

**IN THE CIRCUIT COURT OF
GREENE COUNTY, MISSOURI**

Steven L. Reed, Petitioner)	
vs)	
)	
Brenda M. Cirtin, City Clerk, City of Springfield, Respondent)	Case No. 107CC1310
)	
)	
)	

**PETITIONER’S REQUEST THAT ATTORNEY GENERAL JOIN ACTION,
REQUEST FOR IMMEDIATE RELIEF, DECLARATORY JUDGEMENT
AND
PETITIONER’S OPPOSITION TO REPENDENT MOTION TO DISMISS**

I.

PETITIONER REQUEST FOR ATTORNEY GENERAL TO JOIN ACTION,

NOW COMES Petitioner - Plaintiff Steven Reed Pro Se and states HE ENTITLED to have his Pleadings Interpreted under the RELAXED standards for PRO SE LITIGENTS and for cause proceeds on behalf of himself and all others currently or that may me similarly situated and effected in the FUTURE Et Al.

Reed by way of this motion notifies the Attorney General Jay Nixon to Join this Action or to Initiate their Own Action against the City Clerk Brenda Cirtin and the City

of Springfield for violating State Statues and Laws. Notice will be sent the day this notation is filed via USA mail and via e-mail.

1. Back Ground Facts / Argument - Petitioner Reed contacted the city clerk of a local city that has around 13,000 citizens and ask if their city charter has any wording concerning write-in candidates for office and she said they go through the county clerk to register write-in candidates and that she would have their city attorney call Reed. One hour latter the City Attorney called and Petitioner Reed asked if that city had anything in the city charter about write-ins and he said NO. He said they have nothing about that in what they call their book of codes because it would be:

“Repugnant and that the city must follow State Statutes and law.”

(Definition of Repugnant---To oppose, to fight against, per Webster Dictionary),

2. Petitioner Reed told the City Attorney of the situation and the attorney said he believes the Write-In law listed on the Secretary of States website applies to all cities regardless of what class of city they are. The City Attorney said “You can not have a law that is opposition to state law.” The City Attorney said “if you want to be a write in candidate in City of xxxxxxxx you can do registration requirement of 115 of revised statues of Missouri---the qualifications for a write in candidate.” Petitioner Reed briefly explained the situation of this action concerning elections in Springfield and that he may quote the city attorney if that was ok.

3. The City Attorney said that the best thing Petitioner Reed could do is contact

the Attorney General and that if “the City of xxxxxxxx was violating a state statute the attorney general would be down here suing the City of xxxxxxxx.

5. Petitioner Reed does not want to start a squabble with the local city or cause any friction so he will notify the Court, the Attorney General, and media if need be the NAME OF THE CITY and Their Attorney.

6. Petitioner Reed believes this seems to verify that with over 150,000 people living in Springfield we must be sure proper election laws that are consistent with all other cities and counties statewide and that those **COMMON LAWS and CONSTITUTIONAL PRACTICES are adhered to.**

7. According to the exhibits Petitioner has provided ALL CITIES, and INCORPORATED AREAS in the State of Missouri allow write-in candidates **except the City of Springfield. This BLATANT and OBVIOUS Exemption from Common Law Practice and Public Policy Observance seems to be unique to Springfield Missouri and at odds with the Public Policy of the State of Missouri.**

8. Petitioner Reed believes that write-in candidates bring issues to the public debate and are totally necessary when no one files to be on the ballot. In this last election cycle and likely every future election cycle there are people who win local city or school board elections as write-ins. Petitioner Reed asks the Court to review the following from the State Constitution: **Missouri Constitution Article VIII SUFFRAGE AND ELECTIONS Section 2**

August 28, 2006 Qualifications of voters--disqualifications.

Section 2. All citizens of the United States, including occupants of soldiers' and sailors' homes, over the age of eighteen who are residents of this state and of the political

Subdivision in which they offer to vote are entitled to vote at all elections by the people....

Source: Const. of 1875, Art. VIII, § 2 (as amended November 4, 1958).

(Amended November 5, 1974)

....(1964) In appeal from action to contest county school superintendent election, dicta contained in opinion stated that if § 167.020, RSMo, were construed to prohibit write-in candidates it might be violative of this section and unconstitutional. *Kasten v. Guth* (Mo.), 375 S.W.2d 110.

Missouri Constitution Article I BILL OF RIGHTS Section 25

August 28, 2006 Elections and right of suffrage.

Section 25. That all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Source: Const. of 1875, Art. II, § 9.

(1964) In appeal from action to contest county school superintendent election, dicta contained in opinion stated that if § 167.020 were construed to prohibit write-in candidates it might be violative of this section and unconstitutional. *Kasten v. Guth* Mo.), 375 S.W.2d 110.....

Missouri Revised Statutes Chapter 115 Election Authorities and Conduct of Elections Section 115.453

August 28, 2006

(4) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate for election to office with the

proper election authority, who shall then notify the proper filing officer of the write-in candidate prior to 5:00 p.m. on the second Friday immediately preceding the election day;...

