

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
Northern Division – At Covington**

JOHN KYLE SWEENEY	:	Case No. _____
10145 WHITTLESEY DR.		
UNION KY 41091	:	
AND	:	
CRISTI KENDRICK	:	
8727 VALLEYVIEW DR		
FLORENCE, KY 41042	:	
AND	:	
THE LIBERTARIAN PARTY OF KENTUCKY :		
P.O. Box 432		
INDEPENDENCE, KY 41051	:	
AND	:	
JOHN HICKS	:	
2729 NORTHWESTERN PARKWAY		
LOUISVILLE, KY 40212-1120	:	
AND	:	
ANN CORMICAN	:	
1900 WINGS NOLK STREET		
PARIS, KY 40361-1123	:	
AND	:	
KYLE HUGENBERG	:	
5407 BANNON CROSSINGS DRIVE		
LOUISVILLE, KY 40218-4093	:	
AND	:	
JOSHUA GILPIN	:	
3095 SCOTT ROAD		
SEDALIA, KY 42079-9012	:	
PLAINTIFFS	:	

v.	:
HON. JUSTIN CRIGLER	:
2950 WASHINGTON STREET	:
BURLINGTON, KY 41005	:
in his official capacity as Boone County	:
Clerk and Chair of the Boone County	:
Board of Elections	:
AND	:
HON. MICHAEL HELMIG	:
3000 Conrad Lane	:
Burlington, KY 41005	:
in his official capacity as Boone County	:
Sheriff and Member of the Boone County	:
Board of Elections	:
AND	:
MARILYN HOWARD	:
in her official capacity as Member	:
Boone County Board of Elections	:
2950 Washington St	:
Burlington, KY 41005	:
AND	:
EMILY SHELTON	:
in her official capacity as Member	:
Boone County Board of Elections	:
2950 Washington St	:
Burlington, KY 41005	:
AND	:
ALISON LUNDERGAN GRIMES	:
SECRETARY OF STATE OF THE	:
COMMONWEALTH OF KENTUCKY	:
in her official capacity	:
as Secretary of State and	:
Chair of the State Board of Elections	:
AND	:

DAVID L. OSBORNE, MEMBER :
STATE BOARD OF ELECTIONS
in his official capacity :
Serve: ANDREW BESHEAR, Attorney General
700 Capitol Avenue, Suite 118 :
Frankfort, Kentucky 40601

AND :

KATRINA FITZGERALD, MEMBER STATE :
BOARD OF ELECTIONS, :
in her official capacity :
Serve: ANDREW BESHEAR, Attorney General :
700 Capitol Avenue, Suite 118 :
Frankfort, Kentucky 40601 :

AND :

JOSHUA GIVENS BRANSCUM, MEMBER :
STATE BOARD OF ELECTIONS, :
in her official capacity :
Serve: ANDREW BESHEAR, Attorney General :
700 Capitol Avenue, Suite 118 :
Frankfort, Kentucky 40601 :

AND :

ALBERT B. CHANDLER, III, MEMBER :
STATE BOARD OF ELECTIONS, :
in his official capacity :
Serve: ANDREW BESHEAR, Attorney General :
700 Capitol Avenue, Suite 118 :
Frankfort, Kentucky 40601 :

AND :

SHERRY RENE WHITEHOUSE, MEMBER :
STATE BOARD OF ELECTIONS, :
in his official capacity :
Serve: ANDREW BESHEAR, Attorney General :
700 Capitol Avenue, Suite 118 :
Frankfort, Kentucky 40601 :

AND :

GEORGE RUSSELL, MEMBER
STATE BOARD OF ELECTIONS, :
in his official capacity

Serve: **ANDREW BESHEAR, Attorney General** :
700 Capitol Avenue, Suite 118
Frankfort, Kentucky 40601 :

AND :

DEANNA BRANGERS :
in her official capacity

Serve: **ANDREW BESHEAR, Attorney General** :
700 Capitol Avenue, Suite 118
Frankfort, Kentucky 40601 :

AND :

