


ORIGINAL

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2023 AUG 16 PM 4:52

WILLIAMS SCOTT JUDGE
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BY  Aug 21 2023 11:15 AM
Elizabeth A. Brown
Clerk of Supreme Court

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA AND
FOR CARSON CITY**

NEVADA REPUBLICAN PARTY,

Plaintiff,

vs.

STATE OF NEVADA; FRANCISCO
AGUILAR, in his official capacity as Nevada
Secretary of State,

Defendants.

Case No.: 230C000511B
Dept. No.: I

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Plaintiff Nevada Republican Party (hereinafter "Plaintiff" or "NV GOP"), by and through its attorneys of record, the law firm of Chattah Law Group, hereby appeals to the Supreme Court of Nevada from the Order Denying Motion for Preliminary Injunction entered in this action on July 21, 2023, notice of entry filed on July 25, 2023. (Exhibit 1).

Dated this 16th day of August, 2023.

CHATTAH LAW GROUP

By 

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Nevada Republican Party

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AFFIRMATION

The undersigned does hereby confirm that the document entitled Notice of Appeal does not contain personal information defined in NRS 239B.030(4), and further acknowledges that an affirmation will only be provided on any additional documents if the document does contain personal information.

Dated this 16th day of August, 2023.

CHATTAH LAW GROUP

By



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Attorney for Plaintiff

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 16th day of August, 2023, I served a copy of the foregoing
3 **NOTICE OF APPEAL** upon each of the parties by depositing a copy of the same in a sealed
4 envelope in the United States Mail, Las Vegas, Nevada, First-Class Postage fully prepaid, and
5 addressed to:

6 OFFICE OF THE ATTORNEY GENERAL
7 Aaron D. Ford
8 Attorney General
9 Laena St-Jules
10 Deputy Attorney General
11 100 North Carson Street
12 Carson City, NV 89701-4717
13 Lstjules@ag.nv.gov
14 *Attorney for Defendants*

15 and that there is a regular communication by mail between the place of mailing and the place(s)
16 so addressed.


17 
18 _____
19 An employee of Chattah Law Group
20
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Exhibit 1

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1 AARON D. FORD
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Deputy Attorney General
3 Office of the Attorney General
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5 F: (775) 684-1108
E: lstjules@ag.nv.gov
6

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WILLIAM L. ...
CLERK
BY _____
DEPUTY

7 *Attorneys for Defendants*
8

9 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR CARSON CITY**
11

12 NEVADA REPUBLICAN PARTY,
13 Plaintiff,
14 vs.

Case No.: 23OC000511B
Dept. No. I

15 STATE OF NEVADA; FRANCISCO
16 AGUILAR, in his official capacity as
Nevada Secretary of State
17 Defendants.


18 **NOTICE OF ENTRY OF ORDER**
19 **TO: ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:**
20

20 ///
21 ///
22 ///
23 ///
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26 ///
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28 ///

1 YOU, AND EACH OF YOU, please take notice that an Order Denying Motion for
2 Preliminary Injunction was entered in the above-entitled matter on July 21, 2023. A copy
3 of said Order is attached hereto as Exhibit 1.

4 DATED this 25th day of July 2023

5 AARON D. FORD
6 Attorney General

7 By: 
8 LAENA ST. JULES (Bar No. 15156)
9 Deputy Attorney General
10 Office of the Attorney General
11 100 North Carson Street
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16 *Attorneys for Defendants*

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CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 25th day of July 2023, I served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER**, by placing said document in the U.S. First Class Regular Mail, postage prepaid, addressed to:

Sigal Chattah, Esq.
CHATTAH LAW GROUP
5875 S. Rainbow Blvd. #204
Las Vegas, NV 89118
T: (702) 360-6200
F: (702) 643-6292


Aaron D. Van Sickle

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INDEX OF EXHIBITS

EXHIBIT No.	EXHIBIT DESCRIPTION	NUMBER OF PAGES
1.	Order Denying Motion for Preliminary Injunction	9

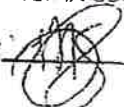
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Exhibit 1

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Exhibit 1

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2023 JUL 21 PM 1:20
WILLIAM SCOTT HOEN
CLERK
BY:  DEPUTY

6
7 *Attorneys for Defendants*

8
9 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR CARSON CITY**

11
12 NEVADA REPUBLICAN PARTY,
13 Plaintiff,
14 vs.
15 STATE OF NEVADA; FRANCISCO
16 AGUILAR, in his official capacity as
Nevada Secretary of State
17 Defendants.