Petitioner Reed argues that clearly due process, equal protection, free speech, and the right of the majority of the people to be involved in the election process are reasons this case must not be dismissed. **In *Bush v. Gore*** (SUPREME COURT OF THE UNITED STATES GEORGE W. BUSH, et al., PETITIONERS v. ALBERT GORE, Jr., et al.ON WRIT OF CERTIORARI TO THE FLORIDA SUPREME COURT, December 12, 2000), **the Supreme Court said...** The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another. See, e.g., *Harper v. Virginia Bd. of Elections*, [383 U.S. 663](#), 665 (1966) (“[O]nce the franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause of the [Fourteenth Amendment](#)”). It must be remembered that “the right of suffrage can be denied by a debasement or dilution of the weight of a citizen’s vote just as effectively as by wholly prohibiting the free exercise of the franchise.” *Reynolds v. Sims*, [377 U.S. 533](#), 555 (1964).

8. Petitioner Reed believes what many scholars have said which is the Supreme Court stopped the manual recount because if was only for certain counties in Florida. The Gore legal team was worried about the time element so they requested a manual recount in only a few counties. It seems the Supreme Court feels that all the people

needed consistent equal treatment and that if a total statewide recount would have been requested they would have allowed it to be finished.

9. Petitioner Reed in this action believes that all the people of Missouri must be treated equal and fairly concerning elections and the state laws that are supposed to protect the right of free, fair, and open elections.

10. Petitioner Reed argues that the concept of equal treatment is something that the City of Springfield must adhere to since all other people of counties, cities, and towns had the right to “write-in candidates” for Mayor and denying the people of Springfield this option denies all the 150,000 possible voters their due process, equal protection, free speech, and the right of the majority of the people. By not allowing write-ins the City of Springfield likely violated and prevented a free and full expression of the popular will.

A Attorney General Opinion No. 110-91

Says...”Election laws must be liberally construed in aid of the right of suffrage... While mandatory statutory requirements must be followed, “elections should be held as to afford a free and fair expression of the popular will...” Kastin v. Guth, 375 S.W.2d 110, 113 (Mo.1964), quoting State at Inf. McKittrick ex rel. Martin v. Stoner, 347 Mo. 242, 146 S.W.2d 891, 894 (Mo.1941)...William L. Webster, Attorney General

IMMEDIATE DECLARATORY RELIEF and ORDER OF MANDAMUS

DEMANDED

COMES NOW, Plaintiff Steven Reed who asks the Court for relief. After reviewing the case Petitioner Reed found evidence that was seen but not brought to light

and needs to be entered into evidence. The actual letter exhibit #9 and #10 was from Richard Struckhoff that stated that he had received a letter from the city attorney saying the city does not allow for write-ins according to the charter. Mr. Struckhoff said:

In light of the city's position in this matter, your write-in candidacy for Springfield mayor appears to be invalid, and such writ-in votes cannot be properly cast or counted in the upcoming municipal election.

Brenda Cirtin is to administer City Elections according to the City Charter. The city attorney Dan Wichmer is not responsible or allowed to run city election he can only state his legal opinion. The letter from Mr. Wichmer said:

Mr. Stuckhoff:
Please be advised the City Charter does not allow for a write-in candidate. The City Charter requires that in order for any person to be a candidate for mayor, they must comply with Section 13.4.1 of the Springfield City Charter. I have found nothing in state election law or state case law that would override the charter requirement.

There was no cover letter or anything on the two pages that even mentioned the City Clerks name Brenda Cirtin. Since the City of Springfield, Missouri Charter clearly states:

...Section 13.2. Regulations of elections

The council shall provide by ordinance all regulations which it considers needful or desirable, not inconsistent with this Charter **or state laws**, for the conduct of municipal elections, including notice, for the prevention of fraud in such elections, and for the recount of ballots in case of doubt or fraud. **Municipal elections shall be conducted by the**

city clerk unless otherwise provided by law.

Approved by vote of the people August 8, 1978.

Section 13.3. When magistrate may conduct election

If, at any time, by reason of nonacceptance, resignation, refusal to qualify, or for any other cause, there shall be no officers of the city to order and conduct an election, the senior judge of the Greene County Circuit Court having jurisdiction in the City of Springfield is empowered to order and conduct an election for city officers, declare the results thereof, and install the newly elected officials.

Approved by vote of the people August 8, 1978....

Wherefore Premises the LAW and INTERNATIONAL TREATIES Considered, For these reasons Petitioner believes the letter to Mr. Struckhoff was not a legal document which means Petitioner Steven Reed should have been allowed by law since **his declaration of candidacy had been accepted.** CLEARLY THE LEGAL CONCEPT OF YOU KNOW OR SHOULD KNOW applied in this case **since they should have known the legal process of notifying government officials about the proper election process.** The only way to give PROPER RELIEF is for the Clerk Brenda Cirtin and the City Council to admit mistake, and declare a new and legal election that will make the City of Springfield whole with the election and general laws of the State of Missouri.

PETITIONER OPPOSITION TO REPENDENT MOTION TO DISMISS

COMES NOW, Plaintiff Steven Reed and objects to Respondent Brenda Cirtin's motion filed by the legal counsel paid for by the City of Springfield to Dismiss this case, **in that it seems to be an unallowable and unlawful attempt to hide the core issues in the case forever.** Petitioner Reed hereby attempts to address each point brought up by

Respondent Brenda Cirtin and the legal council who is representing her, and is paid for by and also representing those who are in charge of running the City of Springfield.

