

**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 EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiff Lester Leavitt, proceeding pro se, respectfully moves this Court for a temporary restraining order and preliminary injunction enjoining Defendants from enforcing 10 ILCS 5/7-43 as applied to Plaintiff's candidacy for the November 3, 2026 general election, and in support thereof states as follows:

I. INTRODUCTION

This motion asks the Court to do what it has done before. In 2024, this Court issued injunctive relief in *Collazo v. Illinois State Board of Elections*, enjoining enforcement of P.A. 103-0586 for the 2024 election cycle to permit candidates onto the general election ballot while the broader constitutional question was litigated. Plaintiff requests the same narrow, cycle-specific relief: an order enjoining enforcement of 10 ILCS 5/7-43 against Plaintiff's candidacy so that Plaintiff may file a Statement of Candidacy and nominating petitions as an independent candidate for State Representative in House District 89 for the November 3, 2026 general election.

The independent candidate filing period closes May 26, 2026. Without relief from this Court before that date, Plaintiff's right to appear on the ballot will be permanently extinguished for this election cycle. No post-election remedy can restore a candidacy that was never permitted to begin.

II. SUMMARY OF RELEVANT FACTS

The facts are set forth fully in the Verified Complaint filed simultaneously herewith. The following summary highlights the facts most relevant to this motion.

House District 89 is a seven-county, 120-precinct rural district in northwest Illinois created by the 2021 redistricting. Including this 2026 election cycle, the incumbent, House Minority Leader Tony McCombie, will have stood for three consecutive general elections without an opponent on the ballot — every general election since the district was drawn. No Democrat has filed for the seat. As many as 94 of 120 precinct committeeperson seats from either party sit vacant. In November 2024, 10,342 voters — 17.5% of all ballots cast — declined to vote in the uncontested State Representative race. In several precincts, the undervote exceeded 30%.

Plaintiff attempted to run as an independent candidate and began collecting the 2,957 signatures required under 10 ILCS 5/10-3. To many who were willing to volunteer and assist, they warned that the ambitious undertaking may prove to be structurally unachievable across 120 precincts with widespread organizational vacancy. While simultaneously researching the write-in candidate filing requirements in the event the volunteers' warnings proved correct, Plaintiff discovered that 10 ILCS 5/7-43 bars his candidacy because he voted a Republican ballot in the March 2026 primary.

Plaintiff voted the Republican ballot because HD-89 offered no contested Democratic primary races at the local or regional level. While the primary included statewide Democratic contests for governor and the U.S. Senate seat vacated by Senator Durbin, every Democratic candidate for county-level and General Assembly positions in the Plaintiff's district was running unopposed, making a Democratic ballot inconsequential for the races most relevant to the Plaintiff's research and candidacy. The Republican ballot was the only ballot through which Plaintiff could exercise meaningful democratic participation at the local and regional level. No notice was provided at the polling place that voting a party ballot would forfeit the right to run as an independent.

Every pathway to the ballot has been closed: party nomination (no party infrastructure), vacancy slating (blocked by P.A. 103-0586), independent petition (facing structural barriers that volunteers on the ground warned may be insurmountable), and independent candidacy (forfeited under Section 7-43 by primary participation). The result is a closed system that ensures the incumbent is returned without contest by architectural design rather than democratic choice.

III. LEGAL STANDARD

A preliminary injunction is appropriate where the movant demonstrates: (1) a likelihood of success on the merits; (2) irreparable harm absent injunctive relief; (3) that the balance of equities favors the movant; and (4) that the injunction serves the public interest. *Buzz Barton & Associates, Inc. v. Giannone*, 108 Ill. 2d 373, 387 (1985); *Mohanty v. St. John Heart Clinic, S.C.*, 866 F.2d 1010 (7th Cir. 1989).

A temporary restraining order may issue without notice to the adverse party where it clearly appears from specific facts shown by affidavit or verified complaint that immediate and irreparable injury, loss, or damage will result before the adverse party can be heard. 735 ILCS 5/11-101; *In re Marriage of Schmitt*, 321 Ill. App. 3d 360 (2001). The Verified Complaint filed herewith satisfies the verification requirement.

