respectfully disagrees with this analysis. First, it is important to note that courts have a "narrowly circumscribed role in political disputes" such as the one presently before this court. *Flewellyn* v. *Hempstead*, 47 Conn. App. 348, 350, 703 A.2d 1177 (1997). "Political parties generally are free to conduct their internal affairs free from judicial supervision. . . . This common law principle of judicial restraint, rooted in the constitutionally protected right of free association, serves the public interest by allowing the political process to operate without undue interference. . . . Because the nomination and endorsement of candidates for elective office are among the primary functions of political parties, [j]udicial intervention in [the selection of candidates] traditionally has been approached with great caution and restraint." (Citations omitted; internal quotation marks omitted.) Id. The constitutionally-protected right of association asserted by the plaintiff, in other words, applies equally to the defendant.

Second, strict scrutiny is not the proper standard to apply. See, e.g., *Mazzucco* v. *Verderame*, Superior Court, judicial district of New Haven, Docket No. CV-96-0382136-S (March 22, 1996, *Booth, J.*) ("When a state election law provision imposes only reasonable, nondiscriminatory restrictions upon the first and fourteenth amendment rights of voters, the state's important regulatory interests are generally sufficient to justify the restrictions. . . . The court acknowledges that strict judicial scrutiny is no longer the proper standard."). The plaintiff does not have a fundamental and unlimited right to belong to the political party of her choice. Nor does she have an unlimited right to be a candidate of a certain party. *Campbell* v. *Bysiewicz*, 242 F. Supp. 2d 164, 171 (2003). The court certainly agrees that voting in

general is a fundamental right, but the plaintiff's exclusion from the Brookfield Republican Party's enrollment list does not disenfranchise her from voting in the general election. It precludes her from participating in the Republican Party primaries and caucuses. The court is not aware of, nor does the plaintiff cite to, any authority for the proposition that participation in a party primary or caucus is a fundamental right. In fact, there is authority which supports the opposite. See, e.g., *Timmons* v. *Twin Cities Area New Party*, 520 U.S. 351, 357-58, 358, 117 S.Ct. 1364, 137 L.Ed.2d 589 (1997) (Upholding state law prohibiting a candidate from appearing on the ballot as the candidate of more than one party reasoning that "[t]he First Amendment protects the rights of citizens to associate and to form political parties for the advancement of common political goals and ideas," but that states "may, and inevitably must, enact reasonable regulations for parties, elections, and ballots to reduce election- and campaign-related disorder."). "Regulations imposing severe burdens on [candidates' and parties'] rights must be narrowly tailored and advance a compelling state interest. Lesser burdens, however, trigger less exacting review." Id., 358.

In this regard, the plaintiff's reliance on *Tashjian* v. *Republican Party of Connecticut*, 479 U.S. 208, 107 S.Ct. 544, 93 L.Ed.2d 514 (1986), is misplaced. The holding in *Tashjian* affirmed a lower court ruling that Connecticut's closed primary statute impermissibly interfered with a political party's right to define its associational boundaries. In 1955, Connecticut passed a "closed primary" law which prevented anyone from participating in a party primary who was not registered as a member of that party. The state Republican Party sought to allow independent and unaffiliated voters to participate in the party primaries. In 1984, the Connecticut state Republican Party adopted a party rule allowing independent and unaffiliated voters to participate in their primaries. Tashjian, then the Secretary of State of Connecticut, brought suit against the state Republican Party to enforce compliance with the closed primary law and prevent participation in primaries and party caucuses by voters registered as unaffiliated. The Supreme Court ruled in favor of the state Republican Party, concluding that "§ 9-431 impermissibly burdens the rights of the Party and its members protected by the First and Fourteenth Amendments." Id., 225. But the rights at issue in *Tashjian* were the rights *of the party* to expand and define its membership, not the rights of a non-member seeking to vote in a party primary. In fact, the Supreme Court in *Tashjian* directly addressed this issue and expressly recognized the right of a political party to determine its own membership qualifications. The Court held that "[i]t is this element of potential interference with the

rights of the Party's members which distinguishes the present case from others in which we have considered claims by nonmembers of a party seeking to vote in that party's primary despite the party's opposition. In this latter class of cases, the nonmember's desire to participate in the party's affairs is overborne by the countervailing and legitimate right of the party to determine its own membership qualifications. . . . Similarly, the Court has upheld the right of national political parties to refuse to seat at their conventions delegates chosen in state selection processes which did not conform to party rules. . . . These situations are analytically distinct from the present case, in which the Party and its members seek to provide enhanced opportunities for participation by willing nonmembers. Under these circumstances, there is no conflict between the associational interests of members and nonmembers." (Citations omitted.) Id., 215 n. 6.

The court finds that the plaintiff has not carried her burden by a preponderance of the evidence that the defendant's actions in erasing her name from the enrollment list of the Brookfield Republican Party were unlawful and improper, and that she has a clear right to be restored to the party's enrollment list. The court finds sufficient evidence that the plaintiff is not in good faith a member of the Brookfield Republican Party. Her petition for a writ of mandamus is, therefore, respectfully denied.

By the Court

Anthony D. Truglia, Jr., J.

EXHIBIT 2

State of Connecticut Judicial Branch

Supreme and Appellate Court

Case Detail

Supreme & Appellate Court Look-up Home | Printer Friendly Version | New Search | Judicial Home Page | Back

Case Information

SC 19621 JANE MILLER v. THOMAS DUNKERTON **Status: Brief Due**

Appeal Case Information

Date Filed:	09/08/2015	**Disposition Method:**	
Appeal By:	Plaintiff	**Disposition Date:**	
Argued/Submitted Date:		**Cite:**	
Standby Date(s):		**Petition(s) For Certification:**	
Panel:			

Cross Appeal/Amended Appeal

Trial Court Case Information

Docket Number:	DBDCV156017272S		
Judgment For:	Defendant	**Court:**	JD COURTHOUSE AT DANBURY
Trial Judge(s):	HON. Anthony D. Truglia Jr.	**Judgment Date:**	08/18/2015
		Case Type:	CIVIL - MANDAMUS

Party/Attorney or Self-Represented Information

	Trial Court Party Class	Appeal Party Class
JANE MILLER Juris: 433711 PASTORE & DAILEY LLC	Plaintiff	Appellant
THOMAS DUNKERTON Juris: 410654 CHIPMAN MAZZUCCO LAND & PENNAROLA LLC	Defendant	Appellee

Transcripts and Exhibits

Party	Transcripts Ordered	Estimated Delivery Date	Delivered To Party	Exhibits Received By Court: Pages	Exhibits Received By Court: Delivered To Court
JANE MILLER	09/17/2015	11/02/2015	11/02/2015	160	

