

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS**

LESTER LEAVITT,

Plaintiff,

v.

ILLINOIS STATE BOARD OF ELECTIONS, et al.,

Defendants.

Case No. _____

PLAINTIFF'S MEMORANDUM ON PROPOSED PERMANENT RELIEF

Plaintiff Lester Leavitt, proceeding pro se, respectfully submits this memorandum to assist the Court in considering the shape of permanent relief should this action proceed beyond the preliminary injunction stage. This memorandum does not alter or expand the emergency relief requested in Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction. It is offered for the Court's consideration as a framework for remedying the structural harm documented in the Verified Complaint.

I. THE ROOT CAUSE: THE PARTISAN BALLOT REQUIREMENT

Every constitutional injury documented in this case flows from a single design choice in the Illinois Election Code: the requirement that a voter must request a partisan ballot to participate in the March primary election. There is no nonpartisan option. There is no independent primary. If a voter wishes to participate in the primary process, the voter must select a party.

Illinois compounds this design choice with a second: unlike most states that structure their primaries around partisan ballots, Illinois does not require party registration. A voter does not declare a party affiliation when registering to vote. The voter declares it — unknowingly, in most cases — by the act of requesting a ballot at the primary. This means the voter makes no prior commitment, receives no prior notice, and has no prior understanding that requesting a ballot constitutes a legal affiliation event with downstream consequences for candidacy rights.

From this root, the entire architecture of exclusion grows:

Step 1 — Exclusion from the primary. Because the primary is structured around partisan ballots, independent candidates are excluded from the March primary entirely. There is no

mechanism for an independent candidate to appear on a primary ballot. The primary process does not include them. They are invisible in March.

Step 2 — The penalty for exclusion. Because independents are excluded from the primary, the state created the petition pathway under 10 ILCS 5/10-3 as the alternative. But this alternative imposes a signature requirement of 2,957 for House District 89 — six times the 500 signatures required of a partisan candidate under 10 ILCS 5/8-8. The independent candidate did not choose to bypass the party process. The state excluded the independent from the process and then penalized the independent for being excluded.

Step 3 — The forfeiture trap. Section 7-43 bars any voter who participated in the partisan primary from using the independent pathway in the general election. The state forced the voter to choose a partisan ballot as the only means of March participation, then used that choice as the legal basis for blocking the only alternative candidacy pathway in November. The voter was required to affiliate to participate, and the affiliation extinguished the right to run as an independent.

Step 4 — The rural multiplier. In gerrymandered rural packed districts like HD-89, where, in many instances (most notably for county board seats, but frequently for state house and state senate seats) only one party fields more than a single candidate, the voter’s “choice” of partisan ballot is not a choice at all. There is one competitive ballot. The voter takes it or stays home. Taking it locks the door to independent candidacy. Staying home preserves the candidacy right but forfeits the right to participate in what is often the only democratic process available in “safe” electoral districts where the November outcome for county and general assembly races is often a foregone conclusion. The voter must choose between voting in the primary and running in the general election. No constitutional framework should require that choice.

Step 5 — No notice at any step. Because Illinois has no party registration, the voter’s affiliation occurs at the moment of ballot request in the March primary, without any prior notice that the act carries candidacy consequences. No signage, no poll worker instruction, no ballot language, no SBE guidance discloses the forfeiture. Unless the voter has read every chapter and verse of the Candidates Guide, even the most informed voter will have simultaneously affiliated and forfeited, in one act, with zero notice.

II. THE DISPARITY IN NUMBERS

The State Board of Elections’ own 2026 Candidates Guide documents the following signature requirements for State Representative in House District 89:

Partisan candidate (10 ILCS 5/8-8): 500 to 1,500 signatures from qualified primary voters of their party. Has access to party infrastructure — committeepersons, county committees, donor networks, institutional support — for signature collection. Files in October–November 2025, a full year before the election.

Independent candidate (10 ILCS 5/10-3): 2,957 to 4,730 signatures from any registered voter. Has no party infrastructure by definition. Files in May 2026, five months before the election, with a shorter circulation window.

The independent candidate faces a minimum signature requirement that is 5.9 times higher than the partisan candidate's. The independent candidate has no organizational infrastructure. The independent candidate has a shorter timeline. And in a district like HD-89, the independent candidate must collect those signatures across 95 miles of rural landscape with as many as 94 of 120 committeeperson seats (regardless of party) vacant.

This disparity is not proportionate to any legitimate state interest. The stated justification for a higher independent threshold is that the independent candidate is bypassing the party vetting process and should therefore demonstrate broader public support. But in a district where no partisan candidate filed — where the party process produced no candidate at all — there is no process to bypass. The independent is not competing with a party nominee. The independent is the only person willing to run. Requiring that person to gather six times the signatures, without infrastructure, across a 95-mile district, is not a ballot access standard. It is an extinction-level barrier applied to the only type of candidate who could produce a competitive election.