DWIGHT SEARS :
in his official capacity

Serve: **ANDREW BESHEAR, Attorney General** :
700 Capitol Avenue, Suite 118
Frankfort, Kentucky 40601 :

:
JARED DEARING, EXECUTIVE
DIRECTOR, KENTUCKY STATE BOARD :
OF ELECTIONS,

in her official capacity :
Serve: **ANDREW BESHEAR, Attorney General** :
700 Capitol Avenue, Suite 118 :
Frankfort, Kentucky 40601 :

DEFENDANTS :

Also Serve: :

ANDREW BESHEAR, ATTORNEY GENERAL :
in his official capacity :
700 Capitol Avenue, Suite 118
Frankfort, Kentucky 40601 :

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF FOR CONSTITUTIONAL VIOLATIONS

Plaintiffs John Kyle Sweeney, Cristi Kendrick, the Libertarian Party of Kentucky, Inc., John Hicks, Ann Cormican, Kyle Hugenberg, and Josh Gilpin, (“Plaintiffs”) by and through counsel, for their *Complaint for Declaratory and Injunctive Relief* (the “Complaint”), states and alleges as follows:

INTRODUCTION

1. This action involves the deprivation of Plaintiffs First and Fourteenth Amendment rights by the official and individual capacity Defendants named herein. Specifically, this action challenges recent changes to Kentucky’s ballot access regime passed in the 2019 General Assembly, namely aspects of 2019 House Bill 114¹ and 2019 Senate Bill 60.² In those bills, the General Assembly violated longstanding constitutional limitations on filing deadlines for third parties such as the Libertarian Party. Even worse, House Bill 114 literally creates an *ex post facto* and due process problem, changing the rules and deadlines midway through an election cycle, and pulling the rug out from the Plaintiffs in contravention of Plaintiff’s clearly established Constitutional Rights. The Plaintiffs are Libertarian Party candidates (and one potential 2020 candidate), and the Libertarian Party of Kentucky. Defendants are the enforcers of these unconstitutional laws. This suit seeks injunctive and declaratory relief under 42 U.S.C. § 1983, and attorney fees and costs under 42 U.S.C. § 1988.

¹ <https://apps.legislature.ky.gov/recorddocuments/bill/19RS/hb114/bill.pdf> (last visited 4/11/2019), attached hereto as **Exhibit B**.

² <https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb60/bill.pdf> (last visited 4/11/2019), attached hereto as **Exhibit C**.

PARTIES

2. John Kyle Sweeney (“Sweeney”) is a registered Libertarian voter in Boone County, Kentucky. Sweeney is also a longtime Libertarian political activist who, among other things, has run for Boone County office in the past. On March 8, 2019, the incumbent Boone County Clerk, Kenny Brown, tragically passed away, creating a vacancy in the office.³ Sweeney filed a statement of candidacy required of K.R.S. 118.367 with the Boone County Clerk in mid-March, 2019, to stand for election to this office at the November, 2019 election.
3. Cristi Kendrick (“Kendrick”) is also a registered Libertarian voter in Boone County, Kentucky. She is not a candidate in the 2019 election cycle, but intends to run for office, either county or state office, in 2020 and/or 2022, depending on the competition offered by the Republican and Democratic candidates. She is also a longtime Libertarian political activist who, among other things, has run for Boone County office in the past.
4. At all relevant times herein, The Libertarian Party of Kentucky (“LPKY”) is chartered by the National Libertarian Party, and is an Executive Committee under Kentucky Election Finance Laws. Its mission is threefold: (a) Electing candidates of the Libertarian Party to public office; (b) Educating the public about Libertarian ideas through whatever means available; and (c) Providing the organizational structure for Libertarians to interact with one another. As explained herein, LPKY, and its members, have suffered an individualized and group harm from the acts and practices herein complained of, and, in particular, it is severely inhibited by the complained of regulations. Furthermore, the actions complained of herein will cause future harm and are likely to recur in the future, as the LPKY typically fields

³ <https://www.cincinnati.com/story/news/local/boone-county/2019/03/10/boone-county-clerk-kenny-brown-kind-and-politically-principled/3123509002/> (last visited 4/11/2019)

candidates for local, state, and national elections, who will be subject to similar actions of those complained of herein. LPKY is headquartered in Kenton County, Kentucky, and its address is P.O. Box 432, Independence, KY 41051.