Preliminary Papers

Party Name	Preliminary Statement of Issues	Designation Contents of Record	Certificate re Transcript Received	Docketing Statement	PAC Statement	Draft Judgment File	Constitutionality Notice	Sealing Notice
JANE MILLER Amended	09/17/2015		09/17/2015	09/17/2015 03/16/2016	09/17/2015	09/17/2015	10/09/2015	

Briefs and Prepared Record

	Type	Due Date	Record Filed: Date Filed
JANE MILLER Appellant	Brief	04/01/2016	

Motion, Order and Transfer Activity

Motions Disclaimer

Activity	Number	Date filed	Initiated By	Description	Action	Action Date	Notice Date
Motion For Ext	SC1510490	03/15/2016		Appellant Brief Ext Date:04/01/2016	Granted	03/15/2016	
Motion For Ext	SC1510397	02/01/2016		Appellant Brief Ext Date:03/17/2016	Granted	02/01/2016	
Motion For Ext	SC1510389	01/29/2016		Motion Ext Date:	Returned	02/01/2016	

EXHIBIT 3

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JANE MILLER	:	NO.: 3:16-CV-00174 (AWT)
v.	:	
THOMAS DUNKERTON, in his official capacity as the Republican Registrar of Voters for the Town of Brookfield, MATTHEW GRIMES, in his official Capacity as the Chairman of the Brookfield Republican Town Committee For the Town of Brookfield; GEORGE WALKER, in his official capacity as a Member of the Brookfield Republican Town Committee; and MARTIN FLYNN, in his official capacity as a member of the Brookfield Republican Town Committee	:	MARCH 28, 2016

AFFIDAVIT OF THOMAS DUNKERTON

I, Thomas Dunkerton, being duly sworn, depose and say that:

1. I am over the age of 18.

2. I believe in the obligation of an oath.

3. I have personal knowledge of the facts set forth in this Affidavit.

4. I was elected as the Republican Registrar of Voters for the Town of Brookfield in 2012.

5. I have held the position as Republican Registrar from 2012 to the present.

6. I am an individually named defendant in the above-referenced matter.

7. I am a retired policeman from the Greenwich Police Department.

8. I did not agree, expressly or impliedly, with Matthew Grimes, to take any action to deprive Jane Miller of any of her constitutional rights nor did I discuss the same therewith.

9. I did not agree, expressly or impliedly, with George Walker, to take any action to deprive Jane Miller of any of her constitutional rights, nor did I discuss the same therewith.

10. I did not agree, expressly or impliedly, with Martin Flynn, to take any action to deprive Jane Miller of any of her constitutional rights, nor did I discuss the same therewith.

11. When I made my decision to cite the plaintiff pursuant to C.G.S. § 9-60, et seq., I exercised my own judgment.

12. When I made the decision to remove the plaintiff from enrollment list of the Republic Party, I was acting upon my authority pursuant to C.G.S. § 9-60, et seq.

13. When I made the decision to remove the plaintiff from the enrollment list of the Republican Party, my decision was not made to injure the plaintiff.

14. When I made the decision to remove the plaintiff from the enrollment list of the Republican Party, my decision was not made because of the plaintiff's gender.

15. I also cited the plaintiff's husband, Larry Miller pursuant to C.G.S. § 9-60.

16. I made the decision in March 2015 to issue a citation to the Plaintiff to show cause why her name should not be erased from the Brookfield Republican Party enrollment list pursuant to C.G.S. § 9-60, et seq. because, in my opinion, Plaintiff was not a member in good faith of the Republican Party and did not intend to support its principles and candidates.

17. After the hearing in April 2015, in which Plaintiff was represented by counsel and able to call witnesses and confront adverse witnesses, I made the decision, in concert with the Brookfield Republican Party Chairman, that Plaintiff did not have the bona fide intention to affiliate with the Republican Party and support its principles and candidates, and, therefore, I caused Plaintiff's name to be erased from the enrollment list of the Republican Party, in accordance with the discretionary authority provided by C.G.S. § 9-60, et seq.

18. My decision to erase Plaintiff's name from the enrollment list of the Republican Party was made in part because Plaintiff secured financing from the Democratic Party to run on the Democratic ticket while she was still affiliated as a Republican.

19. Plaintiff filed a SEEC 1 form on July 23, 2013, registering herself as an unaffiliated candidate for the Brookfield Board of Finance, certifying that her campaign would be sponsored by the Brookfield Democratic Town Committee.

20. Plaintiff changed her affiliation from Republican to Unaffiliated on July 24, 2013.

21. My decision to erase Plaintiff's name from the enrollment list of the Republican Party was made in part because Plaintiff overtly expressed support for a Democratic candidate, and against a Republican candidate, in a special election held in February 2015,

22. The erasure of Plaintiff's name from the enrollment list of the Republican Party is effective for two years from February 2015, after which she may enroll in the Republican party.

23. I have not treated a similarly situated member of the Brookfield Republican Party differently than the Plaintiff.

24. Paul Checco is a member of the Brookfield Republican Party, who ran on the Democratic ticket in November 2015.

25. Paul Checco left the Brookfield Republican Party in September 2015, and was an unaffiliated candidate at the time he announced his candidacy, and was thereafter endorsed by the Democratic Party.

26. Paul Checco returned to the Brookfield Republican Party in December 2015.

27. Paul Checco did not overtly express support for a Democratic candidate for office subsequent to his rejoining the Republican Party in December 2015.

28. I have not yet cited Paul Checco pursuant to C.G.S. § 9-60, but reserve my right to do so once the constitutionality of C.G.S. § 9-60 is determined by this court.

29. Steve Villodas is a member of the Brookfield Republican Party, who ran on the Democratic ticket in November 2015.

30. Steve Villodas left the Brookfield Republican Party in July 2015 and was an unaffiliated candidate at the time he announced his candidacy, and was thereafter endorsed by the Democratic Party.

31. Steve Villodas returned to the Brookfield Republican Party in December 2015.

32. Steve Villodas did not overtly express support for a Democratic candidate for office subsequent to his rejoining the Republican Party in December 2015.

33. I have not yet cited Steve Villodas pursuant to C.G.S. § 9-60 but reserve my right to do so once the constitutionality of C.G.S. § 9-60 is determined by this court.

34. The constitutionality of C.G.S. § 9-60, et seq. was not being challenged when I cited the plaintiff in March 2015. The constitutionality of C.G.S. § 9-60, et seq is currently being challenged and the outcome will inform my decision whether to cite Paul Checco and Steve Villodas pursuant to of C.G.S. § 9-60, et seq.