STATEMENTS OF FACT (Background)

1. On February 2, 2007 Steven Reed the Plaintiff talked on the phone with an election specialist at the Secretary of States office and he said:

*“Yes anyone can file a declaration of candidacy and the form would need to filled out at the local county election official’s office not at the Secretary of States office since it is a local election. **Candidate Reed Your Petitioner was informed “ that as soon as that was done that person would need to file with the Missouri Ethics Commission and would become a candidate on that day”**”*

2. Plaintiff Reed filled a DECLARATION OF INTENT WRITE IN CANDIDATE on February 9, 2007 at 4:21 and it was signed by County Clerk Richard Struckhoff, (see exhibit #8). Plaintiff Reed formed a campaign committee with the Missouri Ethics Committee Reed for Mayor and started having flyers printed and distributed.

3. On February 15 Plaintiff Reed received a letter from Richard Struckhoff, (see new exhibit), that stated that he had received a letter from the city attorney saying the city does not allow for write-ins according to the charter. Mr. Struckhoff said:

*In light of the city’s position in this matter, your write-in candidacy for Springfield mayor **appears to be invalid**, and such writ-in votes cannot be properly cast or counted in the upcoming municipal election.*

4. Plaintiff Reed would argue that the position taken by the City is WRONG as

well as UNLAWFUL and Petitioner would argue the erroneous claims in said letter are CONTRARY to Well Settled Missouri PUBLIC POLICY and the States Common, Statutory and Constitutional Laws. Petitioner adamantly and vigorously questions why the letter to Mr. Struckhoff was not included in a letter from Brenda Cirtin who according to City Charter is to administer the City elections. The city attorney Dan Wichmer is not responsible or allowed to run city election he can only state **his legal opinion**. The letter from Mr. Wichmer said:

Mr. Stuckhoff:

*Please be advised the City Charter does not allow for a write-in candidate. The City Charter requires that in order for any person to be a candidate for mayor, they must comply with Section 13.4.1 of the Springfield City Charter. **I have** found nothing in state election law or state case law ***that would override the charter requirement.****

5. Petitioner Reed states that it is like comparing the physical makeup of an orange to an apple. OBVIOUSLY & CLEARLY **the Springfield City Charter is silent on write ins just like every other city across the state. Emphasis ADDED**

6. OBVIOUSLY and Clearly the city attorney is entitled to **HIS Opinions** BUT NOT HIS FACTS or ERRONEOUS UNDERSTAND OF THE LAW, said being a Codified and Well Settled Law and WELL ESTABLISHED Public Policy across the State of Missouri. The State of Missouri Law is CONTRARY TO HIS PERSONAL OPINION.

7. Plaintiff Reed suggests is that the City unlawfully and against Public Policy NOT allow write-ins for City or School Board positions. CONTRARY to every other

CITY MUNICIPAL ELECTION in Missouri the entire State of Missouri said allowing for write-ins. **This Erroneous Position is at Odds with and Conflicts with well established Elections Practices decades old in Missouri.**

8. Plaintiff Reed went on campaigning hoping to get the write in option before election. On election day was when Plaintiff Reed became upset about what happened. County Clerk Struckhoff had announced one week before the election to all the election poll workers during a training session that:

*A man is trying to run as a write in for mayor and that he might get a ruling from **a federal court** and that if he did **he would let everyone know if they would have to be counted.** Also Mr. Struckhoff said that really he does not run the city elections he simply supplies the lection machines since the city does not own any.*

9. Plaintiff Reed voted at around noon and was told that his ballot would be spoiled and not count, but Reed wrote his name as well as a friend did on the ballot next to the Mayor.

Clearly the state is the overseer of all the elections and the idea of having elections that create equal treatment must be consistent across the state...Clearly the State or the POLITICAL SUBDIVISION of the City of Springfield has an OBLIGATION to see to it that City elections must be consistent with WELL SETTLED PRACTICES CUSTOMS AND PUBLIC POLICY and said being the LAW as practiced all across the state of Missouri...

...Supreme

Court Appeal No. 88039 Kathleen Weinschenk, William Kottmeyer, Robert Pund, Amanda Mullaney, Richard Von

Glahn, Maudie Mae Hughes and Give Missourians a raise, Inc.

Respondents v. STATE OF MISSOURI Appellant ROBIN CARNAHAN,

SECRETARY OF STATE Respondent Dale Morris and SENATOR

DELBERT SCOTT Intervenors/Appellants **RESPONDENTS' BRIEF**

Appeal from the Circuit Court of Cole County, Missouri

Honorable Richard G. Callahan Gray, Ritter & Graham, P.C.

Defendant Carnahan assists the 116 local election authorities in interpreting and administering the state election laws, and promulgates rules governing elections and electronic voting systems. A high priority of the Secretary of State is to work with local election officials, the media and **other groups** to increase voter participation. (L.F. at 314, ¶ 12) Local election authorities in the State of Missouri work in concert with the Missouri Secretary of State in conducting, administering and certifying elections. (Ex. 51, ¶ 2; Tr. at 181, 238-240; L.F. at 314, ¶13)

10. Petitioner Reed understands that the Secretary of State mainly is involved in state and federal elections but the overall job includes making sure **local elections** are held in a correct CONSTITUTIONAL and LAWFUL manner “Consistent With Public Policy” and GENERALLY RECOGNISED State Practices and Customs, **said being the THE COMMON LAW in Missouri.**

11. Petitioner Reed argues and would request that this Honorable Court order by MANDAMUS and instruct the Attorney General to determine the State’s Official Position and OPINION and grant review AND A DECLARATORY JUDGEMENT as to the Lawful Public Policy and STATE of the LAW in Missouri regarding these issues.

