IN THE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

RICHARD STANLEY, JR and TIM CLARK Plaintiffs, vs. BROWN COUNTY ELECTION BOARD Defendant.	)	Cause No. 25-1482

PLAINTIFFS' RESPONSE TO DEFENDANT BROWN COUNTY ELECTION BOARD'S MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT PURSUANT TO FED. R. CIV. P. 12(b)(6)

Once again, the Brown County Election Board has presented a "wish list of what the Board would like the law to be, but the Board has completely failed to explain what the law actually is or how the law should be applied to the facts of this case." (Doc. # 12 at 1-2). "Effectively, the Brown County Election Board is asking the Court to give it a free pass to deprive Mr. Stanley and Mr. Clark of their Constitutional rights without any intervention by the Court." (Doc. # 12 at 4).

"Surprisingly, the Brown County Election Board failed to cite what is probably the most relevant case on this question, and the Board clearly knew about this case when it filed its Motion to Dismiss because Plaintiffs cited this case in their Complaint. *Hero v. Lake County Election Board*, 42 F.4th 768 (2022). In that case, the lower court had dismissed Mr. Hero's complaint for lack of jurisdiction. *Id.* at 770. However, the Seventh Circuit disagreed with the district court and determined that the court did in fact have jurisdiction to hear the case. *Id.* at 771-775. In the end, Mr. Hero did lose his

case, but he lost the case on its merits, not on jurisdictional grounds. *Id.* at 775-777. It is important to note that at the time of his lawsuit, Mr. Hero was not actually a current candidate for elected office. However, he did establish that he would 'reasonably run again 'at the earliest opportunity''. *Id.* at 773. In explaining its decision, the court observed that 'Elections often happen too quickly for meaningful judicial review to occur before a dispute is resolved, as many cases take years to reach a final disposition. Absent this exception, few challenges would be heard outside of an emergency basis.' *Id."* (Doc. # 12 at 2).

Why would the Brown County Election Board fail to analyze what is probably the most relevant legal opinion (*Hero*) to the present question? The reason is because *Hero* completely undercuts the Board's motion. For example, the Board appears to complain that "[t]he Indiana Republican Party is not a party in this lawsuit." (Doc. # 27-1 at 2). Was the Indiana Republican Party one of the named parties in the *Hero* case, which the present case is a mirror of because both the present case and the *Hero* case involve an underlying dispute over a prior decision of the Indiana Republican Party? The answer is "no", and the Brown County Election Board has failed to alert the Court of this important legal precedence which the Board clearly knew about. The Board's mischaracterizations of the law are bordering on being sanctionable.

And, the truth is the Brown County Election Board has no reason to be confused about this particular issue because Plaintiffs have already completely explained why the Indiana Republican Party was not named in this lawsuit four months ago when Plaintiffs filed their first summary judgment motion and again a month ago when Plaintiffs filed their second summary judgment motion, which is currently awaiting a decision by the

Court. "That is, while the U.S. Constitution is not generally binding on the Indiana Republican Party since it is a private organization, the Brown County Election Board is a government body that is bound by the U.S. Constitution." (Doc. # 11 at 1; Doc. # 26 at 1). In other words, "the Brown County Election Board cannot take part in the Indiana Republican Party's decision against Mr. Stanley and Mr. Clark by using governmental power to enforce this decision against Mr. Stanley and Mr. Clark. For to do so, would be to convert what is otherwise a misguided and immoral internal private decision into an unlawful governmental restriction on Mr. Stanley's and Mr. Clark's Constitutional rights." (Doc. # 11 at 30; Doc. # 26 at 30). Did the Brown County Election Board even read either one of the summary judgment motions that Plaintiffs have filed in this case?

The Brown County Election Board also repeatedly asserts that it has taken no action which should have led it to be a party in this case. (Doc. 27-1 at 1 "Plaintiffs have filed suit against Brown County . . . for actions it has not taken", at 1 "Absent from Plaintiffs' Complaint are *any* allegations of action taken . . . that involve the Plaintiffs or Brown County.", at 1 "Brown County has taken zero action against or involving Plaintiffs", at 3 "Plaintiffs fail to outline any . . . action by Brown County"). This is also a sanctionable mischaracterization—this time of the facts. "[T]he Brown County Election Board had all of the relevant information about this matter three weeks before this lawsuit was filed, and Plaintiffs asked the Board to issue a written statement disavowing the Indiana Republican Party's decision against Mr. Stanley and Mr. Clark. (Plaintiffs' Exhibit 10). Indeed, in correspondence between Plaintiffs' attorney and the President of the Board, Plaintiffs' attorney asserted that 'You should understand that a refusal by you to provide any clarity whatsoever on this matter should be reasonably interpreted by

myself, Tim and the court to reflect an intention by the Election Board to enforce the Indiana Republican Party's decision against myself and Tim.' (Plaintiffs' Exhibit 10 at pdf pg. 7). Notably, the President of the Board never denied that this would be a reasonable interpretation for Plaintiffs to make. Later, the Brown County Election Board voted unanimously to defend against any lawsuit by Plaintiffs even before the Board received the summons for the present lawsuit.[1]" (Doc. # 12 at 4). The simple and undeniable fact is that the Brown County Election Board could have easily avoided this lawsuit, but it voluntarily chose to litigate this dispute in court.

