

STATE OF MICHIGAN
IN THE COURT OF CLAIMS
Halls of Justice
925 W. Ottawa St.
P.O. Box 30185
Lansing, MI 48909
(517) 373-0807

RECEIVED
MAY 20 2020
COURT OF CLAIMS

NEVIN P. COOPER-KEEL, JD,

Plaintiff,

Case No. TBD

20-000091-MM

V.

Hon. TBD

The Michigan Secretary of State, Jocelyn Benson

Defendant.

DEPT. OF THE
ATTORNEY GENERAL
MAY 28 2020
Assigned to

Nevin P. Cooper-Keel, JD
Plaintiff – In Pro Per
3127 127th Avenue
Allegan, MI 49010
P: 616.329.7077
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Michigan Department of Attorney General
Attorney for Defendant
525 W. Ottawa St., P.O. Box 30212
Lansing, MI 48909
Main Number: 517-335-7622
E:

PLAINTIFF'S COMPLAINT (Filed May 20, 2020)

NOW COMES Nevin P. Cooper-Keel, JD, (hereafter, "Plaintiff") in pro per, requests oral argument on this matter and for his motion pursuant to MCR 2.110 states:

Statement of Facts

1. Plaintiff is a candidate for State Representative in Michigan's 80th District - running as a Republican for this August's Primary Election.

2. Plaintiff is challenging an incumbent for that office.
3. On or about May 19, 2020, Michigan's current Secretary of State, Jocelyn Benson, (hereafter, "SOS") announced that she would be utilizing her office to send out unsolicited absentee ballot applications to all voters. (see press release found at: <https://content.govdelivery.com/accounts/MISOS/bulletins/28c45d6>)
4. This court has original jurisdiction of this matter by virtue of the Defendant being an office of the state, pursuant to MCL 600.6419.
5. This is unprecedented in that the SOS has never sent out unsolicited absentee voter ballots applications.
6. One reason the SOS has never sent them out is that the SOS has no authority to do so under state law.
7. Another is that the only sections of the government proscribed by Michigan law to be at all directly involved with absentee voter ballots and applications are local county and municipal clerks. (see: MCL 168.759)
8. A candidate challenging an incumbent is already at a disadvantage to the candidate established within the state government.
9. Officials of our state government using their official capacity to further slant that advantage to 'the deep state' is repugnant on its face, and that's what our SOS is doing.
10. It is also illegal for a lot of reasons – some already adjudicated by this court. (see: Taylor v Currie, 277 Mich App 85, 97 (2007), and Fleming v Macomb County Clerk, 2008 WL 2553266 (Ct App Mich June 26, 2008, unpublished).

11. The filing deadline was on or about April 17, 2020, and that is the date which Plaintiff filed to run for office and began campaigning for it.
12. The incumbent for that seat has been campaigning for the last eight years in the same district for the same seat.
13. Plaintiff filed for office on the filing deadline day, and so has been campaigning for about one month.
14. One protection candidate's have that it will be a fair election is that the entrenched swamp can't use the government to solicit voters who have not availed themselves to such solicitation. (Taylor v. Currie, *supra*)
15. SOS is set to do the same thing the clerks were doing in the aforementioned cases.
16. The only distinguishing feature of this case from the others cited above is that the SOS is so much further removed from authority to have anything to do with absentee ballots or solicitation of them than local clerks.
17. The SOS deems to engage in the exact same activity This Court has already ruled is "propaganda at the [state's] expense is certainly not within the scope of Michigan election laws or the Michigan Constitution." (Taylor, *supra*)
18. The State of Michigan rushing unsolicited voters into voting severely handicaps Plaintiff's ability to reach voters in a way that resembles a fair election, compared to an opponent that has been campaigning for this office for so much longer.
19. Jocelyn Benson is worried about how badly the economic impact of her and her political allies like the Governor's playing dictator with our state government has wrecked our economy and created budget deficits -- which the longer those

dwindle and begin to show their effects to the public, the worse the next election is going to be for her political party and the rest of the 'swamp'.

20. Hence, this is why the SOS is being abused to solicit early voting amongst voters who've not indicated they're ready to do that, before they get a chance to see how bad the damage is from the political party controlling the executive branch.
21. SOS is also abusing the office of SOS's state resources to instruct local clerks to send unsolicited absentee ballot applications, in contempt of this court's prior orders on that act being unlawful.
22. SOS mentioned in a press release about this act that it's, "mindful of two court cases, Taylor v Currie, 277 Mich App 85, 97 (2007), and Fleming v Macomb County Clerk, 2008 WL 2553266 (Ct App Mich June 26, 2008, unpublished)", that prohibit this conduct.

Issue 1 – Violation of Plaintiff's Due Process to a Fair Election

23. SOS states in their May 19, 2020, press release that they believe recent changes to Michigan's Constitution are what allow for their proposed action.
24. In 2018, Michigan voters approved what was known as Proposal 3 – which, inter alia, said that a person would automatically be registered to vote when doing business with the SOS.
25. What Prop 3 didn't say is that registrants were availing themselves to be solicited by mail to become absentee voters.
26. The reason Michiganders widely reject that is because absentee voting is a pathway for much greater fraudulent election schemes, and so Michiganders have chosen to limit the ways which a person can vote absentee in the way its written in the Michigan Constitution and relevant laws.