35. My decision to erase the plaintiff from the enrollment list of the Republican Party, was not made for the purpose of controlling the opinions or actions of other members of the Brookfield Republican Party.

Thomas Dunkerton

STATE OF CONNECTICUT)
) ss:
COUNTY OF)

Subscribed and sworn to before me this twenty fourth day of March, 2016.

Notary Public
~~My commission expires:~~
Commissioner of the Superior Court

EXHIBIT 4

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JANE MILLER, Plaintiff,	:	CASE NO. 3:16-cv-174 (AWT)
v.	:	
THOMAS DUNKERTON, et al. Defendants.	:	MARCH 28, 2016

AFFIDAVIT OF GEORGE WALKER

I, George Walker, being duly sworn, depose and say under penalty of perjury the following:

1. I am over the age of eighteen and believe in the obligation of an oath.

2. I have personal knowledge of the facts set forth in this affidavit.

3. I was a member of the Brookfield Republican Town Committee between 2006 and 2016.

4. I was never Chairman of the Brookfield Republican Town Committee.

5. I did not discuss or agree with Martin Flynn, expressly or impliedly, to take any action to deprive Ms. Miller of her constitutional rights.

6. I did not discuss or agree with Matthew Grimes, expressly or impliedly, to take any action to deprive Ms. Miller of her constitutional rights.

7. I did not discuss or agree with Thomas Dunkerton, expressly or impliedly, to take any action to deprive Ms. Miller of her constitutional rights.

8. I had no personal involvement whatsoever with Ms. Miller's removal from the Republican Party.

9. I had no influence over or personal involvement in the decision to cite Ms. Miller for removal from the Republican Party under General Statutes § 9-60 in March 2015.

10. I was not in attendance at Ms. Miller's April 2015 hearing before Mr. Dunkerton and Mr. Grimes.

11. I had no personal involvement in the decision to remove Ms. Miller from the Republican Party after the April 2015 hearing.

12. I ran for re-election to the Brookfield Republican Town Committee in the primary held on March 1, 2016.

13. I was not re-elected to the Brookfield Republican Town Committee.

George Walker

STATE OF CONNECTICUT)
) ss: Brookfield
COUNTY OF Fairfield)

Sworn and subscribed before me this 28th day of March 2016

Notary Public
My Commission Expires:

My Commission Expires
Dec 31, 2016

EXHIBIT 5

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JANE MILLER,	:	CASE NO. 3:16-cv-174 (AWT)
Plaintiff,	:	
	:	
v.	:	
	:	
THOMAS DUNKERTON, et al.	:	
Defendants.	:	MARCH 28, 2016

AFFIDAVIT OF MATTHEW GRIMES

I, Matthew Grimes, being duly sworn, depose and say under penalty of perjury the following:

1. I am over the age of eighteen and believe in the obligation of an oath.

2. I have personal knowledge of the facts set forth in this affidavit.

3. I was a member of the Brookfield Republican Town Committee between 2006 and March 2016.

4. I was the Chairman of the Brookfield Republican Town Committee between March 2014 and March 2016.

5. I am an attorney admitted to practice in Connecticut, New Jersey, and Massachusetts.

6. I did not discuss or agree with Martin Flynn, expressly or impliedly, to take any action to deprive Ms. Miller of her constitutional rights.

7. I did not discuss or agree with George Walker, expressly or impliedly, to take any action to deprive Ms. Miller of her constitutional rights.

8. I did not discuss or agree with Thomas Dunkerton, expressly or impliedly, to take any action to deprive Ms. Miller of her constitutional rights.

9. I had no influence over, or personal involvement in, the decision to cite Ms. Miller for removal from the Republican Party under General Statutes § 9-60 in March 2015.

10. I presided over Ms. Miller's April 2015 hearing pursuant to General Statutes § 9-60.

11. After hearing the evidence submitted at the April 2015 hearing, I concluded that there was reasonable proof to support her removal from the Republican Party under General Statutes § 9-60.

12. When I made the decision to affirm Ms. Miller's removal from the Republican Party, my decision was not made to injure Ms. Miller.

13. My decision to affirm Ms. Miller's removal from the Republican Party was not based on her gender.

14. My decision to affirm Ms. Miller's citation and removal from the Republican Party was not made for the purpose of controlling the opinions or actions of other members of the Brookfield Republican Party.

15. I have not treated Ms. Miller differently from any similarly situated member of the Brookfield Republican Party.

16. Ms. Miller's husband, Larry Miller, has been actively involved in Brookfield politics for many years.

17. I ran for re-election to the Brookfield Republican Town Committee at the party caucuses in January 2016.

18. Mr. Miller supported a slate of candidates that ran against Mr. Flynn, Mr. Walker, and me at the party caucuses in January 2016.

19. I was re-elected to the Brookfield Republican Town Committee at the party caucuses in January 2016, but Mr. Miller secured enough signatures to force a subsequent primary vote to take place on March 1, 2016.

20. Mr. Miller supported a slate of candidates that ran in the primary election for the Brookfield Republican Town Committee against Mr. Flynn, Mr. Walker, and me on March 1, 2016.

21. Shortly after filing this lawsuit, Ms. Miller publicized her case in several local media outlets.

22. Exhibit A to this affidavit is a fair and accurate representation of a press release I received that Ms. Miller and her attorneys apparently submitted to news outlets. Many of the allegations in this press release are false.

23. Exhibit B to this affidavit is a fair and accurate representation of an article that was published in the *Danbury News Times* on February 4, 2016.

24. Exhibit C to this affidavit is a fair and accurate representation of an article that was published on the *Connecticut News Junkie* website on February 8, 2016.

25. Exhibit D to this affidavit is a fair and accurate representation of an article that was published in the *Brookfield Patch* on February 23, 2016.

26. Ms. Miller and her attorney also gave interviews about this case that were televised on local news stations in Brookfield, Connecticut.

27. I was not re-elected to the Brookfield Republican Town Committee on March 1, 2016.

Matthew Grimes

STATE OF CONNECTICUT)
) ss: Connecticut
COUNTY OF Fairfield)

Sworn and subscribed before me this 28th day of March 2016

Notary Public
My Commission Expires: Jul 31, 2018

EXHIBIT A

FORMER REPUBLICAN OFFICIAL FILES FEDERAL CIVIL RIGHTS ACTION AGAINST BROOKFIELD REGISTRAR AND REPUBLICAN TOWN CHAIR

FOR IMMEDIATE RELEASE

Danbury, CT – A former Brookfield Republican elected official, Jane Miller, has filed suit in Federal Court under the United States Civil Rights Act against the Brookfield Republican Registrar of Voters and Republican Town Committee Chairman for conspiring to, and taking actions that deprived her of her Constitutional rights to vote and freely associate. The suit was filed on behalf of Mrs. Miller by Attorney Susan Bysiewicz, former Secretary of the State of Connecticut and partner at the firm of Pastore & Dailey LLC.