Case No.: 23OC000511B
Dept. No. I

18 **ORDER DENYING MOTION FOR PRELIMINARY INJUNCTION**

19 On June 2, 2023, Plaintiff the Nevada Republican Party ("NV GOP") filed a Motion
20 for Preliminary Injunction ("Motion"). On June 16, 2023, Defendants the State of Nevada
21 and Francisco Aguilar, in his official capacity as Nevada Secretary of State, filed an
22 Opposition to the Motion. On June 26, 2023, the NV GOP filed a Reply in Support of the
23 Motion. On July 7, 2023, the NV GOP filed a Supplemental Authority in Support of its
24 Motion. July 10, 2023, the Court heard oral argument on the Motion. Sigal Chattah, Esq.
25 argued on behalf of the NV GOP. Deputy Attorney General Laena St-Jules argued on
26 behalf of Defendants. The Court, having considered the Motion and all briefing thereon
27 and the arguments of counsel, DENIES the Motion.

28 ///

1 I. BACKGROUND

2 Through its Motion, the NV GOP seeks a preliminary injunction barring Defendants
3 from enforcing provisions of Assembly Bill 126, adopted by the 81st Legislative Session
4 ("AB 126"). Those provisions provide for a presidential preference primary election ("PPP
5 election") and are codified in NRS 298.600–720. Under the PPP election rules, candidates
6 qualified to be a major political party's nominee for President of the United States may
7 choose to participate in the PPP election process. NRS 298.660. The rules require a PPP
8 election, paid for by the State, to be held on the first Tuesday in February of each
9 presidential election year if two or more qualified candidates of a major political party file
10 declarations of candidacy with the Secretary of State between October 1 and October 15 of
11 the year preceding the PPP election. NRS 298.650–660; NRS 298.710. If no qualified
12 candidate or only one qualified candidate from a major political party files a declaration of
13 candidacy, no PPP election will be held for that major political party. NRS 298.650(2). The
14 results of any PPP election are not binding on any major political party.

15 The NV GOP claimed in its Motion and Complaint that the PPP election process
16 violates its and its members' First and Fourteenth Amendment freedom of association
17 rights because it would preclude the NV GOP from using alternative methods to select its
18 presidential nominee. At the hearing on the Motion, the NV GOP conceded that the PPP
19 election process would not bind the NV GOP in its selection of its presidential nominee and
20 the NV GOP would still be able to select its nominee through a caucus. However, the NV
21 GOP argued that a non-binding PPP election is still unconstitutional and should therefore
22 be enjoined. The NV GOP has failed to establish its entitlement to a preliminary
23 injunction, and the Motion is therefore denied.

24 II. LEGAL STANDARDS

25 "[I]njunctive relief is extraordinary relief." *Dep't of Conservation & Nat. Res., Div.*
26 *of Water Res. v. Foley*, 121 Nev. 77, 80, 109 P.3d 760, 762 (2005). An applicant for a
27 preliminary injunction must show "(1) a likelihood of success on the merits; and (2) a
28 reasonable probability that the non-moving party's conduct, if allowed to continue, will

1 cause irreparable harm for which compensatory damage is an inadequate remedy.” *Univ.*
2 *& Cmty. Coll. Sys. of Nevada v. Nevadans for Sound Gov’t*, 120 Nev. 712, 721, 100 P.3d
3 179, 187 (2004). Additionally, courts “weigh the potential hardships to the relative parties
4 and others, and the public interest.” *Id.*

5 III. ANALYSIS

6 A. Likelihood of Success on the Merits

7 The NV GOP seeks injunctive, writ, and declaratory relief to preclude Defendants
8 from enforcing the PPP election provisions against it, or, in the alternative, a declaration
9 that the results of the PPP election are not binding against it. Compl. ¶¶ 24–41. The NV
10 GOP has small likelihood of success on the merits of its claims.