12. Petitioner would as well pray that an inquiry to examine if any MISTAKE or Fraud has occurred in regards to his and others being denied their SUFFERAGE ELECTION and VOTING RIGHTS has occurred in the course of these matters:

The 'Lectric Law Library's

*Legal Lexicon On * Fraud, To Defraud *...FRAUD, TO DEFRAUD - The term 'fraud' is generally defined in the law as an intentional misrepresentation of material existing fact made by one person to another with knowledge of its falsity and for the purpose of inducing the other person to act, and upon which the other person relies with resulting [injury](#) or damage. [Fraud may also include an omission or intentional failure to state material facts, knowledge of which would be necessary to make other statements not misleading.]*

To make a 'misrepresentation' simply means to state as a fact something which is false or untrue. [To make a material 'omission' is to omit or withhold the statement of a fact, knowledge of which is necessary to make other statements not misleading.] Thus, to constitute fraud, a misrepresentation must be false [or an omission must make other statements misleading], and it must be 'material' in the sense that it relates to a matter of some importance or significance rather than a minor or trivial detail.

Voter actually harassed---One election day Plaintiff Reed decided to hand out some flyers around 4:00 p m to 7:00 p m.. Reed for Mayor flyer were handed to voters as they went in or to some as they came out of the polling place. One young man took the flyer as he went in and on the way out he said when the poll workers seen him holding the flyer one poll worker yelled, “you can not vote until you throw away that flyer in the

trash and point to a trash can and pointed to a trash can,” and the young man---voter--- told them he has the right to have it on his person and so they let him vote.

Petitioner Reed explained to people that apparently Springfield is the only City in the state not allowing write-in candidates and almost everyone out of about 20 voters were very upset and said that sounds wrong. One voter said he was going to try and write in Reed’s name and when he asked a poll worker they said, “We are not allowing write-ins”. Petitioner Reed and a lady friend had voted at noon and wrote in Steven Reed next to Mayor Carlson and were told their ballots were spoiled and were told they would be thrown away. Petitioner Reed asked why and they said no they would not be thrown away---just spoiled.

Petitioner Reed asked someone going in to vote if they wanted a flyer and she said no that if I had questions about the write in issue I should contact Richard Struckhoff because she was helping with the polls. Others said they were told the same thing. The question is whether people should have called the City Clerk Brenda Cirtin since they according to the City Charter were running the election.

Because of the present Mayor’s response to a ice storm and his leadership there seemed to be a movement of people wanting a new Mayor. A local talk radio host spent several days talking entirely about we needed a write-in for Mayor. The last Sunday before the election call in on Cracker Barrel at 8:50 and said a lot of people want a new Mayor and we need a write-in candidate to vote on. Also the local blogs including the largest paper in the city have several comments posted by voters who said they want a new mayor. Possible motive to discourage write-in candidates would have been that if one is allowed then how many others may file and even if Petitioner Reed or someone

else did not win it could be embarrassing to the Mayor and the City Leaders if others received large amounts of the vote.

Also the Mayor did receive a large amount of the vote but over 1,200 votes were not cast for the present Mayor and many people may have voted for the current Mayor, because a lot of people worry that if you leave one of the offices with no vote that none of your votes will count. Petitioner Reed clearly understands that how many votes could or would have been cast is not the question as a whole. The real question is whether State Elections Laws were followed and will be followed in future elections.

SPECIFIC ARGUMENTS OPPOSING DISMISSAL OF CASE

ACCORDING TO Brenda M. Cirtin, Respondent's SUGGESTIONS IN SUPPORT OF MOTION TO DISMISS ARGUMENTS AGAINST DISMISSAL

1. ***Respondent claims Petitioner filed his "Petition Contesting Election and Requesting New Election" on or about April 6, 2007, three days following the election in question.***

1. Petitioner Reed argues that attempts were made to rectify the issue before the election since he filed a motion in Federal Court which was denied on March 30, 2007 by United States Magistrate Judge Sarah W. Hays because the election "issue was determined to not be related to the direct facts and issues in this action".

Part of the reason Petitioner filed a motion in a pending Federal Case is that he feels the reason the City did not want to allow his write in candidacy was that the Federal Case concerning his arrest for handing out DRAFT CLAIRE McCaskill flyers back in 2003 might see the light of day if the media decided to cover the issue. In the United States

District Court Western District of Missouri Southern Division Case No. 05-3133-CV-S-SWH. PLAINTIFF'S REQUEST FOR COURT ORDERED INJUNCTIONS, March 02, 2007 and PLAINTIFF'S ADDITIONAL ARGUMENTS FOR COURT ORDERED INJUNCTIONS March 09, 2007 were the motions filed.

In the case of *Corrigan v. City of Newaygo* (55 F.3rd 1211 1995 U.S. App.), (91995 FED. App. 0174P(6th Cir.)), the court stated... II. Mootness

The City contends that we should not reach the merits of this claim because the case has become moot. It argues that the election has already taken place without either Cook or Bumstead on the ballot and therefore injunctive relief would not be possible.