The actions taken by the Republican Registrar, Thomas Dunkerton, and the Republican Town Chairman, Matthew Grimes, are actually inscribed in two obscure statutes buried in the annals of the Connecticut General Statutes (section 9-60 and 9-61) that read as if they were written by Senator McCarthy. These two arcane statutes allow any town's Democratic or Republican Registrar of Voters to team up with his Party's Town Committee Chairman to summons any resident of the same town, who is registered as a member of the same political party, who they believe has not "towed the party line," to a hearing – *that does not have to be public* – and make this resident prove to them that they are not a loyalist of another party in disguise.

That is exactly what Dunkerton and Grimes did to Mrs. Miller; all because Mrs. Miller, after not receiving the Republican nomination for Board of Education, even though she was the incumbent at the time, switched her voter registration back to unaffiliated to run for a vacant slot for the Board of Finance. Therefore, on April 9, 2015, in front of an audience of 75 Brookfield residents, most of who, the Danbury Times reported, were supportive of Mrs. Miller and laughed at some of the accusations being brought against her by Dunkerton and Chairman Grimes. (link here). A few weeks later, Mrs. Miller received a "decision" from Dunkerton and Grimes that said they found "reasonable proof" that this former Republican Town Official, was not loyal to the Republican Party, and a "Notice of Change in Voter Registration" letter which showed that Mr. Dunkerton had forcibly changed Mrs. Miller's voter registration, without her consent, from Republican to Unaffiliated, depriving Mrs. Miller of her Constitutional rights to vote and freely associate with the party of her choice.

"I just could not believe it," said Mrs. Miller. "I would never think my rights could be taken away from me so arbitrarily. Mr. Dunkerton and Chairman Grimes acted as the Judge and the Jury. I felt so powerless." In fact, just six months later two Brookfield men, who were former members of the Republican Party, had both changed their party affiliation to "Unaffiliated" to run for office under the Democratic slate in Brookfield, submitted their application to be re-affiliated with Republican Party. Unlike Mrs. Miller, Mr. Dunkerton and Chairman Grimes did not enact section 9-60 and 9-61, did drag the two men in front of hearing and make them prove their allegiance to the Republican Party. Mr. Dunkerton simply re-affiliated both men to the Republican Party automatically.

"In the twelve years that I served as Secretary of State, I never came across a registrar of voters using this statute, especially in such a clearly discriminatory and vindictive fashion. This is not what voters elect these officials to do," said Former Secretary of State Susan Bysiewicz, a partner at Pastore & Dailey, LLC, who is representing Mrs. Miller in the Federal District Court case. "No citizen of Connecticut should have their Constitutional rights arbitrarily stripped from them in such an arbitrary and discriminatory fashion."

Please contact Attorney Susan Bysiewicz at (203) 658-8454 or sbysiewicz@psdlaw.net for any questions. ###

Factsheet: Miller v. Dunkerton et al.

The Story – Disclaimer: The Full Complaint can be Found Attached

Brookfield Republican Registrar of Voters and Republican Town Committee Chairman's unequal use of obscure state statute strips former Town Official of her Constitutional Rights and denies her equal protection under the law.

Parties Involved in the Story

1) ***Jane Miller*** – Longtime resident of Brookfield and former Republican Member of the Brookfield Board of Education. Since 2003, Jane has never enrolled in any other political party or organization other than the Republican Party from 2009 through 2013. Prior to 2003, Jane was registered "Unaffiliated."
2) ***Larry Miller*** – Husband of Jane Miller and lifelong Republican who an active member of the Brookfield Republican Town Committee up until 2011.
3) ***Thomas Dunkerton*** – The current Brookfield Republican Registrar of Voters.
4) ***Matthew Grimes*** – The current Brookfield Republican Town Committee Chairman.

Connecticut General Statutes §§ 9-60 and 9-61

The United States Supreme Court has long held that the Constitution guarantee's every citizens right to affiliate with the political party of their choice and the right to vote in *both* primary and general elections. In the spirit of this these fundamental rights, more than half of the United States Federal Appellate Circuits have struck down state statutes that prohibit changing party affiliation for 6 months or longer as unconstitutional. In fact our neighbor to our East, Rhode Island, was one of the states, which had such a statute stricken.

Yet, buried in the annals of the Connecticut General Statutes are two statutes that allows any town's Democratic or Republican Registrar of Voters to team up with his Party's Town Committee Chairman to summons any resident of the same town, who is registered as a member of the same political party, who they believe has not "towed the party line," to a hearing – *that does not have to be public* – and make this resident prove to them that they are not a loyalist of another party in disguise. A statute that would make Senator McCarthy proud no doubt!

Unfortunately, in early 2015, Mrs. Jane Miller of Brookfield, CT, a former Republican Member of the Brookfield Board of Education, found herself on the Thomas Dunkerton and Matthew Grimes' Blacklist, and defending her constitutional rights in a hearing that would cause James Madison to roll over in his grave.

Timeline of Events

- **2003**: Mrs. Jane Miller, whose husband, Larry, is a lifelong Republican, decides to join her first political party and officially affiliates with the Republican Party on voter registration.[1]
- **2004 – 2011**: Jane actively campaigns with her husband (who is an active member of the Brookfield Republican Party at the time) for Republican nominees endorsed by the Brookfield Republican Party, posting signs, visibly showing support at local debates and events, passing out literature, and making phone calls.
- **2004 – 2011**: Jane and Larry regularly donate to the campaigns of Brookfield Republican Party nominees.
- **2009**: Jane is nominated by the Brookfield Republican Party as the Republican nominee for a seat on the Brookfield Board of Education.
- **2009 – 2013**: Jane is elected and serves a four-year term as a Republican Member of the Brookfield Board of Education.
- July 23, 2013: At the 2013 Brookfield Republican Caucus, Jane seeks to be re-nominated as the Brookfield Republican Party's incumbent Member of the Brookfield Board of Education. However,

[1] Before 2003, Jane was registered to vote but was not affiliated with any political party (otherwise known as "unaffiliated").

without any explanation or notice, the Brookfield Republican Party announces that is has decided not to re-nominate Jane, and instead nominates a male candidate.

- **August 2013**: Hearing about this public repudiation, the Brookfield Democratic Town Committee asks Jane to run under the vacant slot for the Brookfield Board of Finance as an unaffiliated voter. Wanting to continue to serve her town, but not wanting to be a member of any other party, Jane agrees to run as an unaffiliated voter under the vacant Democratic slot for the Board of Finance.
- **August 2013**: In order to run under this vacant slot, Jane switches her voter registration status back to unaffiliated, effective July 24, 2013.
- **November 5, 2013**: Jane is not elected to the Board of Finance.
- **December 3, 2013**: Having lost, Jane immediately submits a re-registration form to the Brookfield Republican Registrar of Voters, Thomas Dunkerton, to change her party affiliation back to Republican.
- **December 2013**: Mr. Dunkerton accepts Jane's form and initials it, changing Jane's party affiliation back to Republican, effective December 4, 2013.
- **The January 2015 Brookfield Republican Town Committee Meeting**:
  - Unbeknownst to Jane, Chairman Grimes calls to a vote whether he and Mr. Dunkerton should summons Jane to a hearing under §§ 9-60 and 9-61 and forcibly dis-affiliate her from the Republican Party, taking away her Constitutional rights to vote and associate against her will.
  - As mentioned in a post on the Brookfield Patch website by Dr. Appleby, an active Republican Town Committee member who was in attendance at said meeting, "everyone in attendance was unanimously against dis-affiliating Mrs. Miller."
  - In this same post, Dr. Appleby said that there was a hand vote of who was in favor, and no member in attendance voted in favor of dis-affiliation.
- **March 19, 2015:** Although the membership at the January 2015 voted against it, Jane receives a § 9-60 citation from Mr. Dunkerton to appear in front of him and Chairman Grimes for a hearing to prove that she is, in fact, a loyal Republican, and not a member of another party in disguise.
  - Mr. Dunkerton and Chairman Grimes originally planned on having a non-public hearing, but later capitulated and opened the hearing to the public.
- **April 9, 2015**: Jane appears in front of Mr. Dunkerton and Chairman Grimes at the hearing, which drew 75 people in attendance - the Danbury News Times covered it saying, "most of those attending seemed to support [Jane]…laughing at some of the accusations against [her]." (link here)
  - Witness at this hearing, describe it as "a theater of the absurd," and liken it to the Stalin Regime.
  - A Town Resident, Mark Ferry, re-registers as a Republican that day in order to attend the hearing to publicly say that Chairman Grimes is actually the one "causing dissention within the party…he's going to kick us all out."
- **April 20, 2015:** Mr. Dunkerton and Chairman Grimes issue an unsigned and undated decision saying that they found "reasonable proof" that Jane was not loyal to the Republican Party, and that Mr. Dunkerton and Chairman Grimes have decided to dis-affiliate her from the Republican Party.
- **April 24, 2015:** Jane receives a "Notice of Change in Voter Registration" letter from Mr. Dunkerton which shows that Mr. Dunkerton has forcibly changed Jane's voter registration from Republican to Unaffiliated, *against Jane's will*!
  - Because of this, Jane cannot freely exercise her Constitutional rights to vote and freely associate with the party of her choice!
- **May 26, 2015**: Jane engages the assistance of counsel and attends a pre-trial conference hearing at the Danbury Superior Court. At this hearing, Jane asks Mr. Dunkerton to reinstate her to the Republican rolls and restore her Constitutional rights. Mr. Dunkerton refuses.
- **July 27, 2015**: Jane goes before a Danbury Superior Court Judge to have her case heard to restore her Constitutional rights.
  - Mr. Dunkerton and Chairman Grimes engage the services of an attorney to oppose Jane and prevent her from having her Constitutional rights restored.
  - Mr. Dunkerton and Chairman Grimes have recently submitted a bill of $ 21,000 to the town of Brookfield to pay for the attorney's fees for this hearing.

- **August 18, 2015**: Unfortunately, the Danbury Superior Court rules that Mr. Dunkerton and Chairman Grimes followed the obscure statutes – §§ 9-60 and 9-61 – and therefore, it could not rule in Jane's favor.
- **December 2015**: Two Brookfield, who were former members of the Republican Party, who had both changed their party affiliation to "Unaffiliated" to run for office under the Democratic slate in Brookfield, seek to be re-affiliated with Republican Party.
- **December 2015:** Although they had done exactly what Jane did in August 2013, these two men are quickly re-affiliated with the Brookfield Republican Party by Mr. Dunkerton.
    - Mr. Dunkerton and Chairman Grimes do not issue a citation to these two men.
    - Mr. Dunkerton and Chairman Grimes do not force these two men to a hearing in order to have them prove that they are loyal to the Republican Party.
- **February 1, 2016**: Jane engages the services of the former Secretary of State Susan Bysiewicz's law firm, and on February 3, 2016, Jane files the attached Complaint in Federal District Court, **bringing 5 causes of action against Mr. Dunkerton and Chairman Grimes.**

Federal Claims

Attached to this document is the Complaint filed by former Secretary of State Susan Bysiewicz on behalf of Jane Miller, claiming the following 5 causes of action under the Civil Rights Act (42 U.S.C. § 1983) and Conspiracy to Interfere with Civil Rights (42 U.S.C. § 1985):

1. **Violation of Plaintiff's Right to Freedom of Association – 42 U.S.C. § 1983**
2. **Violation of Plaintiff's Fundamental Right to Vote – 42 U.S.C. § 1983**
3. **Violation of Plaintiff's Due Process Rights – 42 U.S.C. § 1983**
4. **Violation of Plaintiff's Equal Protection Rights – 42 U.S.C. § 1983**
5. **Conspiracy to Violate Civil Rights– 42 U.S.C. § 1985**

EXHIBIT B

newstimes http://www.newstimes.com/news/article/Brookfield-woman-sues-for-voting-rights-6806788.php