11 1. Required Joinder of Parties

12 NRCP 19(a)(1)(b)(i) requires joinder of a party where that party “claims an interest
13 relating to the subject of the action and is so situated that disposing of the action in the
14 person’s absence may . . . as a practical matter impair or impede the person’s ability to
15 protect the interest.” The PPP election applies to major political parties.¹ NRS 298.650.
16 There are two major political parties in Nevada: the NV GOP and the Democratic Party of
17 the State of Nevada (“NSDP”).² The NSDP has not been joined in this litigation.³

18 While the NV GOP only seeks relief to preclude Defendants from enforcing the PPP
19 election provisions against it specifically, the basis for the NV GOP’s requested relief is
20 that the PPP election statutes are unconstitutional. The Court would necessarily have to
21 determine whether the PPP election process is unconstitutional. And if the Court were to
22 find the PPP election process unconstitutional, that finding would apply equally to the
23 NSDP and affect its interests. Joinder of the NSDP is therefore required pursuant to NRCP
24 19.

25
26 ¹ NRS 293.128 sets out the procedure for a political party to qualify as a major political party. NRS 293.0655;
NRS 293.128.

27 ² See <https://www.nvsos.gov/sos/organized-political-parties> (last visited July 17, 2023).

28 ³ In its Order to Set Hearing and For Service, dated June 5, 2023, the Court ordered the Plaintiff to “serve a
copy of their [Complaint] and Motion for Preliminary Injunction upon . . . the Nevada Democratic party as a
[potential] indispensable party.”

1 "If the interest of the absent parties may be affected or bound by the decree, they
2 must be brought before the court, or it will not proceed to a decree." *Univ. of Nev. v.*
3 *Tarkanian*, 95 Nev. 389, 396, 594 P.2d 1159, 1163 (1979); *see also Schwob v. Hemsath*, 98
4 Nev. 293, 294, 646 P.2d 1212, 1212 (1982) ("Failure to join an indispensable party is fatal
5 to a judgment . . ."). Because the NSDP has not been joined in this action, the Court will
6 not be able to enter a final order, and the Complaint will be subject to dismissal pursuant
7 to NRCP 12(b)(6). Consequently, as it stands, the NV GOP has little likelihood of
8 succeeding on the merits of its claims.

9 2. The NV GOP's Claims

10 The core of the NV GOP's lawsuit is that the PPP election process is an
11 unconstitutional infringement of the freedom of association.⁴ The First and Fourteenth
12 Amendments protect individuals' rights to "gather in association for the purpose of
13 advancing shared belief" and for the "common advancement of political beliefs." *Democratic*
14 *Party of United State v. Wisconsin ex rel. La Folette*, 450 U.S. 107, 121–22 (1981). Political
15 parties thus have the right to "identify the people who constitute the association" and "to
16 select a standard bearer who best represents the party's ideologies and preferences." *Eu v.*
17 *San Francisco Cty. Democratic Central Committee*, 489 U.S. 214, 224 (1989). Notably,
18 however, when a State gives a party a role in the election process, such as by allowing
19 parties to have their candidates appear with party endorsement on the general-election
20 ballot, the party's rights to choose a candidate-selection process is circumscribed. *New York*
21 *State Bd. of Elections v. Lopez Torres*, 552 U.S. 196, 203 (2008). In such a case, "the State
22 acquires a legitimate governmental interest in ensuring the fairness of the party's
23 nominating process, enabling it to prescribe what the process must be." *Id.* A State
24 therefore does not unduly burden the freedom of association, for example, when it requires

25 ⁴ The NV GOP cites to the legislative history of Senate Bill 292 of the 81st Legislative Session ("SB 292") as
26 support for its argument that the PPP election process is unconstitutional. However, legislative history is
27 only relevant where statutes are ambiguous, *State v. Lucero*, 127 Nev. 92, 95, 249 P.3d 1226, 1228 (2011),
28 and the NV GOP has not argued that AB 126 is ambiguous or provided any citation supporting the use of a
different statute's legislative history to interpret it. The statutes repealed by SB 292 moreover differ
significantly from the challenged provisions of AB 126. The Court therefore finds no basis to consider SB
292's legislative history in resolving this Motion.