The Brown County Election Board also makes confusing suggestions that Plaintiffs haven't disclosed all of the relevant evidence to the Court. (Doc. # 27-1 at 2 "nor have they included the decision or evidence regarding the decision within their Complaint.", at 3 "Plaintiffs hope the Court intuitively understands the decision by the Indiana Republican Party and somehow, without reviewing it . . . ."). As stated by Plaintiffs in their summary judgment motions, "[t]here are no additional facts relevant to this case beyond those provided in the exhibits already submitted to the Court. In particular, Mr. Stanley and Mr. Clark have provided the entire record of the proceedings that occurred before the Indiana Republican Party." (Doc. # 26 at 4; see also Doc. # 11 at 4). Again, the Board's mischaracterizations are bordering on being sanctionable.

The Brown County Election Board also asserts in a mere conclusory fashion that "Plaintiffs have failed to allege even the bare minimum required for pleadings pursuant to Fed. R. Civ. P. (8)(a)." (Doc. 27-1 at 3). Rule 8(a) recites "CLAIM FOR RELIEF. A pleading that states a claim for relief must contain: (1) a short and plain statement of

"[1] This can be seen on the Brown County Indiana Government Meetings channel on YouTube in the August 12, 2025 Election Board Meeting at 17:50-19:50." (Doc. # 12 at 4).

the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support; (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought, which may include relief in the alternative or different types of relief." Rule 8(a)(1) is satisfied by paragraphs 14-17 of Plaintiffs' Amended Complaint. Rule 8(a)(2) is satisfied by paragraphs 1-13 of Plaintiffs' Amended Complaint. Rule 8(a)(3) is satisfied by paragraphs 18-19 of Plaintiffs' Amended Complaint. Thus, the Board's assertion that Plaintiffs' Amended Complaint is deficient is also spurious and possibly sanctionable.

"In addition to the *Hero* case, other precedence from the Seventh Circuit also supports Plaintiffs' assertion that the present case is ripe for decision by the Court. As explained in *E.F. Transit, Inc. v. Cook*, 878 F.3d 606 (7th Cir. 2018), '[a] claim is ripe if it is fit for judicial decision and not resolving it will cause hardship to the plaintiff.' *Id.* at 610. As noted by the court in *E.F. Transit*, the question at issue in that case was 'predominantly [a] legal question' and 'legal questions are 'quintessentially fit' for judicial decision.' *Id.* Similar to the present case, the plaintiff in *E.F. Transit* was at risk of being prosecuted under a state statute. *Id.* The court determined that 'Hardship exists in this context if the plaintiff has an intention to engage in a course of conduct arguably affected with a constitutional interest but proscribed by a statute and there exists a credible threat of prosecution under the statute. A plaintiff need not engage in the proscribed conduct and expose himself to punishment or prosecution before bringing a constitutional claim. But the potential for prosecution must be likely; if a prosecution is unlikely or not even remotely possible, then the dispute is not susceptible to resolution

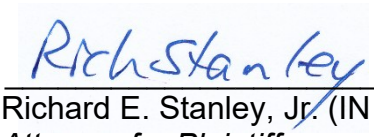
by a federal court.' *Id.* (internal punctuation and citations removed for clarity)." (Doc. # 12 at 3).

"In *Wisconsin Right to Life State Political Action Committee v. Barland*, 664 F.3d 139 (7th Cir. 2011), the court explained that 'Ripeness concerns may arise when a case involves uncertain or contingent events that may not occur as anticipated, or not occur at all. Whether a claim is ripe for adjudication depends on the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration.' *Id.* at 148 (internal punctuation and citations removed for clarity). The court further explained that 'Claims that present purely legal issues are normally fit for judicial decision. And in challenges to laws that chill protected speech, the hardship of postponing judicial review weighs heavily in favor of hearing the case.' *Id.* (citation removed for clarity)." (Doc. # 12 at 3-4).

"As recited above, Seventh Circuit case law establishes that the test for ripeness is hardship to the plaintiff which is 'likely' to occur. Plaintiffs' dispute with the Brown County Election Board easily satisfies that standard. Moreover, the nature of this dispute falls squarely within the types of cases that the Seventh Circuit has held are normally fit for judicial review. That is, as argued by Plaintiffs in their concurrent Summary Judgment Motion, 'This Case Raises a Pure Legal Question With No Facts in Dispute' (Motion for Summary Judgment at 4). *Cf. E.F. Transit*, 878 F.3d at 610; *Wisconsin Right to Life*, 664 F.3d at 148." (Doc. # 12 at 8-9).

"Therefore, for the foregoing reasons, Plaintiffs request that the Court dismiss the Brown County Election Board's Motion to Dismiss and proceed to rule on the merits of Plaintiffs' Motion for Summary Judgment." (Doc. # 12 at 9; see also Doc. # 25-26).

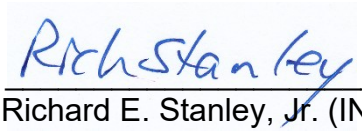
Dated: December 15, 2025

By: 

Richard E. Stanley, Jr. (IN Atty No. 31838-49)
Attorney for Plaintiffs
4356 Lanam Ridge Rd.
Nashville, IN 47448
312-310-4279

CERTIFICATE OF SERVICE

I certify that on December 15, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. A copy of this filing will be sent to counsel of record by operation of the Court's electronic filing system.

By: 

Richard E. Stanley, Jr. (IN Atty No. 31838-49)
Attorney for Plaintiffs
4356 Lanam Ridge Rd.
Nashville, IN 47448
312-310-4279