IV. ARGUMENT

A. Plaintiff Has a Strong Likelihood of Success on the Merits

Ballot access restrictions are evaluated under the *Anderson-Burdick* balancing test. *Anderson v. Celebrezze*, 460 U.S. 780 (1983); *Burdick v. Takushi*, 504 U.S. 428 (1992). Under this framework, a court must weigh the character and magnitude of the burden on the plaintiff's First and Fourteenth Amendment rights against the precise interests the state puts forward to justify the restriction. When the burden is severe, the regulation must be narrowly drawn to advance a compelling state interest.

The burden here is severe. Section 7-43 does not impose a procedural hurdle, a timing requirement, or a signature threshold. It imposes a total bar to candidacy — the complete forfeiture of the right to appear on the general election ballot — triggered by the act of voting in a primary election. The forfeiture is absolute and irreversible for the election cycle in question.

The state's interest in Section 7-43 is presumably the prevention of party-raiding and spoiler candidacies — the concern that a voter might participate in one party's primary to influence the outcome and then run as an independent to split the vote in the general. Whatever the merit of this interest in competitive districts, it cannot justify the statute's application in gerrymandered districts like HD-89, where only one party has fielded a candidate for the past three election cycles. In such districts, the statute does not prevent manipulation of the primary process. It punishes voters for participating in the only democratic process available to them. The *Anderson* Court recognized that ballot access restrictions must be evaluated in light of the actual burdens they impose in practice, not merely the interests they serve in theory. 460 U.S. at 789.

The due process claim is equally strong. The State imposed a forfeiture of a constitutional right — the right to seek public office — without any notice to the affected party at the point of action. No signage, no poll worker instruction, no ballot language, and no publicly available SBE guidance informs voters that requesting a party ballot in a primary election will disqualify them from running as an independent in the general. A forfeiture of constitutional rights that operates without notice cannot satisfy procedural due process.

Notwithstanding several careful readings of the Candidate's Guide on behalf of partisan candidates that Plaintiff had been encouraging to run for state-level office (for both parties) in the March 2026 primary, it was only after the primary election that Plaintiff discovered for the first time that 10 ILCS 5/7-43 provides that any person who voted the ballot of an established political party at a general primary election may not file a Statement of Candidacy as an independent candidate, as a candidate of a new political party, or as a candidate of a different

established political party for any partisan office at the general election immediately following that primary.

The equal protection claim arises from the disparate impact of Section 7-43 on voters in gerrymandered versus competitive districts. In competitive districts, voters have a meaningful choice of party ballots and can preserve their independent candidacy option by voting in the primary of the party whose values they share. In gerrymandered districts like HD-89, voters have no such choice. Since redistricting, the only avenue of participation has been the dominant party's ballot, and participating triggers the forfeiture. The statute thus imposes a greater burden on the candidacy rights of voters in gerrymandered rural districts than on voters in urban areas or competitive rural districts, without any rational basis for the distinction.

B. Plaintiff Will Suffer Irreparable Harm Without Relief

The loss of the right to appear on the ballot is, by definition, irreparable. An election, once held, cannot be re-run. A candidacy, once foreclosed, cannot be restored after the fact. The United States Supreme Court has recognized that “the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

The filing period for independent candidates closes May 26, 2026. If Section 7-43 is not enjoined before that date, Plaintiff's name will not appear on the November ballot regardless of the ultimate outcome of this litigation. No amount of monetary damages can substitute for the opportunity to stand as a candidate before the voters of HD-89. The harm is categorical and irreversible.

This Court recognized the same irreparable harm logic in *Collazo*, where injunctive relief was granted before the filing deadline precisely because post-deadline relief would have been meaningless.

C. The Necessity of This Litigation Has Foreclosed Compliance with the Signature Requirement

The Court should also note that the necessity of preparing and filing this lawsuit has itself consumed the time, resources, and scheduled appearances that Plaintiff had devoted to collecting the 2,957 signatures required under 10 ILCS 5/10-3. Plaintiff had already set out scheduled appearances across the vast distances of House District 89 — a district that spans 95 miles and requires more than two hours to traverse — in an effort to collect signatures before the May 26 filing deadline. The discovery of the Section 7-43 bar, and the immediate necessity of researching the constitutional question, drafting this Verified Complaint, preparing this Motion, and contacting legal organizations for representation, has simultaneously foreclosed the possibility of completing that signature-collection effort.