1 a party to hold a primary election. See *Alaskan Indep. Party v. Alaska*, 545 F.3d 1173, 1180
2 (9th Cir. 2008) (holding that Alaska’s mandatory primary election was not an undue burden
3 on political parties’ associational rights). The Court in *Alaskan Indep. Party* further
4 articulated that direct primaries are beneficial to democracy and trump any interest a
5 political party has in designing its own rules for nominating candidates. *Id.* at 1178
6 (quoting *Lightfoot v. Eu*, 964 F.2d 865, 873 (9th Cir. 1992)).

7 Justice Kennedy, in a concurring opinion, summarized it best: “Encouraging citizens
8 to vote is a legitimate, essential, state objective; for the constitutional order must be
9 preserved by a strong, participatory democratic process.” *Cal. Democratic Party v. Jones*
10 530 U.S. 567, 587 (2000). In fact, the United States Supreme Court has held “it ‘too plain
11 for argument’ . . . that a State may require parties to use the primary format for selecting
12 their nominees.” *Id.* at 582. Although states cannot hold blanket primaries—where any
13 registered voter could vote for any candidate of any party for a given office—they can clearly
14 hold primaries to “assure that intraparty competition is resolved in a democratic fashion.”
15 (*Id.*)

16 Here, the NV GOP has failed to articulate a basis for finding the PPP election process
17 unconstitutional. The PPP election process does not limit the NV GOP’s ability to select
18 its own method for determining its candidate of choice. Moreover, major political party
19 candidates for President of the United States are free to decide whether to participate in a
20 PPP election, and voters are free to choose not to vote in a PPP election. The NV GOP also
21 has not identified any party rule or Nevada statute that is in conflict. There is,
22 consequently, no impact on any major political party’s candidate-selection process and no
23 burden on the freedom of association. To the extent there is a burden, it is slight and the
24 State’s legitimate interests (discussed in Section III.C below) justify the burden.

25 Even further, the NV GOP failed to present any relevant case law to support its
26 claims. The only case the NV GOP cited to support its position that primary elections are
27 unconstitutional was a 1996 trial court level case in Arizona that granted a preliminary
28 injunction that temporarily enjoined Arizona’s presidential preference election. *Arizona*

1 *State Democratic Committee v. Hull*, No. CV96-00909 (Maricopa County Super. Ct. Feb 1,
2 1996). However, when the Court inquired whether the NV GOP knew that Arizona utilized
3 presidential preference elections today, they conceded they did now know that. This
4 revealed the NV GOP failed to research their only supporting case law despite the case
5 being not a final determination on the merits, not binding authority, and later overturned
6 as Arizona continues to use presidential preference elections.

7 The NV GOP is therefore unlikely to succeed on the merits of its claims. The NV
8 GOP's claim for declaratory relief likely fails due to a lack of a justiciable controversy. *Doe*
9 *v. Bryan*, 102 Nev. 523, 525, 728 P.3d 443, 444 (1986). Because the PPP election is non-
10 binding and does not require the NV GOP, any candidate, or any voter to do anything, there
11 is likely no "concrete dispute admitting of an immediate and definitive determination of
12 the parties' rights." *Id.* (citation omitted).