Furthermore, the City argues that both potential candidates have now paid their arrears so that there is no reason to expect that they will be excluded from any future elections.

As the Supreme Court has noted, in order to avoid mootness "[t]he usual rule in federal cases is that an actual controversy must exist at stages of appellate or certiorari review, **and not simply at the date the action is initiated.**" *Roe v. Wade* , [410 U.S. 113, 125](#)

(1973). Even when an actual controversy does not exist, an appellate court may appropriately adjudicate an issue **when it is one that is "capable of repetition,** yet

evading review." *Id.*; *Dunn v. Blumstein*, [405 U.S. 330](#) (1972); *Moore v. Ogilvie*,

[394 U.S. 814](#) (1969) (a case is not moot when it creates a "continuing controversy").

In *Blumstein* , the Court addressed the mootness of case in which the plaintiff had been denied the right to vote under a durational residency requirement. By the time the case

reached the Supreme Court, **the candidate had already fulfilled the requirement and**

Thus would not be kept off the ballot again under the statute. Nonetheless, the Court

held the case was not moot because "the laws in question remain on the books, and

Blumstein has standing to challenge them as a member of the class of people affected by the presently written statute." *Blumstein* , [405 U.S. at 333](#) n.2. The *Blumstein* Court reached this conclusion even though the case was brought by only one plaintiff and not as a class action. The rationale used in *Blumstein* resembles the reasoning used in *Roe* to hold that case "capable of repetition, yet evading review." The *Roe* Court observed both that a woman could be become pregnant more than once, and that "in the general population, if man is to survive, [pregnancy] will always be with us." *Roe* , 410 U.S. at 125. In other words, the Court held that the *Roe* plaintiff could represent the class of people who might become pregnant in the future and be subjected to the Texas statute restricting abortions.

This case is not moot with respect to the two voters, Corrigan and Stroven. We have every reason to expect that ordinance will be enforced again in a future election.

Furthermore, the defendant's refusal to place Cook and Bumstead on the ballot, which denied Corrigan and Stroven the chance to vote for them, could not be fully litigated before the election had passed. There is a reasonable expectation that future candidates for whom Corrigan and Stroven wish to vote will be denied a place on the ballot under the ordinance. **Thus with respect to the voters, this case is capable of repetition, yet evading review. EMPHASIS ADDED**

In addition, with respect to the candidates this case resembles *Blumstein* very closely. Like the plaintiff in *Blumstein* who had fulfilled the durational residency requirement, Cook and Bumstead have now paid their taxes. But, the *Blumstein* plaintiff and the candidates in this case both have standing as members of the class of people **who would be affected by the statutes in the future.** To hold this case moot would require the

absurd result that a court would never be able to rule on the Newaygo ordinance. No candidate barred from the ballot under the ordinance would ever be able to litigate fully a case in the time between the filing deadline in Newaygo and Election Day. Unless a candidate were willing to remain in default for several years, he could not demonstrate convincingly that the ordinance might ever be applied to him again. Therefore, the town could repeatedly apply the ordinance to different candidates, none of whom could ever challenge it in court. [2] they believed that no candidates for local office would ever be tax-delinquents, and therefore that the ordinance would never be violated or enforced, there would have been no reason for them to enact it. Furthermore, we note that in the Third Circuit a very similar ordinance was enforced and gave rise to a lawsuit that resulted in another published appeals court opinion. *See Deibler v. City of Rehoboth Beach*, 790 F.2d 328 (3d Cir. 1986). It seems likely to us that if these tax-delinquency ordinances have produced two such cases in nine years, this ordinance may well be enforced again in the near future. Finally, the dissent implies that prior to this case, the Newaygo ordinance was never invoked against any candidate in the twenty-five years since it was enacted. A more accurate statement would be that we do not know whether the ordinance has been invoked in the past because the record is silent on this issue.”

2. Petitioner Reed clearly argues the same issue that there was not time to get the issue litigated but that the issue will very like rise it head again since many people in the city have heard write-in candidates are not allowed by the city and also **by dismissing the case now it would deter any one from getting a real ruling on the issue in the future.**

2. *Respondent Cirtin claims Petitioner cites RSMO 115.553 as his basis for filing said action.*
3. *Respondent Cirtin claims Petitioner does not have standing to bring the instant action under the cited statute.*

Petitioner Reed points out that both of Respondent Claims #2 and #3 run together and mainly claims Petitioner Reed was not a candidate and has no standing to bring this action.

Petitioner Reed argues that it is unreasonable for Respondent Cirtin and the City of Springfield to try and dismiss this case on the basis that Reed was not a candidate and thereby not able to bring this case. A court exists to resolve disagreements and disputes and Petitioner Reed feels the Attorneys for the City of Springfield have went over the line of what should be an acceptable legal argument.

Petitioner Reed he was actually a ***candidate de facto*** (from www.answers.com, *Exercising power or serving a function without being legally or officially established: a de facto government; a de facto nuclear storage facility.*),

In reality as a matter of well settled FACT the government officials did not do their job as required by state law **said being to allow write-in candidates.** To that end Petitioner Reed argues he was indeed a legitimate Candidate who had the right under Missouri law to contest the election. To that end Petitioner Reed argues he was indeed a legitimate Candidate who had the right and continues to have LEGAL STANDING under Missouri and US Laws to contest the previous election as well as ALL OTHERS that are held in the FUTURE as said current practice is Morally Repugnant and UNLAWFUL, and being **against PUBLIC POLICY. PETITIONERS CIRTINS ARGUMENT - IF said is**

allowed to stand it will create and UNLAWFUL PRIOR RESTRAINT to all future Missouri Citizens and bar them forever from WRITE IN CANDIDACY as enjoyed and allowed across the State of Missouri.

