UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

LIBERTARIAN PARTY OF OHIO,
et al.,

Plaintiffs,

v.

Judge Michael H. Watson

HUSTED, et al.,

Defendants. /

DECLARATION OF ROBERT M. HART
(pursuant to 28 U.S.C. § 1746)

I, Robert M. Hart, do hereby declare under penalty of perjury that the following is true and correct:

1. I am a resident of Worthington, Franklin County, Ohio.

2. I am a member of the Ohio Green Party [OGP], a recognized minor political party in Ohio.

3. The OGP and its affiliated Green County Central Committees, including the Franklin County Green Party of which I am also a member, consists of an association of individuals dedicated to organizing and operating a political party with key values that include commitments to social justice, non-violence, gender equity, and maintaining a healthy ecological balance. The Green Party seeks to shape public policy and advance these and other Green Party goals by running candidates for public office and disseminating our views through the state, federal and local campaigns of GPO candidates.

4. The GPO and the Franklin County Green Party both have functioning Central Committees that to the best of my knowledge have operated in compliance with applicable state laws, with the County Central Committee members being elected in even numbered years by appearing as candidates on the primary ballot in their respective counties pursuant to the requirements of state law.

5. In July, 2013 I decided to run for Congress as a Green Party candidate and to compete in the 2014 Ohio primary to represent Ohio’s 12th Congressional District in the U.S. House of Representatives.
6. In connection with initiating my Campaign for Congress I opened a Hart for Congress checking account at the Guernsey Bank in Worthington, Ohio on September 30, 2013 for the purpose of managing campaign contributions and expenditures, and in fact prior to the passage of Amended Substitute SB 193 [SB 193] my campaign had received campaign contributions from individuals.

7. In connection with initiating my Campaign for Congress I registered a Hart for Congress domain name, Facebook page, email account and Twitter account in September and October 2013.

8. On October 2, 2013 I went to the Franklin County Ohio Board of Elections located at 280 E. Broad Street, Columbus, Ohio where I, with the assistance of a staff member, created and obtained the required nominating petitions for my candidacy, those petitions containing, inter alia, my name, residential address, party affiliation [Green], the office I was seeking, and the date of the primary, said document titled “Declaration of Candidacy, Party Primary Elections For District Office, Representative to Congress” and further identified as “Ref. No. 213003460”

9. On October 2, 2013, at the same time as I acquired my nominating petitions, the staff at the Board of Elections also gave me a multiple page document titled “Petition Requirements Document” also identified by “Ref. No. 213003460” which set forth the number of valid signatures I was to obtain [minimum 25, maximum 75], the deadline by which the petitions had to be returned, the fees required upon petition submission, and recitations of or references to a variety of legal provisions governing the signature collection and verification process.

10. On October 2, 2013, at the same time as I acquired my nominating petitions the staff at the Board of Elections also gave me a multiple page document titled “Petition Signature Validation” [no reference number] which set forth various requirements for the candidate, petition circulators, and petition signers.

11. As required by applicable state law governing recognized minor political parties in Ohio, and as I was informed at the Franklin County board of Elections, as a Green Party member I was required to acquire the signatures of no less than twenty-five [25] qualified and registered voters in the 12th Congressional District in order to qualify to be on the primary ballot in 2014.

12. On October 11, 2013, I submitted my nominating petitions containing thirty-five [35] valid voter signatures to the Franklin County Board of Elections and on that same day, as required by the staff at the Board of Elections, I completed, signed and dated an untitled form that I was informed was for the purpose of identifying the form of my name to be used on the ballot [Bob Hart as opposed to Robert M. Hart].

13. On October 11, 2013 when I turned in my nominating petitions I also paid the required candidacy fees of $85.00 with a Hart for Congress check made payable to the Franklin County Board of Elections, receiving a “Receipt for Petitions” identified as “Receipt No. 2126” signed by Lynne Counts, the staff member who had assisted me on both October 2 and October 11, 2013.

14. On October 11, 2013 when I turned in my nominating petitions I was advised by Jeffrey Mackey, Election Operations Manager, that I should communicate with the Federal Elections Commission
[FEC] about other candidacy and campaign requirements given that I was running for a federal office.