27. One reason the Michigan Legislature and laws like MCL 168.759 specifically designate local clerks to handle all absentee voting matters, including application, is so one small group of tyrants at the state level can't begin unduly wielding official state power to crush the little guy and steer elections in the deep state's favor that are supposed to be localized, like a State Rep election.
28. Plaintiff isn't putting his time and money into an election for the deep state to be able to reach from afar, in Lansing, using official state power, to spur an unsolicited vote only a month into the campaign.
29. For the SOS to do so, is really negating the whole election process – and exactly why Michigan law proscribes its method for absentee voting, and why it doesn't proscribe what the SOS is attempting.
30. Being a registered voter is not the same as voting with an absentee ballot, and Michigan law distinguishes the two.
31. SOS's mandate in regards to anything with voting has to do with automatic registry as a voter – and nothing to do with absentee voting.
32. If the SOS follows through with sending unsolicited absentee ballots at this time, it will have denied Plaintiff the right to a fair election that Plaintiff is a candidate in.
33. In that case, an appropriate remedy will be for SOS to pay Plaintiff a term of office's wage (\$71k/year times two years in a term).

WHEREFORE, Plaintiff requests This Court 1) permanently enjoin SOS from engaging in the act of mailing unsolicited applications to vote by absentee ballot, or from engaging with anything to do with absentee ballots – other than what SOS is mandated to do with automatic voter registration – which is an act entirely separate from absentee voting, 2) to enjoin SOS from using that political office to direct state resources to advocate other clerks violate the law by sending unsolicited absentee voter applications, and 3) to award reasonable costs and

pro-per fees to Plaintiff for having to bring this legal action to correct SOS's error pursuant to MCL 600.1721.

Issue 2: Violation of MCL 168.759

34. 'You're automatically registered to vote when you renew your driver's license' – the 2018 Prop 3 addition to our State's Constitution - does not mean "the SOS now assume's a local election Clerk's role and can engage in the same conduct This Court is already ruled illegal for local Clerks." (Taylor, *supra*)
35. In that sense, SOS's violation of MCL 168.759 is really two part: 1) SOS does not have the authority to act on behalf of the state in any capacity regarding absentee voting, and 2) even if SOS gained the same authority to engage in the absentee voting process as local clerks, the act of sending unsolicited absentee voter applications has already been ruled illegal by This Court.
36. In Taylor, *supra*, This Court rightly held that "The city clerk, who is an elected official, has the role of neutral arbiter or referee . . . MCL 168.759(5) does not permit a city clerk to mail absent voter ballot applications without having received a verbal or written request. "
37. The only changes to the MI Constitution or its statutes regarding absentee voter applications are the time frames voters may opt to apply for one, not the process for which applications are to be made or which government agency handles that process.
38. This ruling holds as a bar for any governmental agency of the State of Michigan, using their office to solicit votes through unsolicited mailings of absentee voter applications.

WHEREFORE, Plaintiff requests This Court 1) permanently enjoin SOS from engaging in the act of mailing unsolicited applications to vote by absentee ballot, or from

engaging with anything to do with absentee ballots – other than what SOS is mandated to do with automatic voter registration – which is an act entirely separate from absentee voting, 2) to enjoin SOS from using that political office to direct state resources to advocate other clerks violate the law by sending unsolicited absentee voter applications, and 3) to award reasonable costs and pro-per fees to Plaintiff for having to bring this legal action to correct SOS's error pursuant to MCL 600.1721.

Issue 3: Contempt of Court

39. Had SOS not explicitly stated it was aware of This Court's prior ruling on this conduct being prohibited, perhaps there could be doubt of its contempt for This Court and Michigan law's prohibition of this conduct.
40. Haters gonna hate, Tyrants gonna act unilaterally with as little ado or notice as possible.
41. Willful and flagrant disregard of This Court's ruling on this activity, combined with only stating the intent to do this the week SOS wants to send these out, show a deliberacy to undermine This Court's order and to prevent timely opposition for either judicial or legislative process to prevent it.
42. Such a deviant course of action SOS wreaks of contempt for the absentee process and ipso factor This Court's rulings on it, which they were aware of but have gone ahead to violate them in the most unilateral fashion possible.
43. If SOS were remotely confident in these actions being legal, SOS wouldn't be trying to rush these actions through before they can be challenged.
44. And it also begs the question: why, if SOS thinks Prop 3 from 2018 gave SOS authority to send unsolicited applications for absentee ballots, did SOS wait until 2020 – a presidential election year – to do it, and why with such short notice.

45. The answer to why is that SOS knows it is behaving illegally and is trying to get away with it by announcing it and rushing into it before anyone has a chance to stop it, so as to underhandedly influence the coming election.

WHEREFORE, Plaintiff requests This Court 1) permanently enjoin SOS from engaging in the act of mailing unsolicited applications to vote by absentee ballot, or from engaging with anything to do with absentee ballots – other than what SOS is mandated to do with automatic voter registration – which is an act entirely separate from absentee voting, 2) to enjoin SOS from using that political office to direct state resources to advocate other clerks violate the law by sending unsolicited absentee voter applications, 3) to award reasonable costs and pro-per fees to Plaintiff for having to bring this legal action to correct SOS's error pursuant to MCL 600.1721, and 4) whatever else this court deems just.

Respectfully Submitted,



date: 5/20/2020

Nevin P. Cooper-Keel, JD
Plaintiff – In Pro Per

AFFIDAVIT

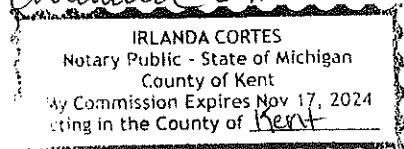
I declare under the penalties of perjury that this petition has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Respectfully Submitted,



date: 5/20/2020

Nevin P. Cooper-Keel, JD
Plaintiff – In Pro Per

Irlanda Cortes 5/20/2020


Kent