

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

Andrew M. Horning [Pro Se])	
Plaintiff,)	
)	Case No.
vs.)	
)	
THE STATE OF INDIANA; including the)	
INDIANA SECRETARY OF STATE, in her)	
official capacity; the members of the)	
INDIANA ELECTION COMMISSION, in their)	
official capacities; the members of the)	
INDIANA GENERAL ASSEMBLY, in their)	
official capacities; and the INDIANA)	
GOVERNOR in his official capacity)	
Defendants.)	

Complaint and Challenge to Constitutionality of Preferred Partisan Status under Indiana Statute

INTRODUCTION

1. As defined by Ind. Code § 3-5-2-30, there are two unequal classes of citizens in terms of political and electoral rights, powers, privileges and immunities in Indiana: 1, Those associated with the two private organizations called “Major Political Parties” (hereafter called MPPs), and, 2, Everyone else. This violates the equal protections clause of the USA Constitution’s 14th amendment, “No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” Plaintiff brings suit as a candidate and activist substantially harmed by this violation of both Indiana and federal constitutions.

A. JURISDICTION, VENUE and CAUSE OF ACTION

1. The court has jurisdiction under 28 U.S.C. §§ 1331 and 1343, and 15 U.S.C. § 4 and 9.
2. Venue is proper under 28 U.S.C. § 1391.
3. Declaratory relief is proper by Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. §§2201, 2202.
4. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation of rights from violation of a specific prohibition of state authority by the Constitution of the United States.

B. PARTIES

1. Plaintiff Andrew Michael Horning resides at 1776 NOYDB Road, Freedom, IN 47431. Home phone is (XXX) XXX XXXX.
2. Defendant, the political entity, The State of Indiana, including the General Assembly, accountable for all legislation; the Governor, accountable for the execution of both Indiana and federal constitutions and constitutionally compliant laws; the Indiana Election Commission, which administers election laws and supervises election officers; and Secretary of State, with authority over the administration of election laws. The State of Indiana holds offices at 200 W Washington St, Indianapolis, IN 46204. The chief officer of Indiana is the Governor, whose office phone is (317) 232-4567.

C. STATEMENT OF CLAIM

1. The defendant has wrongfully granted two private organizations special rights, powers, money, employment and privileges unavailable to any other persons or organizations, in violation of the equal protections clause of the USA Constitution's 14th amendment, "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." This also violates the Indiana Constitution's Article I, Section 23: "The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens."
2. Plaintiff, as a non-MPP candidate for public office, is, by the defendant, denied equal access to material resources, time, venues, media, employment, ballots, privileges and powers, in violation of the aforementioned equal protections clause of the USA Constitution's 14th amendment.
3. Primary Elections harm the plaintiff both materially and politically. By creating arbitrary thresholds (Ind. Code § 3-10-1-2) that bar all other candidates and political organizations, only the MPPs, even in races uncontested within the MPPs, are allowed in taxpayer-funded primary elections, which implicitly provide more money, public attention, free advertising and media promotion, as well as an imprimatur of greater legitimacy, to only MPPs at the actual expense of all alternatives.
4. General Elections are inherently prejudiced toward only those allowed in the Primary Elections. Many voters decide their vote from the results of the Primary Elections, and have often already committed time and money to the MPP

candidates. Such voters are much less willing to consider options appearing in public only after their investments.

5. Plaintiff has been denied the special status, organizational and political powers granted to only the MPPs. For example, Ind. Code § 6-4.1-4 specifies that members of the Indiana Election Commission “must be a member of a major political party.” And Ind. Code § 6-4.1-4 grants that only “the state chairman of the major political party” has powers of nomination and appointments for succeeding terms. Only designees “of the state chairman of each of the major political parties” shall “serve as members of the state recount commission.” (Ind. Code § 3-12-10-2.1) Ind. Code § 3-10-1-4 grants only major political parties privileges of organization and process for nomination to public office and filling vacancies (e.g., Ind. Code § 3-13-5, 6). Precinct Committeeman are a special class of citizen who have special powers (example, Ind. Code § 3-13-1-4, 5, 6), yet aren’t subject to the limitations placed on other political officeholders (Ind. Code § 3-6-1-15).
6. Plaintiff has been denied equal status as a candidate on the ballot itself. Ind. Code § 3-10-1-15 set apart a separate ticket for “each political party holding a primary election” making all alternative candidates not just inconspicuous to voters, but also of a lesser implied value.
7. Plaintiff has been unable to run for office independent of a private organization, as Indiana’s petition requirements for independent candidates are so difficult as to be impossible for any person of average means.

8. As a result of defendant's conduct, plaintiff is injured as follows:
9. Markedly reduced political success. Odds of electoral success are demonstrably more dependent upon MPP membership than to personal merit or effort. Plaintiff's 2004 association with the Republican Party demonstrates the tremendous advantage gained by the MPP's special status. The plaintiff won ten times as many votes with less personal expense and no more personal exertion than in his previous or subsequent Libertarian Party campaigns.
10. Greatly increased effort and personal cost. Investing in MPPs campaigns is immeasurably more lucrative to lobbyists, and those wishing to purchase political influence and advantage because of the MPPs special status. Contrariwise, those citizens hoping for alternatives, and otherwise willing to promote a change, and who now comprise the majority of citizens, see overwhelming unjust power and process stacked against them.
11. Public disrespect and derision. Independents and so-called "third party" candidates are routinely, and even by policy in the media, demeaned as, "spoilers," "wasted vote," "losers," "fringe" and "not-viable."

D. RELIEF WANTED

WHEREFORE, plaintiff requests that this Court:

1. Accept jurisdiction of this case and set it for hearing as soon as possible.
2. Enter an injunction to:

