

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

John Doe,)	
)	
Plaintiff,)	
)	
v.)	No. 2:15-cv-4054
)	
Charles E. Weedman, in his official capacity)	
as Chair and member of the Missouri)	
Ethics Commission,)	
)	
John Munich, in his official capacity as Vice)	
Chair and member of the Missouri)	
Ethics Commission,)	
)	
William Stoltz, in his official capacity as)	
Member of the Missouri Ethics)	
Commission,)	
)	
Nancy Hagan, in her official capacity as)	
Member of the Missouri Ethics)	
Commission, and)	
)	
Bill Deekan, in his official capacity as)	
Member of the Missouri Ethics)	
Commission,)	
)	
Defendants.)	

Verified Complaint for Prospective Relief

Introduction

1. In this civil rights action under 42 U.S.C. § 1983, Plaintiff, John Doe,¹ seeks declaratory judgment that a Missouri law that prohibits the distribution of anonymous printed matter related to a candidate for public office or a ballot measure (and provides for a criminal penalty) is unconstitutional as applied. Doe also seeks preliminary and permanent injunctive

¹ John Doe is a pseudonym. A motion for leave to proceed under a pseudonym is filed with this Complaint.

relief enjoining Defendants, who are charged with enforcement of the challenged law, from taking any action to enforce the challenged laws against Doe.

2. Doe wishes to publish, circulate, and distribute handbills that advocate for the election of one candidate to the Ferguson City Council and against the election of that candidate's opponent. Doe is not affiliated with any candidate. Because, as a resident and businessperson in Ferguson, he fears retaliation by Ferguson officials for the content of his political speech, Doe does not want to include his name or address on the handbills.

3. The election is April 7, 2015.

4. Missouri Revised Statutes section 130.031.8 requires that any person publishing, circulating, or distributing any printed material related to a candidate for public office "shall on the face of the printed matter identify in a clear and conspicuous manner the person who paid for the printed matter with the words 'Paid for by' followed by [the name and address of the individual paying for the printed matter]." "[P]rinted matter' [is] defined to include any pamphlet, circular, [or] handbill[.]" *Id.* "Any person who purposely violates the provisions of [chapter 130] is guilty of a class A misdemeanor." Mo. Rev. Stat. § 130.081.1.

5. Twenty years ago, in the same context of political handbills, the Supreme Court held that "an author's decision to remain anonymous, like other decisions concerning omissions or additions to the content of a publication, is an aspect of the freedom of speech protected by the First Amendment." *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 342 (1995). Any prohibition on anonymous discussion of candidates, therefore, is subject to exacting scrutiny and might be upheld only if it is narrowly tailored to serve an overriding state interest. *Id.* at 347.

Jurisdiction and Venue

6. This action arises under the Constitution of the United States and the provisions

of 42 U.S.C. § 1983.

7. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1343(a).

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) & (2) the Missouri Ethics Commission is based in—and its actions giving rise to the claim in this suit occur in—Cole County, Missouri.

9. Venue is proper in the Central Division pursuant to Local Rule 3.1(a)(2).

Parties

10. Plaintiff—John Doe—is a resident of St. Louis County, Missouri.

11. Defendants—Charles E. Weedman, John Munich, William Stoltz, Nancy Hagan, and Bill Deekan—are the members of the Missouri Ethics Commission and are sued solely in their official capacities.

12. The Missouri Ethics Commission, through its members, is primarily responsible for the enforcement of the requirement of Missouri Revised Statutes section 130.031.8 that handbills related to candidates for public office must identify the name and address of the individual who paid for them.

13. As relevant to this Complaint, Defendants act under color of state law.

Facts

14. Ferguson's municipal elections will be held on April 7, 2015.

15. Doe supports Lee Smith for the Ward 3 position on Ferguson's city council.

16. Doe opposes Wesley Bell, another candidate for the Ward 3 position on Ferguson's city council.

17. Doe has no relationship with Smith, Bell, or their respective campaigns.

18. At his own expense, Doe has created a handbill articulating the reasons why he believes that residents of Ferguson's Ward 3 should vote in favor of Smith and against Bell in the April 7 election. A copy of the handbill is attached hereto as an exhibit and its content is incorporated herein by reference.

19. Doe's handbill does not include Doe's name or address.

20. Doe did not include his name or address on the handbill because he fears retaliation from Ferguson officials based on the content of the handbill. Moreover, Doe believes he has a constitutionally protected right to engage in anonymous political speech through the distribution of handbills that do not identify him.

21. Doe has not yet published, circulated, or distributed the handbill.

22. The sole reason Doe has not yet published, circulated, or distributed the handbill is because Missouri state law prohibits any person from publishing, circulating, or distributing any printed material, including handbills, related to a candidate for public office unless the face of the printed matter identifies the name and address of the individual paying for the printed matter. Mo. Rev. Stat. § 130.031.8.

23. Defendants, in their official capacities as members of the Missouri Ethics Commission, are primarily responsible for enforcement of section 130.031.8.

24. A violation of the disclosure requirements of section 130.031.8 is class A misdemeanor, punishable by a fine and jail time. Mo. Rev. Stat. § 130.081.1.

25. Doe is chilled from publishing, circulating, and distributing the handbill because of section 130.031.8, Defendant's duty to enforce section 130.031.8, and the penalty provisions of section 130.081.1.