Petitioner Reed argues that he was a candidate because:

1. Exhibit #8 Richard Struckhoff accepted in his office and signed A DECLARATION OF INTENT WRITE-IN CANDIDATE on Feb. 9, 2007.
2. **Secretary of State said it is allowed like any other city, town, or county in the state of Missouri.**
3. Candidate Reed formed and registered a campaign committee with the State of Missouri Ethics Commission.
4. Candidate Reed printed and distributed over 4,000 flyers and had at least tree large signs on main streets in the city saying “Official Write-In Candidate for Mayor.

Petitioner could not force the governmental authorities to do their proper and legal jobs. In an opinion by Judge J. Donnelly in Kasten v. Guth, 395 S.W. 2d 433; (Mo. Supreme Court D. One 1965) Opinion by Donnelly: ‘Such a construction,’ says this court, speaking through, Barclay, J., in Bowers v. Smith, 111 Mo. 45, loc. Cit. 55, 20S.W. 101, 16 L.R.A. 754, 33 Am.ST.Rep. 491, of a law as would permit the disfranchisement of large bodies of voters, **because of an error of a single official**, should never be adopted, where the language in question is fairly susceptible of any other. Wells v. Stanforth (1885), 16 Q.B.Div 245. ‘ Again (pages 61.62, of 111 Mo. , page 105 of 20 S.W. [16 L.R.A. 754, 33 Am.St.Rep. 491]: ‘If the law itself declares a specified irregularity to be

fatal, the courts [**4] will follow that command irrespective their views of the importance of the requirement. Ledbetter v. Hall (1876), 62 Mo. 422. In the absence of such declaration, the judiciary endeavor, as best they may, to discern whether the deviation from the prescribed forms of law had or had not so vital an influence on the proceedings as **probably prevented a free and full expression of the popular will'**

Petitioner Reed was told by the Secretary of State the process and followed it and his Statement of Candidacy was accepted by the Greene County election official which means he followed all the necessary steps to be a candidate and as such should have the right to contest the election. Reed can prove that people actually wrote his name next to the mayor's name on the ballot.

Petitioner Reed feels it is petty but a very serious matter to try and deny his rights to settle a dispute in court where he feels his rights and the rights of potentially 150,000 people in Springfield are being infringed on. A summary of those include:

4. The right to contest an election is not a common law right, but rather one granted specifically by statutes to certain persons in particular situations.

Respondent Cirtin through legal council BALDLY CLAIMS by demurrer and claims Without citing any ON POINT Legal authority granted by statute," this Court lacks jurisdiction to grant relief requested by petitioner." See Sophism and Demurrer

Petitioner Reed argues that he has standing to bring this action whether it be by common law or statute applications because of his rights and the concept of equal

treatment in Missouri and denial of his due process, equal protection, free speech (and all the same rights of the 150,000 People of Springfield). In Rizzo v. State, case 05AC-CC01137 (Mo Cir. Cole Div II 2006) the Court said that the legislature could not pass legislation that would not allow a person to be elected in Missouri if they had a federal misdemeanor, but would be allowed to be elected to office if it was a state felony instead. In this action, Plaintiffs attack 115.348 on a variety of grounds: 1) that it violates the right of Plaintiffs to due process, equal protection, free speech...Conclusions of Law...In Antonio v. Kirkpatrick, 579 F.2d 1147, 1149(8th Cir. 1978), a republican candidate for Missouri State Auditor, and two citizens and voters desiring to vote for him, brought suit in United State's District Court challenging the ten year residency requirement in seeking to compel the Secretary of State to certify Antonio for the primary election. The District Court (Judge Hunter) concluded that the restriction infringed on the fundamental rights to vote and travel interstate, applying a strict scrutiny test. Under that doctrine, classifications based on "suspect" criteria or affecting fundamental rights would be subjected to strict scrutiny and "a state must come forth with a compelling and substantial interest to justify the classification." The District Court held that the classification was not reasonably related to any asserted state interest or to any of the requirements of the elective office, and thus, denied equal protection...**Decision** Even under a rational basis test, this court finds that 115.348

Is unconstitutional because it is in violation of the Equal Protection Clause of Missouri and the United States. 115.348 treats people with federal misdemeanor convictions differently than those with state felony convictions. This different treatment is not

rationality related to the subject of the legislation – protecting the integrity of the political process.

Petitioner Reed argues that he has standing to bring the instant action and that the City needs to concentrate on finding reason and justification of why any citizens in Springfield are not allowed to run as or vote for write-in candidates rather than throwing darts at the wall hoping one will stick. Petitioner Reed asks what PUBLIC benefit is derived from the restriction but to limit candidates and public debate?

5. Respondent Cirtin claims Without specific authority granted by statute, this Court lacks jurisdiction to grant relief requested by petitioner.

Petitioner Reed points to the City of Springfield Charter that actually allows the Senior Judge of the Circuit Court to order and conduct the election if necessary. The city charter says...