III. PROPOSED PERMANENT RELIEF

Plaintiff respectfully submits that the permanent relief in this case should address the root cause, not merely the symptom. The symptom is that one candidate was barred from one ballot in one cycle. The root cause is that the combined operation of the partisan ballot requirement, the absence of party registration, the 6:1 signature disparity, and Section 7-43 produces a system in which independent candidacy is structurally impossible in the districts where it is most needed.

The remedy that would level the playing field — without requiring ranked-choice voting, without restructuring the primary system, and without invalidating any statute on its face — rests on two proportionality principles, both keyed to the same objective trigger: did a candidate of the disadvantaged party file in the preceding primary election?

Principle 1 — Proportional Signature Threshold: In any district where no candidate of the disadvantaged party filed in the preceding primary election, an independent candidate's signature threshold should default to the partisan threshold for that office.

For State Representative, the partisan threshold under 10 ILCS 5/8-8 is 500 signatures. An independent candidate in HD-89 would need 500 signatures instead of 2,957. The independent would still need to collect signatures, file a Statement of Candidacy, meet residency and age requirements, and submit to the same objection process as any other candidate. The only thing that changes is that the barrier is proportionate to what a partisan candidate would have faced — had anyone been willing to run.

Principle 2 — Suspension of the Primary Participation Bar: In any district where no candidate of the disadvantaged party filed in the preceding primary election, Section 7-43 shall not operate to bar a voter who participated in that primary from filing as an independent candidate for the general election.

The anti-spoiler rationale that justifies Section 7-43 in competitive districts — preventing a voter from manipulating one party's primary and then splitting that party's vote in the general — has no application in a district where there was no opposing-party primary to manipulate and

no opposing-party nominee whose vote could be split. In HD-89, the voter who pulled a Republican ballot in March was not engaging in party-raiding. The voter was participating in the only democratic process available. The state forced the voter to select a partisan ballot as the sole means of primary participation, used that selection as a legal affiliation event — without notice — and then invoked that affiliation to foreclose the only remaining path to a competitive general election. Section 7-43's anti-spoiler purpose is not served by this application. Its incumbent-protection effect is.

Without both principles operating together, the permanent relief fails. If the signature threshold is reduced to 500 but Section 7-43 remains in force, the candidate who voted in the only available primary is still barred — and in a rural packed district, that is every civically engaged voter. If Section 7-43 is suspended but the signature threshold remains at 2,957, the candidate who preserved the right to run by not voting in March still faces an extinction-level barrier across 95 miles with no organizational infrastructure. Both barriers must fall in districts where both barriers operate on the same population for the same structural reason: the absence of a competitive partisan primary.

Together, these two principles have four structural virtues:

They are self-executing. The trigger for both is the same objective fact: did a candidate of the disadvantaged party file in the primary? If no, the signature threshold defaults to the partisan level and Section 7-43 does not apply. No discretionary determination is required.

They are narrowly targeted. Both principles activate only in districts where no partisan candidate filed. Competitive districts are entirely unaffected. In any district where both parties field primary candidates, the existing signature thresholds and the existing 7-43 bar remain in full force. The remedy addresses precisely the harm documented in this case and no more.

They use the legislature's own judgment. The 500-signature threshold is not a number the Court would be inventing. It is the number the legislature itself determined is a reasonable demonstration of support for a candidate seeking to represent the voters of a state representative district. And the suspension of 7-43 follows the legislature's own logic: the statute exists to prevent spoilers, and there is no spoiler risk when there is no opposing-party nominee whose vote could be split. The Court would be applying the legislature's own standards and rationales symmetrically.

They are party-neutral and apply nationally. The same principles would protect independent challengers in rural packed districts in Alabama, Mississippi, and Louisiana as in Illinois. They do not favor Democrats over Republicans or vice versa. They favor competition over structural appointment, in every state, in every district where the architecture has produced the same harm.

IV. RELATIONSHIP TO EMERGENCY RELIEF

This memorandum does not alter the emergency relief requested in Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction. The immediate request remains:

enjoin enforcement of Section 7-43 for the 2026 cycle, waive or proportionately reduce the signature requirement, and permit Plaintiff to file as an independent candidate.

The permanent relief proposed herein would be appropriate following adjudication on the merits, as part of the Court's order under Item D of the Prayer for Relief in the Verified Complaint. Plaintiff offers this framework now so that the Court may consider, at the preliminary injunction stage, whether the proposed permanent relief is sufficiently well-defined and constitutionally grounded to weigh in favor of finding a likelihood of success on the merits.

The question before the Court on the emergency motion is whether one candidate should be allowed onto one ballot in one election. The question this memorandum addresses is what the system should look like so that no candidate has to file a lawsuit to get there.

Dated: April ___, 2026

Respectfully submitted,

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