Brookfield woman sues for voting rights

By Alex Wolff Updated 12:54 pm, Thursday, February 4, 2016

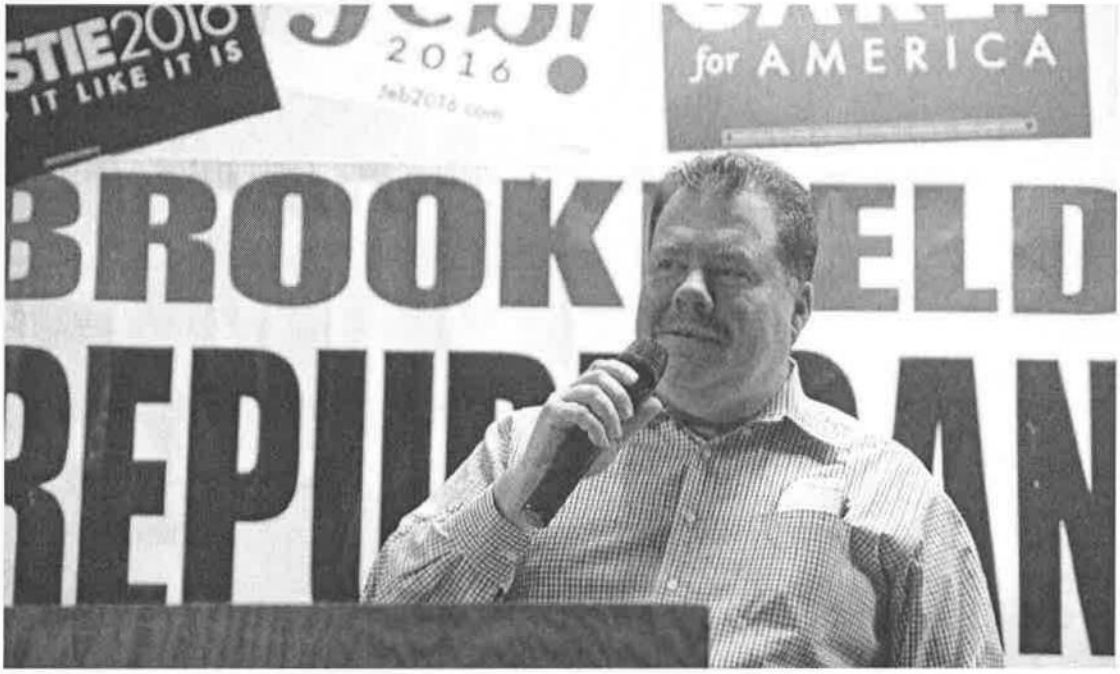

IMAGE 1 OF 3 Buy Photo

Brookfield Selectman Marty Flynn speaks at the Connecticut Republican Party Presidential Straw Poll held in Brookfield, Conn, on Friday night, January 15, 2016.

A Brookfield resident who was booted from the **Republican Party** last spring has now sued four town GOP officials in federal court, alleging that her civil rights have been violated.

Jane Miller filed the suit Wednesday afternoon against Brookfield Republican Registrar **Thomas Dunkerton**, GOP Chairman **Matt Grimes**, Vice Chairman **George Walker** and **Marty Flynn**, who serves at the party's vacancy chairman and is also a selectman.

In April, Dunkerton used a state statute to force Miller out of the party, saying that she was not a good faith party member because she had dropped her Republican affiliation to run for the **Board of Finance on the Democratic** ticket and had supported Democratic candidates.

Miller re-registered as a Republican after she was defeated in the election.

The civil complaint alleges that Miller's constitutional rights have been violated because she was unable to vote in a January caucus to elect members to the **Republican Town Committee**, and won't be able to vote in an upcoming RTC primary or the Republican Presidential Primary scheduled for April 26.

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It also alleges that the party discriminated against Miller because of her gender, saying that two other Brookfield men dropped their Republican affiliation to run on the Democratic ticket, but were allowed to rejoin without the same scrutiny.

Miller has also sued in Connecticut Superior Court seeking restoration to the party, but a judge ruled in favor of the party. She is currently appealing that decision to the **Connecticut Supreme Court**.

In the federal suit, Miller is represented by former Connecticut Secretary of State **Susan Bysiewicz** and **Joseph M. Pastore III**.

EXHIBIT C

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Former Brookfield Republican Sues Top GOP Members Over Voting Rights

The federal suit is being filed against the Brookfield Republican Registrar of Voters and Republican Town Committee Chairman.

Brookfield, CT

By WENDY ANN MITCHELL (Patch Staff) - (http://patch.com/users/wendy-ann-mitchellf23c7599c13970ba40fd941d2cdd8ab1aca6820b11ff4a2534216afe93e8ca2e) February 23, 2016 12:26 pm ET

A federal civil rights case is being filed on behalf of Mrs. Jane Miller against the Republican Registrar of Voters and the Republican Town Chair of Brookfield.

Miller, a former Brookfield Republican elected official, filed suit Wednesday in Bridgeport Superior Court under the United States Civil Rights Act against the Brookfield Republican Registrar of Voters and Republican Town Committee Chairman for "conspiring to, and taking actions that deprived her of her Constitutional rights to vote and freely associate," her lawyer stated. The suit was filed on behalf of Mrs. Miller by Attorney Susan Bysiewicz, former Secretary of the State of Connecticut and partner at the firm of Pastore & Dailey LLC.

After not receiving the Republican nomination for Board of Education, when she was the incumbent, Miller switched her voter registration back to unaffiliated to run for a vacant slot for the Board of Finance. Bysiewicz said that Republican Registrar, Thomas Dunkerton, and Republican Town Chairman, Matthew Grimes, teamed up to summons Miller to a hearing because they believe she did not "toe the line."

The hearing was held on April 9, 2015, in front of an audience of 75 Brookfield residents. A few weeks later, Mrs. Miller received a decision from Dunkerton and Grimes that said they found "reasonable proof" that this former Republican Town Official, was not loyal to the Republican Party. A "Notice of Change in Voter Registration" letter was sent that showed Dunkerton forcibly changed Mrs. Miller's voter registration, without her consent, from Republican to Unaffiliated. Miller is suing because this action, she stated, robbed her of her Constitutional rights to vote and freely associate with the party of her choice.

"I just could not believe it," said Mrs. Miller. "I would never think my rights could be taken away from me so arbitrarily. Mr. Dunkerton and Chairman Grimes acted as the Judge and the Jury. I felt so powerless."

Miller noted that six months later, two Brookfield men, Paul Checco and Steve Villodes, who were former members of the Republican Party, both changed their party affiliation to "Unaffiliated" to run for office under the Democratic slate in Brookfield, and submitted their application to be re-affiliated with Republican Party. However, unlike Mrs. Miller, Mr. Dunkerton did not enact section 9-60 and 9-61, and bring the two men in front of hearing to make them prove their allegiance to the Republican Party.

Because Checco and Villodes did not get removed from the Republican party, Attorney Bysiewicz said that they feel Miller is being discriminated against for being a woman.

"We think that in addition to having her civil rights violated, they did so on the basis of her gender. We're hoping that they will declare that Mr. Dunkerton has to put her back on the Republican role so that she can participate in the elections," Attorney Bysiewicz told Patch.

"It wouldn't surprise me if they declare that these statutes are unconstitutional. In the twelve years that I served as Secretary of State, I never came across a registrar of voters using this statute, especially in such a clearly discriminatory and vindictive fashion. This is not what voters elect these officials to do. No citizen of Connecticut should have their Constitutional rights arbitrarily stripped from them in such an arbitrary and discriminatory fashion. It wouldn't surprise me if they declare that these statutes are unconstitutional," Attorney Bysiewicz said.