15. On October 11, 2013 I visited the FEC website and downloaded FEC Form 1 titled “Statement of Organization” and FEC Form 2 titled “Statement of Candidacy” both of which I completed and signed on October 11, 2013, and both of which I mailed on October 12, 2013 to the FEC.

16. On October 25, 2013 I received an email from the FEC to the Hart for Congress email account that notified the campaign and me that the FEC had received and processed the submitted FEC Forms 1 and 2 and that the Hart for Congress Committee had been assigned FEC Number C00550178.

17. Upon filing my Declaration of Candidacy, the nominating petitions, and paying the required fees it was my understanding that I had complied with all legal requirements to allow me to appear on the 2014 primary ballot in Ohio’s 12th Congressional District as a Green Party candidate for Congress.

18. When Amended Substitute S.B. 193 [SB 193] goes into effect on February 5, 2013, the Ohio Green Party will immediately lose its status as a recognized minor political party in Ohio, and presumably the Ohio Secretary of State and/or the Franklin County Board of Elections will void my previously filed Declaration of Candidacy, void my previously completed ballot name form, summarily and retroactively reject my previously submitted nominating petitions, remove me from the 2014 primary ballot in the seven [7] counties within the 12th Congressional District, and presumably refund my candidacy application fees, thus operating as a complete bar to my campaign for US Congress as a Green Party candidate in the 2014 Ohio primary.

19. The basis for my statements in the Declaration paragraph above rests upon SB 193’s retroactively imposed party maintenance standard which requires a minor political party to have obtained 3% of the total Ohio vote in the 2012 Presidential election [New ORC 3501.01(F)(2)(a)] in order to maintain its minor political party status, a standard the OGP did not meet.

20. SB 193 absolutely precludes the OGP from operating as a political party, and precludes me from campaigning as a Green Party candidate, for the period between February 5 and August 1, 2014 inasmuch as SB 193 precludes any new party formation from being recognized by the Ohio Secretary of State as a ballot eligible minor political party in Ohio for 2014 until ninety-five [95] days prior to the general election [ORC 3517.012(A)(2)(d)] and similarly precludes any new minor political party candidate from campaigning as a ballot eligible candidate until ninety-five [95] days prior to the general election [ORC 3517.012(B)(3)(c)].

21. SB 193 will preclude all Green Party candidates, including me, from campaigning as a ballot eligible Green Party candidate from February 5, 2014 until August 1, 2014 and thus we will be precluded, unlike the major party candidates, from soliciting or accepting contributions for a period of six [6] months. This is particularly disadvantage as it deprives minor political candidates from a full election cycle of campaign contributions as one cycle is pre-primary and the second cycle if post-primary but pre-general election.

22. SB 193 will immediately decertify and disband the OGP’s State Central Committee and all Green County Central Committees effective February 5, 2014 and will preclude potential
recertification as a minor political party until August 1, 2014 thus preventing the OGP, unlike the major parties, from participating in the May 2014 primary, a preclusion that will both deprive Ohio voters from voting for Green Party candidates but also prevent those voters from formally identifying themselves on the voting rolls as a Green Party member, as voting in a specific party primary is the only method under Ohio law for a voter to affiliate with a political party.

23. SB 193 will limit newly formed minor political parties and their candidates to ninety-five [95] days of campaigning and fundraising time prior to the first general election in the year of the party’s formation thus placing those minor parties at a distinct disadvantage against the major parties, especially in those years in which the new minor political party must immediately obtain 2% of the governor vote in 2014 [SB 193 at Section 4] or 3% in each governor election starting in 2018 or 3% of the presidential vote in 2016.

24. In order for a new minor political party formation to be certified by the Ohio Secretary of State in 2014 it must submit a petition signed by qualified voters in a number equal to one-half of one percent of the total vote for governor or president at the most recent election for such office, meaning that for 2014 the OGP would have to submit a petition containing 28,166 valid signatures [1/2 of 1% of 5,633,246 cast votes in 2012] no later than July 7, 2014 [ORC 3517.01(A)(1)(b) and 3517.012(A)(1)] with an additional requirement that of the collected signatures the submitting party formation must have collected at least 500 valid voter signatures in each of at least eight [8] of Ohio’s congressional districts. [The number of required signatures is doubled after 2014].