26. Absent injunctive relief, Doe will lose the opportunity to engage in anonymous political speech with regard to the April 7 election for Ferguson City Council.

27. Doe plans to engage in political speech, including publishing, circulating, and distributing handbills at his own expense, for future elections, if he can do so without identifying himself on the printed materials and facing investigation, prosecution, and imposition of a fine, jail sentence, or both.

Cause of Action

28. Plaintiff incorporates herein by reference the allegations made in each preceding paragraph as if each were set forth here verbatim.

29. Plaintiff is reasonably chilled from engaging in expressive activity because of section 130.031.8, Defendant's duty to enforce section 130.031.8, and the penalty provisions of section 130.081.1.

30. Section 130.031.8 advances no state interest sufficient to override Plaintiff's right to engage in anonymous political speech by publishing, circulating, and distributing a handbill about candidates for Ferguson City Council.

31. Even if section 130.081.1 advanced a state interest that might be sufficient to justify a restriction on Plaintiff's right to engage in anonymous political speech by publishing, circulating, and distributing a handbill about candidates for Ferguson City Council, the law is not narrowly tailored to advance that interest.

WHEREFORE, Plaintiff prays that this Court:

- A. Enter judgment, including declaratory judgment pursuant to 42 U.S.C. § 1983, in favor of Plaintiff and against Defendants;

- B. Upon proper motion, issue a temporary restraining order as well as preliminary and permanent injunctions enjoining Defendants from enforcing, or threatening to enforce, the disclosure requirements of Mo. Rev. Stat. § 130.031.8 against Plaintiff.
- C. Award Plaintiff's reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable provisions of law; and
- D. Allow such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Anthony E. Rothert
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Verification

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

/s/ John Doe
John Doe

A prosecutor, whose father was a cop



Bob McCulloch
St. Louis County Prosecutor



Wesley Bell
Village of Riverview Prosecutor

Wesley Bell says he will represent our community on the Ferguson city council. But how has Bell represented our community in the past?

- * Works as a municipal prosecutor and judge.

Wesley Bell is in the same line of work as Bob McCulloch. As the prosecutor for the Village of Riverview, and the judge for Velda City, Bell has sent thousands of working class people on the "North County Shuffle." As part of this corrupt system, he has earned lawyer wages on the backs of poor black people. Now, he wants to serve on our city council, Velda City, where he serves as judge, is being sued by the state for illegal court fines.

- * Ran a Republican's campaign against Lacy Clay



In 2006, Republican Mark Byrne ran against our Congressman Lacy Clay. Wesley Bell, who now claims to be a Democrat, served as the campaign manager for Byrne. Byrne is now a member of the Ferguson City Council, and hopes to have his friend Wesley Bell serve with him.

- * Ran against Hazel Erby, the only black member of the St. Louis County Council

Last year, as Steve Stenger ran a filthy campaign against Charlie Dooley, Wesley Bell ran against Hazel Erby, the only black member of the county council. Mark Byrne held a fundraiser for Bell at his home, raking in more than \$1,200. Yes, that's the same Mark Byrne who ran against Lacy Clay.

- * Moved here to run for political office

Bell moved to Ferguson less than 3 years ago, shortly before starting his campaign against Hazel Erby. After losing, he moved across town, renting a loft from a political supporter to qualify for this campaign.

Wesley Bell: Don't let the smooth face fool you.

Lee Smith

Committed to our community



- * 27 year Ferguson resident
- * Chairs deacon ministry in his church
- * Coalition of Black Trade Unions, IBEW Local 2352
- * Raised ten children right here in Ferguson. Five now serve in the military, including two in Iraq.

Lee Smith has spent 27 years as a loving husband and father, right here in Ferguson. He is committed to our community, and has the strength and character to move Ferguson in a positive direction.

**On Tuesday, April 7, vote for an outstanding man to bring justice to our community.
Lee Smith for Ward 3**

JS 44 (Rev 09/10)

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI****CIVIL COVER SHEET**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Western District of Missouri.

The completed cover sheet must be saved as a pdf document and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s):**First Listed Plaintiff:**

John Doe ;

County of Residence: Outside This District**Defendant(s):****First Listed Defendant:**

Charles Weedman ;

County of Residence: Cole County**Additional Defendants(s):**

John Munich ;

William Stoltz ;

Nancy Hagan ;

Bill Deekan ;

County Where Claim For Relief Arose: Cole County**Plaintiff's Attorney(s):**

Anthony E. Rothert (John Doe)

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Grant R. Doty (John Doe)

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Phone: 3146523114**Fax:****Email:** gdoty@aclu-mo.org**Defendant's Attorney(s):**

Andrew McNulty (John Doe)

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St. Louis, Missouri 63108

Phone: 3146523114

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Basis of Jurisdiction: 3. Federal Question (U.S. not a party)

Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff: N/A

Defendant: N/A

Origin: 1. Original Proceeding

Nature of Suit: 440 All Other Civil Rights

Cause of Action: 42 USC 1983 - as-applied challenge to Missouri statute that violates First Amendment

Requested in Complaint

Class Action: Not filed as a Class Action

Monetary Demand (in Thousands): 0

Jury Demand: No

Related Cases: Is NOT a refiling of a previously dismissed action

Signature: /s/ Anthony E. Rothert

Date: 3/18/2015

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS44. Once corrected, print this form, sign and date it, and submit it with your new civil action.