5. The LPKY is Kentucky's only "Political Organization," as that term is defined in K.R.S. 118.015(8), in that its 2016 Presidential Candidate, Gary Johnson, received over 2% of the vote in Kentucky. Under K.R.S. 118.305 and 118.325, LPKY is entitled to have its candidates placed on the ballot through the certificate of nomination process, without needing to collect signatures by petition.
6. In order to nominate its candidates, LPKY must hold conventions under K.R.S. 118.325.
7. There are approximately 12,000 registered Libertarian voters in Kentucky. LPKY undertakes its convention planning process well in advance of the conventions. It does so for several reasons: (i) first, to give reasonable notice to registered Kentucky Libertarian voters of the convention and their ability to participate in the convention process; (ii) second, to book and place reservations for appropriate venues to hold these conventions, which are invariably paid for out of members dues; and (iii) to give reasonable notice to candidates thinking about running for public office, so that they have sufficient time to explore their candidacies, and to engage in campaigns directed towards Libertarian voters.
8. And so it was with the 2018 and 2019 conventions. Those conventions were held at both the Congressional District level, sometimes the county level, and always the state level. In 2019, Libertarians in Kentucky traveled to Paducah, Kentucky, at their own cost, and stayed overnight in hotel accommodations (unless they lived in Western Kentucky) at their own cost, all to exercise the right to vote for their candidates for state office. These out of pocket costs to Libertarian voters, as well as costs to the party, exceeded \$15,000 in 2019.

9. John Hicks (“Hicks”) is a registered Libertarian voter in Jefferson County, Kentucky. Hicks is also a longtime Libertarian political activist who, among other things, has previously run for Kentucky State House. On March 2, 2019, Hicks was duly nominated as the Libertarian Party’s Gubernatorial Candidate for the 2019 Election Cycle, at the Libertarian Party of Kentucky’s State Convention. In mid-March, 2019, Hicks filed the Statement of Candidacy for the office of Governor, in conjunction with the requirements of K.R.S. 118.367. He received the letter, attached as Exhibit A, back from the Kentucky Secretary of State, indicating he could not be placed on the ballot in 2019, “absent a court order.”
10. Ann Cormican (“Cormican”) is a registered Libertarian voter in Bourbon County, Kentucky. Cormican is also a longtime Libertarian political activist who, among other things, has previously run for Kentucky State House. On March 2, 2019, Cormican was duly nominated as the Libertarian Party’s Lieutenant Gubernatorial Candidate for the 2019 Election Cycle, at the Libertarian Party of Kentucky’s State Convention. In mid-March, 2019, Cormican filed the Statement of Candidacy for the office of Lieutenant Governor, in conjunction with the requirements of K.R.S. 118.367. She received the letter, attached as Exhibit A, back from the Kentucky Secretary of State, indicating she could not be placed on the ballot “absent a court order.”
11. Kyle Hugenberg (“Hugenberg”) is a registered Libertarian voter in Jefferson County, Kentucky. Hugenberg was also duly nominated as the Libertarian Party’s State Auditor Candidate for the 2019 Election Cycle. In mid-March, 2019, Hugenberg filed the Statement of Candidacy for the office of Auditor, in conjunction with the requirements of K.R.S. 118.367. He received a similar letter to Exhibit A back from the Kentucky Secretary of State, indicating he could not be placed on the ballot “absent a court order.”