Attached hereto as **Exhibits 1 through 3** are the Plaintiff's published campaign zone maps and day-by-day schedules for April 18 through May 26, 2026. These exhibits document the planned appearances across all 12 volunteer zones of HD-89 that have been disrupted by the necessity of this litigation. The “Vote Your Values” campaign had organized HD-89 into 12 volunteer zones, each anchored by congregations of the United Methodist Church, Lutheran

(ELCA), Episcopal, Presbyterian, and Unitarian Universalist churches where Plaintiff has established institutional relationships. The campaign plan called for 300 volunteers to be recruited, trained, and coordinated across these zones, with each volunteer committed to collecting 10 to 15 signatures. Every remaining day between Plaintiff's discovery of the Section 7-43 barrier on April 19, 2026, and the May 26 filing deadline had already been calendared and published as a zone-specific appearance — including the final week's logistics for notarizing completed petition sheets, collecting them zone by zone, and delivering them to the State Board of Elections in Springfield. This was not an aspirational plan. It was an operational calendar already in execution when the 7-43 discovery shut it down.

This creates a compounding harm. Even if the Court enjoins enforcement of Section 7-43, Plaintiff cannot now comply with the signature requirement that Section 10-3 imposes, because the time that would have been spent collecting signatures was necessarily diverted to the litigation required to unlock the right to file those signatures in the first place. Requiring Plaintiff to satisfy a signature threshold that volunteers on the ground had already warned may be insurmountable — and that has now been rendered impossible by the litigation necessary to vindicate his constitutional rights — would impose an additional unconstitutional burden on top of the one this motion seeks to remedy.

As a first preference, Plaintiff requests that the Court waive the 2,957-signature requirement as applied to Plaintiff's candidacy for the November 3, 2026 general election, on the grounds that the necessity of this litigation has consumed the time and resources Plaintiff had committed to collecting signatures, that volunteers on the ground had warned the signature threshold may be insurmountable even with the full circulation window, and that Plaintiff cannot in good conscience hold a team of 300 volunteers in readiness for a signature-collection effort whose legal foundation remains contingent on the outcome of this litigation.

If the Court deems some signature threshold essential, Plaintiff respectfully requests that the requirement be proportionately reduced to reflect the number of effective collection days remaining after entry of the injunction. The original 90-day circulation window ran from February 25 through May 26, 2026; however, as documented in **Exhibit 3**, the final five days of that window (May 22–26) are consumed by notarization logistics — securing notaries across 12 volunteer zones spanning 95 miles of rural towns requires a three-day circuit run, followed by travel to Springfield for filing at the State Board of Elections. The effective collection window was therefore 85 days, not 90. If the Court provides Plaintiff with N days to collect signatures, the requirement should be reduced to N/90 of 2,957 signatures, and a corresponding period of no fewer than five additional days should be provided for notarization, assembly, and filing. A requirement of 2,957 signatures compressed into a fraction of the original window without proportional reduction would constitute a de facto denial of ballot access.

D. The Balance of Equities Favors Plaintiff

The equities are asymmetric. If the injunction is granted and Plaintiff is ultimately found to have no constitutional right to be on the ballot, the only consequence is that one additional name appeared on the ballot in one district in one election — a name the voters were free to reject. No defendant is harmed. No election is invalidated. The integrity of the ballot is not compromised by the presence of an additional candidate; it is enhanced.

If the injunction is denied and Plaintiff is ultimately found to have a constitutional right to be on the ballot, the harm is total and irreparable: the election will have been held without Plaintiff's name, and the voters of HD-89 will have been denied, for the fourth consecutive general election, any choice for their state representative. No post-election remedy can undo that deprivation.

The State has no cognizable interest in an uncontested election. The State has no cognizable interest in protecting an incumbent from competition. The balance of equities favors the party whose rights are at stake over the party that bears no burden from the relief requested.

E. The Injunction Serves the Public Interest

The public interest in competitive elections is fundamental. 10,342 voters in HD-89 — 17.5% of all ballots cast — declined to ratify the uncontested State Representative race in November 2024. That undervote is a measurable, precinct-level expression of public demand for electoral choice.