Section 13.3. When magistrate may conduct election

If, at any time, by reason of nonacceptance, resignation, refusal to qualify, or for any other cause, there shall be no officers of the city to order and conduct an election, the senior judge of the Greene County Circuit Court having jurisdiction in the City of Springfield is empowered to order and conduct an election for city officers, declare the results thereof, and install the newly elected officials.

Approved by vote of the people August 8, 1978.

Petitioner Reed argues that would seem to clearly show this court has jurisdiction to make sure the election was properly carried out since if necessary this Court would have to hold and carry out the election. Secondly, Petitioner sent and received the following e-mails from the Secretary of State:

RE: Mayor Race

From: **Stegmann, John** (john.stegmann@sos.mo.gov) on behalf of **Elections-1**

(elections@sos.mo.gov)

Sent: Mon 2/26/07 4:54 PM

To: steven reed (stevenlloydreed@hotmail.com)

Mr. Reed--

In the court in the circuit of your jurisdiction.

Respectfully yours,

Office of Robin Carnahan
Missouri Secretary of State

-----Original Message-----

From: steven reed [mailto:stevenlloydreed@hotmail.com]

Sent: Monday, February 26, 2007 4:21 PM

To: Elections-1

Subject: RE: Mayor Race

Addressed by which courts?

RE: Contesting of Election

From: **Stegmann, John** (john.stegmann@sos.mo.gov)

Sent: Wed 4/04/07 3:11 PM

To: steven reed (stevenlloydreed@hotmail.com)

Mr. Reed--

I will attach all Missouri statutes pertaining to contesting an election. The statutes are 115.526 through 115.601. I will also attach the web address to the

Revised Missouri Statutes here: <http://www.moga.mo.gov/statutes/c115.htm>

I hope this helps.

Thanks,

John

John C. Stegmann Elections Division Office of Robin Carnahan Missouri Secretary of State

6. Respondent Cirtin also claims Additionally, petitioner's petition fails to conform to Rules 55.04 and 55.05

In reference Petitioner Reed quotes what Respondent Cirtin and the City Legal team points to as additional reason for dismissal:

RULE 55.04 TECHNICAL FORMS NOT REQUIRED IN PLEADING

Each averment of a pleading shall be simple, concise and direct. No technical forms of pleading or motions are required.

RULE 55.05 PLEADING SETTING FORTH CLAIMS FOR RELIEF SHALL CONTAIN WHAT

A pleading that sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim shall contain (1) a short and plain statement of the facts showing that the pleader is entitled to relief and (2) a demand for judgment for the relief to which the pleader claims to be entitled....

Petitioner Reed did take pre-law classes in college but admits he is trying to meet the legal requirements as best as possible even if it may look like trying to make a volswagon look like a Cadillac. Petitioner Reed also points to Rule 84.04.

Petitioner Reed would point out there is actually much more information but that he is trying to hit the main points as best as possible using his own time and resources to do so.

RULE 84.04 BRIEFS CONTENTS

(a) Contents. The brief for appellant shall contain:

- (1) A detailed table of contents, with page references, and a table of cases (alphabetically arranged), statutes, and other authorities cited, with reference to the pages of the brief where they are cited;
 - (2) A concise statement of the grounds on which jurisdiction of the review court is invoked;
 - (3) A statement of facts;
 - (4) The points relied on;
 - (5) An argument, which shall substantially follow the order of the points relied on;
- and
- (6) A short conclusion stating the precise relief sought.

Petitioner Reed admits making some mistakes and is sorry for that, but asks for some leeway as a Pro See Petitioner and believes that to denying this case this case from going forward would cut off his right of a constitutionally guaranteed right of judicial review. The mistakes made by the City Clerk and City Attorney are why this present action exist and are much more serious possibly effecting the rights of over 150,000 citizens. Petitioner Reed also feels “ballot access” should be applied to a candidate on the ballot or a write-in. The following case concerned owing of tax which was used to stop ballot access and also whether the candidate or elected officials were at fault for not properly doing their job accepting proof that actual payment was made by candidates made by the wife when she paid the attached mortgage escrow payment.

In Brown v Shaw,et al. (Sup Ct Mo Case Nos. SC85846 & SC85845), (App. St

Charles Case 04CV124604) Jurisdictional Statement...Further, the alleged bar to jurisdiction in Section 115.125.2 violates constitutional rights of Brown. While the respondents may question the “fundamental” nature of the right to access to the ballot, and may seek to **denigrate the value of the right**, access to the ballot is a right granted to citizens by Article I, Section 25, Missouri Constitution. Respondents are governmental administrative officers whose decisions affect this right. Brown seeks review of the decisions of these governmental administrative officers by mandamus as provided in Chapter 536, RSMo. Brown’s right to review is guaranteed by Article V, Section 18, Missouri Constitution. Any state, such as Section 115.125.2, Mo, which purports to cut off this constitutionally guaranteed right of judicial review is plainly unconstitutional. *Chastain v. Chastian*, 932 S.W2nd 396, 400(Mo. Banc 1996).

Petitioner Reed points out this case concerned payment of

Also Argument I Replies to Attorney General’s brief...There is no distinction between Haller and Neu cases and this case. Those cases are controlling on the issue of the necessity that the candidate be found at fault. No authority cited supports Respondents’ “absolute disqualification” theory of ballot access. Such strict application of disqualification statues is unwise and unnecessary; and under this Court’s precedents, instructed by Article I, Section 25, Missouri Constitution, such strict application is unconstitutional.