12. Josh Gilpin (“Gilpin”) is a registered Libertarian voter in Graves County, Kentucky. Gilpin was also duly nominated as the Libertarian Party’s Agriculture Commissioner Candidate for the 2019 Election Cycle. In mid-March, 2019, Gilpin filed the Statement of Candidacy for the office of Agriculture Commissioner, in conjunction with the requirements of K.R.S. 118.367. He received a similar letter to Exhibit A back from the Kentucky Secretary of State, indicating he could not be placed on the ballot “absent a court order.”
13. Defendant Justin Crigler (“Crigler”) was appointed to fill the vacancy in the Boone County Clerk’s office, and is, therefore, Boone County’s Clerk and chief elections officer. Under K.R.S. 118.356 and 118.367, he is also the filing officer for the statement of candidacy. Under K.R.S. 117.035, Crigler and the other members of the Boone County Board of Elections are to administer the election laws of the state.
14. Defendants Michael Helmig, Marilyn Howard, and Emily Shelton are the remaining members of the Boone County Board of Elections (collectively Crigler, Helmig, Howard, and Shelton are denoted the “Boone County Defendants”). Under K.R.S. 117.035, Crigler and the other members of the Boone County Board of Elections are to administer the election laws of the state.
15. Defendant Alison Lundergan Grimes (“Grimes”) is and was at all relevant times herein the duly elected Kentucky Secretary of State, and, under HB 114, an “ex officio” member of the State Board of Elections, and the “chief election official for the Commonwealth,” and pursuant to K.R.S. 117.015 and other laws is responsible for administering and enforcing the election laws of the state, and is the Chief Elections Officer for the state. Defendant Grimes is sued in her official capacity only.

16. Defendants David L. Osborne, Katrina Fitzgerald, Joshua Givens Branscum, Albert Chandler, III, Sherry Rene Whitehouse, George Russell, Deanna Brangers, and Dwight Sears are Board Members of the Kentucky State Board of Elections, and, pursuant to K.R.S. 117.015 and other laws, is responsible for administering and enforcing the election laws of the state. Defendants Osborne, Fitzgerald, Branscum, Chandler, Whitehouse, Russell, Brangers, and Sears are sued in their official capacities only.
17. Defendant Jared Dearing is the Executive Director of the Kentucky State Board of Elections, and, pursuant to K.R.S. 117.025 is the Chief Administrative Officer of the Kentucky State Board of Elections, which, pursuant to K.R.S. 117.015 and other laws, is responsible for administering and enforcing the election laws of the state. Defendant Dearing is sued in her official capacity only.
18. Collectively Dearing, Osborne, Fitzgerald, Branscum, Chandler, Whitehouse, Russell, Brangers, and Sears are denoted the “State Board Defendants.”
19. Andrew Beshear, is the Attorney General for the Commonwealth of Kentucky, is further provided notice under K.R.S. 418.075 since the constitutionality of a statute is at issue in this matter. He is not sued as a party.
20. Among other things Defendants enforce and are charged with the enforcement or administration of Kentucky’s election laws, including the ballot access provisions that are complained of herein.

JURISDICTION AND VENUE

21. Subject matter jurisdiction over the claims and causes of action asserted by Plaintiffs in this action is conferred on this Court pursuant to 42 U.S.C. § 1983, 42 U.S.C. § 1988, 28 U.S.C. §1331, 28 U.S.C. § 1343, 28 U.S.C. §§ 2201 and 2202, and other applicable law.

22. Venue in this District and division is proper, pursuant to 28 U.S.C. §1391 and other applicable law, because all of the deprivations of Plaintiffs' Constitutional Rights occurred in counties within this District within Kentucky, and future deprivations of their Constitutional Rights are threatened and likely to occur in this District.

Additional Allegations Concerning Standing

23. Defendants are empowered, charged with, and authorized to enforce and carry out Kentucky's election laws. Moreover, Defendants actually do enforce and administer Kentucky's election laws, including the ballot access provisions challenged herein.

24. Plaintiffs Hicks, Cormican, Hugenberg, and Gilpin all delivered statements of candidacy to Defendant Grimes in March, 2019, and all received letters similar to that at Exhibit A indicating they would not be placed on the ballot "absent a court order." Defendants declined to place the candidates on the ballot, and declined to respond, demonstrating their enforcement of the laws challenged herein, and the deprivation of Plaintiffs rights as a consequence.