The public interest is served when voters have options. It is served when the ballot reflects genuine competition rather than structural appointment. It is not served by enforcing a statute that, as applied in gerrymandered districts, functions to guarantee perpetual incumbency. As the Supreme Court has observed, “competition in ideas and governmental policies is at the core of our electoral process.” *Williams v. Rhodes*, 393 U.S. 23, 32 (1968).

The broader public context reinforces this point. The structural exclusion of rural voters from meaningful representation is driving a growing movement to separate rural Illinois from Chicago-dominated state governance. Rural separation referenda are appearing on county ballots with increasing frequency. The architecture documented in this case — gerrymandered maps, collapsed party infrastructure, weaponized ballot access rules — is the engine of that alienation. An injunction that permits one independent candidate to appear on one ballot in one district serves the public interest by demonstrating that the system can still produce competition.

V. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court:

1. Issue a temporary restraining order enjoining Defendants from enforcing 10 ILCS 5/7-43 against Plaintiff's candidacy, effective immediately;
2. Set this matter for hearing on Plaintiff's motion for preliminary injunction on an expedited basis, given the May 26, 2026 filing deadline;
3. Following hearing, issue a preliminary injunction enjoining Defendants from enforcing 10 ILCS 5/7-43 against Plaintiff's candidacy for the November 3, 2026 general election, permitting Plaintiff to file a Statement of Candidacy and nominating petitions as an independent candidate for State Representative in House District 89 — the same narrow, cycle-specific relief this Court granted in *Collazo v. Illinois State Board of Elections* (2024);

4. As a first preference, waive the 2,957-signature requirement under 10 ILCS 5/10-3 as applied to Plaintiff's candidacy; if the Court deems some signature threshold essential, proportionately reduce the requirement to N/90 of 2,957 signatures, where N equals the number of effective collection days provided to Plaintiff after entry of the injunction, and provide no fewer than five additional days beyond the collection period for notarization, assembly, and filing;

5. Grant such other and further relief as this Court deems just and proper.

Dated: April ____, 2026

Respectfully submitted,

Lester Leavitt, Pro Se
Galena, Illinois 61036
815-402-1049
VoteLester.com

EXHIBIT LIST

Exhibit 1: Vote Your Values Campaign Zone Map and Schedule, April 18–30, 2026. Published campaign calendar showing daily zone assignments across 12 volunteer zones of HD-89, including zone-specific appearances scheduled for every day from April 18 (the day before Plaintiff discovered the Section 7-43 barrier) through April 30.

Exhibit 2: Vote Your Values Campaign Zone Map and Schedule, May 1–17, 2026. Continuation of the published campaign calendar, showing 17 additional days of zone assignments escalating to the farthest zones (Winnebago, Boone, and DeKalb counties) as the filing deadline approaches.

Exhibit 3: Vote Your Values Campaign Zone Map and Notarized Petition Pick-Up Schedule, May 22–26, 2026. Final-week logistics calendar showing the last business day for notarization of petition sheets (May 22), the zone-by-zone pick-up schedule for notarized petitions (May 23–25), and the drive to Springfield to file at the State Board of Elections (May 25), with May 26 held as the spare/absolute final day. This exhibit documents that the final five days of the 90-day

circulation window were never signature-collection days — they were logistics days — establishing that the effective collection window was 85 days, not 90, and supporting the proportional reduction formula requested herein.

All three exhibits display the 12 volunteer zones overlaid on a map of HD-89, with denominational markers (UMC, Lutheran/ELCA, Episcopal, Presbyterian, Unitarian Universalist) indicating the congregational anchors for each zone. The campaign organized its volunteer recruitment through these institutional networks, reflecting Plaintiff's years of work with the United Methodist Church and continuing association with the United Churches of Galena.

CERTIFICATE OF SERVICE

I, Lester Leavitt, hereby certify that on April ____, 2026, I caused a true and correct copy of the foregoing Plaintiff's Emergency Motion for Temporary Restraining Order and Preliminary Injunction, together with the Verified Complaint for Injunctive and Declaratory Relief and Exhibits 1 through 3, to be served upon:

Office of the Illinois Attorney General

500 South Second Street

Springfield, Illinois 62701

Illinois State Board of Elections

2329 S. MacArthur Blvd.

Springfield, Illinois 62704

by [personal delivery / United States Mail, postage prepaid / certified mail, return receipt requested].

Lester Leavitt, Pro Se