Also...Brown did everything he could to pay his taxes. Respondents’ suggestion that all candidates must check with the tax collector(not just at registration of their candidacy, but much later at the close of filing for other offices), or visit his mortgage lender to personally supervise payment of his taxes is absurd and obviously not required

or anticipated by Section 115.346, RSMo. “The Haller and Neu concepts of fairness are not limited to misconduct by public officials by outright refusals to accept, or being unavailable to accept, payments of taxes and fees. **It is unnecessary for Brown to prove any fault on the part of any official** in order to demonstrate there was no fault on his own part. **The protections afforded by Article I, Section 25 guaranteeing free and open elections, protects the rights of any citizen to become a candidate for public office without regard to fault or misconduct on the part of public officials.** Preisler v. Calcaterra, 243 S.W.2d 62, 64 (Mo. Banc 1951) citing Neu and Haller, as well as State ex rel. Preisler v. Woodard, 105 S.W. 2d 912 (Mo. 1937).

Clearly Petitioner Reed feels that he was at no fault at all because he meet all the requirements to run as a write-in candidate. From the facts of the case Petitioner Reed feels that improper actions by local governmental officials caused an unofficial, and not according to proper constitutional and state laws, election for Mayor of Springfield on April 6, 2007. Petitioner Reed would argue that he was at no fault at all because he meet all the requirements to run **as a write-in candidate**. From the facts of the case Petitioner Reed feels that improper actions by local governmental officials caused an unofficial, and not according to proper constitutional state, federal or INTERNATIONAL laws, which barred him and others as legitimate candidates for election in Springfield and would act to FOREVER BAR write ins as practiced across the ENTIRE STATE.

IN CONCLUSION

The United States of America and the Several States Militias have fought every war on the premise of Democracy and the right of the people to decide their leaders and

destiny and that FACT must consider election laws and proper enforcement as one of the most important responsibilities that our government **on all levels** of government from the national, state, to local levels. To that end Petitioner Reed ask for action in three areas that will allow the City of Springfield to become whole again with the laws and Constitution of Missouri.

As a nation and in our community we are a society based on laws. If governmental officials are not enforcing the law or running the government the way the people want then the most sacred law that **must be enforced concerning elections.** We as a People and a Society can not pick and choose which laws we are going to enforce or unless we have a lawless society. We do not support dictatorships or governments that operate on the premise of fear and we can not give an inch in enforcement of election laws or someone or a group may try and take a mile. The City of Springfield needs to correct the wrongs that occurred in order to come whole with the laws and constitution of Missouri.

As a volunteer and community activist Petitioner Reed has worked on such issues as the Technology Park for 7 years, (effort to change second industrial park built at taxpayers expense to a technology park to bring new companies and better jobs “for the people”, (www.technologypark2006.org), (www.reedforcouncil.com), and Rail Passenger Service to Springfield for 15 years and wants more see move citizen involvement.

Petitioner Reed: Specifically Prays for the Following Relief

1. That Missouri State Attorney General Jay Nixon to either join this action or initiate one of his own as soon as possible and or ISSUE an Attorney general's Opinion consistent with Missouri Common law and Well Recognized PUBLIC POLICY.
2. Asks this Court for immediate DECLARATORY, INJUNCTIVE and REMEDIAL relief by ordering a review of the practices complained of and if found at odds with the Law, Policy, Customs and Practices of the state of Missouri that a special election in the City of Springfield, Missouri be ordered as a remedial measure.
3. Ask that for all the above reasons the Respondent's Motion to Strike be denied.

Petitioner Steven Reed will be out of town from May 5, 2007 to May 13, 2007 and would be glad to respond before or after that date by TELEPHONE as is Customary and allowed in the Associate and Circuit Courts of Missouri. Or by writing from stevenlloydreed@hotmail.com

Certificate of Service

I certify that on _____ a true copy of the above was mailed, and electronically sent to the last known mailing address of each party to this action.

Respectfully submitted,

Steven L. Reed _____

Steven L. Reed, Plaintiff Pro Se

Springfield MO 65804

(417)

stevenlloydreed@hotmail.com

Exhibits:

#9 February 14, 2007 letter Richard T. Struckhoff, County Clerk

#10 February 14, 2007 letter Dan Wichmer, City Attorney

#11 Missouri Bill of Rights

#12 Missouri Revised Statutes Section 115.453 Election Authorities and Conduct of Elections---Procedure for counting votes for candidates

#13 *Missouri Constitution* Article VIII SUFFRAGE AND ELECTIONS Section 2
August 28, 2006 Qualifications of voters--disqualifications.

By Copy mailed to Brenda M. Cirtin, City Clerk

David R. Wichmer, Esq.

City Attorney

City of Springfield

840 Boonville

Springfield , MO 65802

Attorney for the Defendants City of Springfield , MO ,

e-mailed to the following is hereby completed on this date:

Brenda Cirtin: bcirtin@ci.springfield.mo.us

Daniel R. Wichmer dwichmer@ci.springfield.mo.us

Carl Stephen Yendes cyendes@ci.springfield.mo.us

Attorney General Office ag@ago.mo.gov.