FACTS COMMON TO ALL CLAIMS

Background on Kentucky's Ballot Access Laws

25. Kentucky utilizes a three-tiered system for political groups and ballot access. At the top of the tier are "Political Parties." They are defined in K.R.S. 118.015(1) as follows: "A 'political party' is an affiliation or organization of electors representing a political policy and having a constituted authority for its government and regulation, and whose candidate received at least twenty percent (20%) of the total vote cast at the last preceding election at which presidential electors were voted for."

26. The Democratic and Republican Parties are the only Political Parties in Kentucky.

27. Next are “Political Organizations.” They are defined in K.R.S. 118.015(8) as follows:

“‘Political organization’ means a political group not constituting a political party within the meaning of subsection (1) of this section but whose candidate received two percent (2%) or more of the vote of the state at the last preceding election for presidential electors.”

28. LPKY is a Political Organization, and, in fact, is the only one in Kentucky.

29. Finally, there are “Political Groups.” They are defined in K.R.S. 118.015(9) as follows:

“‘Political group’ means a political group not constituting a political party or a political organization within the meaning of subsections (1) and (8) of this section.”

30. In order to be placed upon the ballot, prior to 2019 HB 114 and 2019 SB 60, the candidate also had to file a one-page statement of candidacy⁴ on or before April 1 (which could be extended to the next business day if April 1 fell on a weekend) under KRS 118.367.

31. Section 1 of 2019 HB 114 changed this deadline for the statement of candidacy required under KRS 118.367, to the “first Friday following the first Monday in January,” and, further, under Section 12, 2019 HB 114 had, at Section 12, an emergency clause, making it effective upon its signing by Governor Bevin on March 19, 2019, thus making the bill retroactive, a violation of due process, and *ex post facto*.⁵ 2019 HB 114 has no severability provision, indicating the Kentucky Legislature’s preference that if any portion of the bill is unconstitutional, the entirety of the bill is unconstitutional.

32. Perhaps recognizing the patent unconstitutionality of 2019 HB 114, the General Assembly also passed 2019 SB 60. Like 2019 HB 114, under Section 14 of the bill, it also changed the

⁴ http://apps.sos.ky.gov/CandidateFilingDocuments/Governor_Independent.pdf (last visited 4/11/2019). Notably, the Secretary of State’s website indicates the deadline is April 1, even though it was retroactively changed to January.

⁵ <https://apps.legislature.ky.gov/record/19rs/hb114.html> (last visited 4/11/2019)

deadline for the Statement of Candidacy to the “first Friday following the first Monday in January,” but, under Section 16, takes effect “November 6, 2019.”

The Burdens of 2019 HB 114 and 2019 SB 60

33. Since achieving ballot access in 2016, LPKY ran approximately 20 candidates, mostly at the county level, but also ran several candidates for the Kentucky State House of Representatives.
34. LPKY, and its candidates, achieved some success – particularly where the party was able to target races where: (i) there was serious dissatisfaction with incumbent candidates or weak or flawed candidates put forward by Democrats or Republicans; or (ii) in races where Democrats or Republicans did not file for the office in question. The party has elected several Magistrates/Justices of the Peace, in approximately five separate counties, as a result of that strategy in 2018.
35. LPKY reasonably relied on Kentucky law in formulating its nominating processes, holding its state convention in 2019 in early March, well aware of the April 1 filing deadline, as mentioned, at significant burden and expense to the party and its members.
36. In addition to Presidential races, LPKY has also fielded candidates for Congress and U.S. Senate. In 2014, LPKY and LNC ran David Patterson for United States Senate. Despite the significant cost of petitioning, which drained funds that would otherwise be available for waging his campaign, Mr. Patterson received 44,240 votes.
37. The challenged provisions impermissibly freezes the status quo and does not allow for a real and equal opportunity for ballot qualification.
38. The actions set forth herein have and continue to deprive Plaintiffs of their constitutional rights.

