

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION

Gary Emineth,)	
)	
PLAINTIFF,)	Judge
)	
v.)	Civil No. 1:12-cv-139
)	
Alvin Jaeger, Secretary of State of)	
North Dakota, in his official capacity;)	
Wayne Stenehjem, Attorney General of)	
North Dakota, in his official capacity;)	
Richard J. Riha, Burleigh County)	
State’s Attorney, in his official capacity)	
)	
DEFENDANTS.)	

PLAINTIFF’S MOTION FOR PERMANENT INJUNCTION

Plaintiff Gary Emineth, by and through undersigned counsel, hereby moves this Court for a permanent injunction against enforcement of N.D. CENT. CODE § 16.1-10-06. As set forth in the accompanying Memorandum of Law in support of this Motion, N.D. CENT. CODE § 16.1-10-06 constitutes an unconstitutional prior restraint on constitutionally-protected speech. Absent an injunction from this Court, Plaintiff cannot engage in protected activity—displaying election-related yard signs; engaging in election-related conversations with his friends, family members, neighbors, and other associates; and distributing election-related flyers in public places—this Election Day without risking a criminal penalty. This

violates the First Amendment, as incorporated against the States by the Fourteenth Amendment.

For the reasons explained in the accompanying Memorandum of Law in support of this Motion, Plaintiff's desired activity cannot be constitutionally prohibited by the State of North Dakota. Thus, Plaintiff is able to demonstrate success on the merits of his constitutional claim. In light of the impending 2012 election, plaintiff would be irreparably harmed if enforcement of N.D. CENT. CODE § 16.1-10-06 is not enjoined, because the statute forecloses Plaintiff's one and only opportunity to speak on Election Day, 2012. Moreover, the harm Plaintiff will suffer if the challenged statute is not enjoined outweighs any harm that might be suffered by any other party. Finally, vindicating the constitutional rights at issue here by issuing the requested injunction furthers the public interest. Thus, a permanent injunction is an appropriate remedy.

WHEREFORE, Plaintiff requests that this motion be granted and that enforcement of N.D. Cent. Code § 16.1-10-06 be forever enjoined.

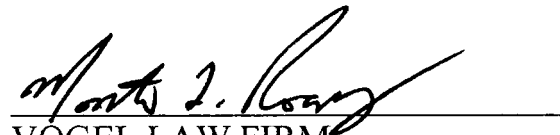
Dated this 16th day of October, 2012.

Respectfully submitted,

/s/ Allen Dickerson
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*Admission to this Court *pro hac vice*
pending.



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