Because she is not a registered Republican, Miller won't be able to vote in Brookfield's upcoming primary in March or the presedential preference primaries.

Attorney Bysiewicz presented the following fact sheet and timeline:

Miller v. Dunkerton et al.

The Story – Disclaimer: The Full Complaint can be Found Attached Brookfield Republican Registrar of Voters and Republican Town Committee Chairman's unequal use of obscure state statute strips former Town Official of her Constitutional Rights and denies her equal protection under the law.

Parties Involved

1) Jane Miller – Longtime resident of Brookfield and former Republican Member of the Brookfield Board of Education. Since 2003, Jane has never enrolled in any other political party or organization other than the Republican Party from 2009 through 2013. Prior to 2003, Jane was registered "Unaffiliated."

2) Larry Miller – Husband of Jane Miller and lifelong Republican who an active member of the Brookfield Republican Town Committee up until 2011.

3) Thomas Dunkerton – The current Brookfield Republican Registrar of Voters.

4) Matthew Grimes – The current Brookfield Republican Town Committee Chairman.

Connecticut General Statutes §§ 9-60 and 9-61

The United States Supreme Court has long held that the Constitution guarantee's every citizens right to affiliate with the political party of their choice and the right to vote in both primary and general elections. In the spirit of this these fundamental rights, more than half of the United States Federal Appellate Circuits have struck down state statutes that prohibit changing party affiliation for 6 months or longer as unconstitutional. In fact our neighbor to our East, Rhode Island, was one of the states, which had such a statute stricken. Yet, buried in the annals of the Connecticut General Statutes are two statutes that allows any town's Democratic or Republican Registrar of Voters to team up with his Party's Town Committee Chairman to summons any resident of the same town, who is registered as a member of the same political party, who they believe has not "towed the party line," to a hearing – that does not have to be public – and make this resident prove to them that they are not a loyalist of

another party in disguise. A statute that would make Senator McCarthy proud no doubt! Unfortunately, in early 2015, Mrs. Jane Miller of Brookfield, CT, a former Republican Member of the Brookfield Board of Education, found herself on the Thomas Dunkerton and Matthew Grimes' Blacklist, and defending her constitutional rights in a hearing that would cause James Madison to roll over in his grave.

Timeline of Events

2003: Mrs. Jane Miller, whose husband, Larry, is a lifelong Republican, decides to join her first political party and officially affiliates with the Republican Party on voter registration.

2004 – 2011: Jane actively campaigns with her husband (who is an active member of the Brookfield Republican Party at the time) for Republican nominees endorsed by the Brookfield Republican Party, posting signs, visibly showing support at local debates and events, passing out literature, and making phone calls.

2004 – 2011: Jane and Larry regularly donate to the campaigns of Brookfield Republican Party nominees.

2009: Jane is nominated by the Brookfield Republican Party as the Republican nominee for a seat on the Brookfield Board of Education.

2009 – 2013: Jane is elected and serves a four-year term as a Republican Member of the Brookfield Board of Education.

July 23, 2013: At the 2013 Brookfield Republican Caucus, Jane seeks to be re-nominated as the Brookfield Republican Party's incumbent Member of the Brookfield Board of Education. However, 1 Before 2003, Jane was registered to

vote but was not affiliated with any political party (otherwise known as "unaffiliated"). without any explanation or notice, the Brookfield Republican Party announces that is has decided not to re-nominate Jane, and instead nominates a male candidate.

August 2013: Hearing about this public repudiation, the Brookfield Democratic Town Committee asks Jane to run under the vacant slot for the Brookfield Board of Finance as an unaffiliated voter. Wanting to continue to serve her town, but not wanting to be a member of any other party, Jane agrees to run as an unaffiliated voter under the vacant Democratic slot for the Board of Finance.

August 2013: In order to run under this vacant slot, Jane switches her voter registration status back to unaffiliated, effective July 24, 2013.

November 5, 2013: Jane is not elected to the Board of Finance.

December 3, 2013: Having lost, Jane immediately submits a re-registration form to the Brookfield Republican Registrar of Voters, Thomas Dunkerton, to change her party affiliation back to Republican.

December 2013: Mr. Dunkerton accepts Jane's form and initials it, changing Jane's party affiliation back to Republican, effective December 4, 2013.

The January 2015 Brookfield Republican Town Committee Meeting:

- Unbeknownst to Jane, Chairman Grimes calls to a vote whether he and Mr. Dunkerton should summons Jane to a hearing under §§ 9-60 and 9-61 and forcibly dis-affiliate her from the Republican Party, taking away her Constitutional rights to vote and associate against her will.
- As mentioned in a post on the Brookfield Patch website by Dr. Appleby, an active Republican Town Committee member who was in attendance at said

meeting, "everyone in attendance was unanimously against dis-affiliating Mrs. Miller."

- In this same post, Dr. Appleby said that there was a hand vote of who was in favor, and no member in attendance voted in favor of dis-affiliation.

March 19, 2015: Although the membership at the January 2015 voted against it, Jane receives a § 9-60 citation from Mr. Dunkerton to appear in front of him and Chairman Grimes for a hearing to prove that she is, in fact, a loyal Republican, and not a member of another party in disguise. o Mr. Dunkerton and Chairman Grimes originally planned on having a non-public hearing, but later capitulated and opened the hearing to the public.

April 9, 2015: Jane appears in front of Mr. Dunkerton and Chairman Grimes at the hearing, which drew 75 people in attendance - the Danbury News Times covered it saying, "most of those attending seemed to support [Jane]...laughing at some of the accusations against [her]."

- Witness at this hearing, describe it as "a theater of the absurd," and liken it to the Stalin Regime.
- A Town Resident, Mark Ferry, re-registers as a Republican that day in order to attend the hearing to publicly say that Chairman Grimes is actually the one "causing dissention within the party...he's going to kick us all out."

April 20, 2015: Mr. Dunkerton and Chairman Grimes issue an unsigned and undated decision saying that they found "reasonable proof" that Jane was not loyal to the Republican Party, and that Mr. Dunkerton and Chairman Grimes have decided to dis-affiliate her from the Republican Party.

April 24, 2015: Jane receives a "Notice of Change in Voter Registration" letter from Mr. Dunkerton which shows that Mr. Dunkerton has forcibly changed Jane's voter registration from Republican to Unaffiliated, against Jane's will!

- Because of this, Jane cannot freely exercise her Constitutional rights to vote and freely associate with the party of her choice.

May 26, 2015: Jane engages the assistance of counsel and attends a pre-trial conference hearing at the Danbury Superior Court. At this hearing, Jane asks Mr. Dunkerton to reinstate her to the Republican rolls and restore her Constitutional rights. Mr. Dunkerton, refuses.