13 The writ of prohibition claim is likely to fail because, as the NV GOP appears to
14 concede, there is an adequate remedy at law. NRS 34.330; Mot. at 5. The NV GOP argues
15 that a court may entertain a petition for a writ of prohibition where there is an adequate
16 remedy at law if there is an important issue of law that needs clarification. Mot. at 5-6
17 (quoting *State v. Second Judicial Dist. Court ex rel. Cnty. of Washoe*, 118 Nev. 609, 615, 55
18 P.3d 420, 423 (2002)). However, as discussed above, the PPP election process does not
19 impermissibly burden any constitutional right and there is likely no important legal issue
20 in need of clarification.

21 The NV GOP is also unlikely to succeed on its request for injunctive relief because
22 injunctive relief is a remedy, not a standalone cause of action. *State Farm Mut. Auto. Ins.*
23 *Co. v. Jafbros Inc.*, 109 Nev. 926, 928, 860 P.2d 176, 178 (1993) (explaining that the
24 "existence of a right violated is a prerequisite to the granting of an injunction" and "an
25 injunction will not issue 'to restrain an act which does not give rise to a cause of action'");
26 *Shell Oil Co. v. Richter*, 52 Cal. App. 2d 165, 168, 125 P.2d 930, 932 (Cal. App. 1942)
27 ("Injunctive relief is a remedy and not, in itself, a cause of action, and a cause of action
28 must exist before injunctive relief may be granted."). Because the NV GOP's declaratory

1 and writ relief claims likely fail and because there is no constitutional violation, injunctive
2 relief likely cannot be granted as a remedy.

3 Finally, for all claims, the NV GOP is unlikely to be able to establish standing. In
4 cases challenging the constitutionality of a statute, "a requirement of standing is that the
5 litigant personally suffer injury that can be fairly traced to the allegedly unconstitutional
6 statute." *Elley v. Stephens*, 104 Nev. 413, 416, 760 P.2d 768 (1988). The NV GOP indicates
7 that its grievance is that the PPP election process would "interfere with a political party's
8 processes for selecting presidential candidates." Mot. at 6. But the PPP election process is
9 not binding on any major political party, and the NV GOP therefore likely cannot establish
10 a personal injury to support standing.

11 B. Irreparable Harm

12 The NV GOP argues that it would suffer irreparable harm if both a non-binding
13 primary and a binding caucus are held. The Court finds that while there may be some
14 minor confusion to the public, the benefits of holding a more inclusive primary for voters to
15 be able to state their preferences far outweigh those concerns. In short, the NV GOP has
16 failed to establish a reasonable probability of irreparable harm absent a preliminary
17 injunction.

18 C. Public Interest and Hardship to the Parties

19 Even if the NV GOP had established a likelihood of success on the merits and that
20 it would suffer irreparable harm, the Court may still decline the request for a preliminary
21 injunction based on the potential hardships to the parties and the considerations of the
22 public interest. *See Univ. & Comm. College Sys. of Nevada*, 120 Nev. at 721, 100 P.3d at
23 187. As discussed, the NV GOP has not identified any harm other than minor confusion
24 about the nomination process.

25 On the other hand, Defendants have identified public interests that weigh heavily
26 against a preliminary injunction. Those interests include that voting by ballot in a PPP
27 election provides voters with more security and confidence, preserves the overall integrity
28 of the election process, encourages voter participation including because votes may be cast

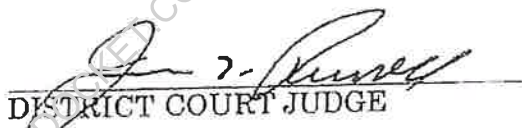
1 early and by mail and military-overseas ballot, simplifies the process, and elevates
2 Nevadans' voices by affording them the opportunity to declare primary election results
3 early on in the nationwide process. The Court finds the public interest is served by allowing
4 voters to have broader input in stating their preferences in a non-binding primary election.

5 Accordingly, the Court ORDERS that:

6 1. The NV GOP's Motion for Preliminary Injunction is denied; and

7 2. The Attorney General will serve a notice of entry of this order on all other
8 parties and file proof of such service within 7 days after the date the Court sends this order
9 to Defendants' attorneys.