**COUNT I – VIOLATION OF FOURTEENTH AND FIFTH AMENDMENT DUE
PROCESS – UNCONSTITUTIONAL RETROACTIVITY – 2019 HB 114**

39. Plaintiffs hereby reincorporates the preceding paragraphs of his Complaint as if fully set forth herein.
40. Plaintiffs are citizens of the United States of America; the members of Plaintiff LPKY are also citizens of the United States of America and each is an organization registered and/or authorized to act as a political party in the United States of America.
41. Plaintiffs have clearly established rights and protections under the United States Constitution and its statutes to Due Process, as well as their guarantees of Equal Protection of Law under the Fifth and Fourteenth Amendments to the U.S. Constitution.
42. Defendants, using their respective offices and acting under color of state law, violated and are violating Plaintiffs' Fourteenth and Fifth Amendment Rights, which have deprived, are depriving, and will deprive them of their rights to Due Process under the U.S. Constitution, which rights are clearly established; as well as their rights to Equal Protection of Law under the Fourteenth Amendment to the U.S. Constitution. Defendants thereby subjected themselves under 42 U.S.C. § 1983, to prospective injunctive relief and declaratory relief under 28 U.S.C. §§ 2201, *et seq.*
43. The unconstitutional retroactivity of 2019 HB 114, applied to the 2019 election cycle, which pulled the rug out from under Plaintiffs, is clearly unconstitutional under well-established case law, as provided in *Bowen v. Georgetown Univ. Hospital*, 488 U.S. 204, 208 (1988), *Kaiser Aluminum & Chemical Corp. v. Bonjorno*, 494 U.S. 827, 855 (1990), *Ea. Enters. v. Apfel*, 524 U.S. 498, 532-33 (1998), *FCC v. Fox Television Stations, Inc.*, 132 S.Ct. 2307,

2317-18 (2012), *Hudler v. Austin*, 419 F. Supp. 1002 (E.D. Mich. 1976), and *Libertarian Party of Ohio v. Husted*, 2014 U.S. Dist. LEXIS 187771 (ED Ohio 2014).⁶

44. Because 2019 HB 114 has no severability clause, it should be invalidated *in toto*. *Leavitt v. Jane L.*, 518 U.S. 137, 139 (1996).

**COUNT II – VIOLATION OF FIRST AND FOURTEENTH AMENDMENT RIGHTS
DUE TO THE EARLY JANUARY DEADLINE FOR STATEMENTS OF CANDIDACT
DUE PROCESS – UNCONSTITUTIONAL RETROACTIVITY – 2019 HB 114 and 2019
SB 80**

45. Plaintiffs hereby reincorporates the preceding paragraphs of his Complaint as if fully set forth herein.

46. Defendants, using their respective offices and acting under color of state law, violated and are violating Plaintiffs’ First Amendment Rights, which have deprived, are depriving, and will deprive them of their rights to Free Speech, Expression, and Association guaranteed to them under the First Amendment of the U.S. Constitution, which rights are clearly established; as well as their rights to Equal Protection of Law under the Fourteenth Amendment to the U.S. Constitution. Defendants thereby subjected themselves under 42 U.S.C. § 1983, to prospective injunctive relief and declaratory relief under 28 U.S.C. §§ 2201, *et seq.*, and the individual capacity Defendants subjected themselves to be liable for monetary damages sought herein.

47. The First Amendment of the U.S. Constitution provides, in relevant part, that “Congress shall make no law ... abridging the freedom of speech...” The Fourteenth Amendment has incorporated the First Amendment to apply to the states, including the Commonwealth of Kentucky, under *Gitlow v. New York*, 268 U.S. 652 (1925).

⁶ We have not brought a damages claim at the present time; we reserve the right to do so in the future.