July 27, 2015: Jane goes before a Danbury Superior Court Judge to have her case heard to restore her Constitutional rights. o Mr. Dunkerton and Chairman Grimes engage the services of an attorney to oppose Jane and prevent her from having her Constitutional rights restored. o Mr. Dunkerton and Chairman Grimes have recently submitted a bill of $ 21,000 to the town of Brookfield to pay for the attorney's fees for this hearing.

August 18, 2015: Unfortunately, the Danbury Superior Court rules that Mr. Dunkerton and Chairman Grimes followed the obscure statutes – §§ 9-60 and 9-61 – and therefore, it could not rule in Jane's favor.

December 2015: Two Brookfield, who were former members of the Republican Party, who had both changed their party affiliation to "Unaffiliated" to run for office under the Democratic slate in Brookfield, seek to be re-affiliated with Republican Party.

December 2015: Although they had done exactly what Jane did in August 2013, these two men are quickly re-affiliated with the Brookfield Republican Party by Mr. Dunkerton.

- Mr. Dunkerton and Chairman Grimes do not issue a citation to these two men.
- Mr. Dunkerton and Chairman Grimes do not force these two men to a hearing in order to have them prove that they are loyal to the Republican Party.

February 1, 2016: Jane engages the services of the former Secretary of State Susan Bysiewicz's law firm, and on February 3, 2016, Jane files the attached Complaint in Federal District Court, bringing 5 causes of action against Mr. Dunkerton and Chairman Grimes. Federal Claims Attached to this document is the Complaint filed by former Secretary of State Susan Bysiewicz on behalf of Jane Miller, claiming the following 5 causes of action under the Civil Rights Act (42 U.S.C. § 1983) and Conspiracy to Interfere with Civil Rights (42 U.S.C. § 1985): 1. Violation of Plaintiff's Right to Freedom of Association – 42 U.S.C. § 1983 2. Violation of Plaintiff's Fundamental Right to Vote – 42 U.S.C. § 1983 3. Violation of Plaintiff's Due Process Rights – 42 U.S.C. § 1983 4. Violation of Plaintiff's Equal Protection Rights – 42 U.S.C. § 1983 5. Conspiracy to Violate Civil Rights– 42 U.S.C. § 1985

EXHIBIT D

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Brookfield Woman Sues After GOP Officials Bar Her From Voting In Republican Primary

by Steve Majerus-Collins | Feb 8, 2016 6:30am Follow @SteveCollinsYJI Google
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Contributed

Jane Miller

A former Brookfield Board of Education member is asking a federal judge to overturn a loyalty test imposed by the town's Republican leaders that bars her from voting in the GOP's April 26 presidential primary.

Citing an obscure state statute, the town's Republican registrar and the head of the Brookfield Republican Town Committee last year removed Jane Miller from the party's rolls and over her objections and declared her an unaffiliated voter.

They said she'd lost the right to be a Republican because she ran on the Democratic municipal slate in 2013 after her party refused to endorse her for another term on the school board.

"I just could not believe it," Miller said in a prepared statement from her attorney. "I would never think that my rights could be taken away from me so arbitrarily."

"I felt so powerless," Miller said.

Brookfield Republican Registrar Thomas Dunkerton removed Miller from the GOP's rank-and-file list after consulting with the party's town chairman, Matthew Grimes. To comply with a state law that requires a registrar and a party chairman to team up on issues of party loyalty, they first held a hearing to determine if she toed the party line and then decided to boot her out.

Former Secretary of State Susan Bysiewicz, who is representing Miller in court, said that in her 12 years overseeing Connecticut elections, she never came across a registrar using the party loyalty provision to strip someone from party rolls.

She said that axing Miller was "clearly discriminatory and vindictive" and "not what voters elect these officials to do."

Bysiewicz, a partner at the Stamford-based firm of Pastore & Dailey LLC, is seeking to restore Miller's right to vote as a Republican as well as $1 million or more from Dunkerton, Grimes and two other town Republican officials for violating Miller's civil rights.

According to the complaint filed this week in federal district court, the men should be penalized for "conspiring to, and taking actions that deprived her of her Constitutional rights to vote and freely associate."

A state court last summer ruled in favor of Dunkerton. The judge determined that the registrar had acted properly within the provisions of the law, which is meant to prevent people from registering with a political party under false pretenses.

In that case, Dunkerton's attorney argued that Miller had chosen to leave the Republican Party in order to run as part of a Democratic slate for the local school board, a move that necessarily required any voters she attracted to cast a ballot against one of the GOP's standard bearers.

Attorney Neil Marcus of Danbury wrote in legal papers filed last summer for Dunkerton that the loyalty test "simply provides town parties with an internal process to assess whether a member's conduct is so outwardly disloyal that the party may affirm its associational rights and take steps to protect itself and other members."

In her federal lawsuit, Miller pointed out that two other former Republicans, both men, had run for office on the Democratic slate in 2015 but had been allowed to rejoin the GOP after the election. She alleged that sex discrimination was also an element of the decision to oust her from the party.

The federal lawsuit seeks damages of $1 million or more for violating her constitutional rights and causes her "pain and suffering, emotional distress, loss of dignity, loss of reputation and damage" to Miller's business.

Tags: Brookfield, Susan Bysiewicz, voting, Thomas Dunkerton, Registrar of Voters, Matthew Grimes, Jane Miller

EXHIBIT 6

DENISE W. MERRILL
SECRETARY OF THE STATE
CONNECTICUT

For Immediate Release:
February 10, 2016

For more information:
Patrick Gallahue: (860) 509-6255
Cell: (860) 463-5939

- PRESS RELEASE -

SECRETARY MERRILL SEEKS TO END PRACTICE OF 'PARTY PURGING'

HARTFORD: Secretary of the State Denise W. Merrill submitted draft language to the General Assembly's Government Administration and Elections Committee (GAE) to repeal a statute that allows political parties, through local registrars of voters working in concert with town chairs, to expel members for a handful of activities.

Secretary Merrill said, "Getting kicked out of a political party could bar someone from voting in this year's presidential primary. Our concern is that the current law could restrict someone's right to vote. At the very least, people should ask themselves if our statutes are the right place for these kinds of processes. Should the state play a role, through elections officials, in deciding the ideological purity of political party members? We don't think so."

The so-called "lack of good-faith party affiliation" statute subjects any political party member to dismissal. Evidence of "lack of good-faith party affiliation" includes "enrollment in any other political party or organization, active affiliation with any other political party or organization, knowingly being a candidate at any primary or caucus of any other party or political organization, or being a candidate for office under the designation of another party or organization," within certain time periods.

The GAE has until February 19th to raise a bill.

-30-