25. SB 193 thus requires that in order to qualify for the 2014 general election ballot the OGP and its intended candidates must collect at least 28,166 valid voter signatures between February 5, 2014 and July 7, 2014, a period of five [5] months, during which time the major political parties are campaigning and fundraising.

26. If the OGP collects and submits party formation petitions in 2014 but fails to achieve minor political party status that notice will be by the Ohio Secretary of State on or about August 1, 2014 [ninety-five (95) days prior to the general election] and at that point in time I will not only be precluded from running as a Green Party candidate but I will also be precluded from running as an independent candidate appearing on the ballot as an independent’s Declaration of Candidacy is due on or before May 5, 2014.

27. If the OGP achieves minor political party status in 2014 there are two additional conditions that must be met in order for me to appear on the ballot as a Green Party candidate in the 2014 general election: first, I must obtain new signatures on a new candidate’s petition from voters who did not vote in a party specific primary in 2014 [which may preclude some of the Ohio voters who signed my Nominating Petitions in October, 2013 under the then applicable state law]; and, second, a new party formation petition committee required under SB 193 must unanimously certify me to the Ohio Secretary of State seventy-five [75] days prior to the general election as part of the slate of candidates for the OGP.

28. Even if the OGP achieves minor political party status in 2014, and I obtain the required number of candidate petition signatures, and the OGP party formation committee certifies me to the Ohio Secretary of State I will be at a material and significant legally imposed disadvantage to the two
major parties in exercising my first amendment rights as I will be limited to ninety-five [95] days of campaigning and limited to one contribution cycle.

29. It is improbable, if not intended, that a minor political party formation will be able to collect 28,166 valid voter signatures for party formation certification as required and then achieve the required 2% vote total in the 2014 governor election when the new party formation must expend its time and resources collecting signatures for up to five [5] months and then is limited, unlike the major parties, to one election cycle of campaign contributions and ninety-five [95] days of campaigning, especially given that the two major party governor candidates are already collecting money and campaigning for the 2014 election.

30. As an attorney subject to high ethical standards and required to avoid the appearance of impropriety, and as an active member of a Green Party that has accountability and transparency as key values, the passage of SB 193 presents a particularly difficult dilemma for me due to the uncertainty of the future status of my candidacy, as even though I have complied with all current legal requirements to qualify as a ballot eligible minor political party candidate I am now being told by the Ohio legislature that in February 2014 my political party will be disbanded, and my candidacy declared null and void.

31. Pre-implementation the passage of SB 193 has already restricted and compromised my first amendment right to free speech and association given the chilling effect created by the Ohio Legislature publicly committing via this statute to disband the OGP at a date certain in the near future, by indicating that it will be voiding previous SOS Directives that certified the OGP as a recognized minor political party in Ohio, by imposing new burdensome party formation requirements, and via the terms of the new law declaring with certainty that Ohio will be limiting both my fundraising capabilities and my actual campaigning time for the 2014 election.

32. Post-implementation SB 193 will restrict and compromise my first amendment rights to free speech and association, as well as the first amendment rights of voters to vote for me, by voiding my previously filed and legally compliant Declaration of Candidacy, by voiding my previously filed nominating petitions and the signatures of the thirty-five [35] Ohio voters that signed my petition, by disbanding my political party, by banning me from campaigning as a Green Party candidate from February 5 to August 7, 2014, by severely limiting the time period during which I can legally solicit, accept and expend campaign contributions, and by limiting the amount of time I have to campaign to only ninety-five [95] days.

33. As a qualified Ohio elector registered with the Secretary of State as a Green Party member it is both my desire and intent to vote for Green Party candidates in 2014 and beyond, specifically to vote for Franklin County Green Party Central Committee candidates, as well as other Green Party candidates, in the May 6, 2014 primary, and to vote for Green Party candidates in the general election to be held November 4, 2014.

December 2, 2013

Robert M. Hart