48. Defendants abused the authority of their respective offices and, while acting under color of law and with knowledge of Plaintiffs' established rights, used their offices to violate their First and Fourteenth Amendment rights.
49. In *Libertarian Party of Kentucky v. Ehrler*, 776 F. Supp. 1200 (EDKY 1991) the LPKY has previously litigated the exact questions raised here – an early statement of candidacy deadline. This Court, in *Ehrler*, addressed a January 29 filing deadline (even later than the deadline in 2019 SB 60 and 2019 HB 114). *Id.* at 1203. The Court struck the January 29 filing deadline, citing *Williams v. Rhodes*, 393 U.S. 23 (1968), which struck an early February filing deadline for statement of candidacy forms in Ohio as too early, *Anderson v. Celebreeze*, 460 U.S. 780 (1983), which struck a March filing deadline for statement of candidacy forms in Ohio as too early, *Cripps v. Seneca County Board of Elections*, 629 F. Supp. 1335 (N.D. Ohio 1985), which struck a late February filing deadline as too early, and *New Alliance Party of Alabama v. Hand*, 933 F.2d 1568 (11th Cir. 1991), which rejected an April 6 deadline as too early.
50. In discussing the early March deadline in *Anderson*, the U.S. Supreme Court opined that “[a]t this point developments in campaigns for the major-party nominations have only begun, and the major parties will not adopt their nominees and platforms for another five months. Candidates and supporters within the major parties thus have the political advantage of continued flexibility; for independents, the inflexibility imposed by the March filing deadline is a correlative disadvantage because of the competitive nature of the electoral process.” 460 U.S. 780 at 791. Furthermore, “[i]f the State's filing deadline were later in the year, a newly emergent independent candidate could serve as the focal point for a grouping of Ohio voters

who decide, after mid-March, that they are dissatisfied with the choices within the two major parties.” *Id.*

51. The alterations to the April 1 statement of candidacy deadline, pushing them back to January, in both 2019 HB 114 and 2019 SB 60, violates clearly established rights.
52. In the alternative, if the Court finds that Kentucky’s ballot access provisions, facially and as applied to Plaintiffs, do not constitute a severe burden on the rights of the Plaintiffs, then they constitute more than a minimal burden, and do not pass muster under the flexible analysis that weights the burdens of Plaintiffs against the Commonwealth’s asserted interest and chosen means of asserting it, under the prevailing U.S. Supreme Court cases of *Anderson v. Celebrezze*, 460 U.S. 760 (1983) and *Burdick v. Takushi*, 504 U.S. 428 (1992).
53. Plaintiffs seek declaratory relief, and prospective injunctive relief under 42 U.S.C. § 1983 and 28 U.S.C. §§ 2201 and 2202, declaring the challenged Kentucky Ballot Access laws unconstitutional, in contravention of the First and Fourteenth Amendments of the United States Constitution. Plaintiffs further seek their costs and reasonable attorney fees under 42 U.S.C. § 1988.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants as prayed for, including:

- A. That this Court issue a declaration that 2019 HB 114 and 2019 SB 60 are unconstitutional, in contravention of the First, Fifth, and Fourteenth Amendments of the United States.
- B. That this Court enter permanent injunctive relief to prohibit enforcement of the Kentucky’s ballot access laws, and specifically the January deadline in K.R.S. 118.367, altered as a result of 2019 HB 114 and 2019 SB 60, facially, and as applied to minor

political parties such as the LPKY and Plaintiffs, and direct that Defendants accept and process the statements of candidacy filed prior to April 1 with Defendants Crigler and Grimes, and accept certificates of nomination regarding the Plaintiffs in the ordinary course.

- C. That Plaintiffs be awarded their costs in this action, including reasonable attorney fees under 42 U.S.C. § 1988; and
- D. Such other relief as this Court shall deem just and proper.

Respectfully submitted,

/s/ Christopher Wiest
Christopher Wiest (KBA 90725)
Chris Wiest, Atty at Law, PLLC
25 Town Center Blvd, Suite 104
Crestview Hills, KY 41017
859/486-6850 (v)
513/257-1895 (c)
859/495-0803 (f)
chris@cwiestlaw.com

/s/Thomas Bruns
Thomas Bruns (KBA 84985)
4750 Ashwood Drive, STE 200
Cincinnati, OH 45241
tbruns@bcvalaw.com
513-312-9890

/s/Robert A. Winter, Jr.
Robert A. Winter, Jr. (KBA #78230)
P.O. Box 175883
Fort Mitchell, KY 41017-5883
(859) 250-3337
robertawinterjr@gmail.com

Attorneys for Plaintiffs