10 DATED July 21, 2023


DISTRICT COURT JUDGE

13 Respectfully submitted:

14 Dated this 20th day of July, 2023

15 AARON D. FORD
16 Attorney General

17 By: /s/ Laena St-Jules
18 LAENA ST-JULES (Bar No. 15156)
19 Deputy Attorney General
20 State of Nevada
21 Office of the Attorney General
22 100 North Carson Street
23 Carson City, NV 89701-4717
24 T: (775) 684-1265
25 F: (775) 684-1108
26 LStJules@ag.nv.gov

27 *Attorneys for Defendants*


28

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on this 21 day of July, 2023, I deposited for mailing, postage paid, at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

Laena St-Jules
100 North Carson Street
Carson City, NV 89701

Sigal Chattah
5875 S. Rainbow Blvd. #204
Las Vegas, NV 89118



Joshua P. La Bella, Esq.
Law Clerk, Dept. I

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Attorney for Plaintiff

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Petitioner/Plaintiff,

vs.

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Dept. No.: I

STATE OF NEVADA; FRANCISCO
AGUILAR, in his official capacity as Nevada
Secretary of State,

Respondent/Defendant.

CASE APPEAL STATEMENT

Petitioner, by and through its attorneys of record, Chattah Law Group hereby files this
Case Appeal Statement.

1. Name of appellant filing this Case Appeal Statement:

Nevada Republican Party.

2. Identify the Judge issuing the decision, judgment, or order appealed from:

The Honorable James T. Russell.

3. Identify each appellant and the name and address of counsel for each appellant:

Appellant: Nevada Republican Party

Counsel for Appellant:

**Sigal Chattah, ESQ.
CHATTAH LAW GROUP
5875 S. Rainbow Blvd. #204
Las Vegas, Nevada 89118**

1 4. Identify each respondent and the name and address of appellate counsel, if known,
2 for each respondent (if the name of a respondent's appellate counsel is unknown, indicated as
3 much and provide the name and address of that respondent's trial counsel):

4 **Respondent: State of Nevada, Francisco Aguilar**

5 **Counsel for Respondent:**

6 **Aaron D. Ford, Esq.**
7 **Laena St-Jules, Esq.**
8 **Office of Attorney General**
9 **100 North Carson Street**
10 **Carson City, NV 89701-4717**

11 5. Indicate whether any attorney identified above in response to question 3 or 4 is
12 not licensed to practice law in Nevada and, if so, whether the district court granted that attorney
13 permission to appear under SCR 42 (attach a copy of any district court order granting such
14 permission):

15 N/A

16 6. Indicated whether appellant was represented by appointed or retained counsel in
17 the district court:

18 **Retained.**

19 7. Indicate whether appellant is represented by appointed or retained counsel on
20 appeal:

21 **Retained.**

22 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and
23 the date of entry of the district court order granting such leave:

24 N/A.

1 9. Indicate the date the proceedings commenced in the district court (e.g., date
2 complaint indictment, information, or petition was filed):

3 **May 26, 2023 (date complaint was filed)**
4

5 10. Provide a brief description of the nature of the action and result in the district
6 court, including the type of judgment or order being appealed and the relief granted by the
7 district court:

8 **Appellant filed suit, requesting injunctive and declaratory relief to bar the State of**
9 **Nevada and Francisco Aguilar from compelling its participation in a state-run presidential**
10 **primary election. The Court subsequently entered an order denying Appellant's Motion for**
11 **Preliminary Injunction, which is the order being appealed.**
12

13 11. Indicate whether the case has previously been the subject of an appeal to or
14 original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket
15 number of the prior proceeding:

16 **N/A.**
17

18 12. Indicate whether this appeal involves child custody or visitation:

19 **N/A.**
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CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of August, 2023, I served a copy of the foregoing **CASE APPEAL STATEMENT** upon each of the parties by depositing a copy of the same in a sealed envelope in the United States Mail, Las Vegas, Nevada, First-Class Postage fully prepaid, and addressed to:

OFFICE OF THE ATTORNEY GENERAL
Aaron D. Ford
Attorney General
Laena St-Jules
Deputy Attorney General
100 North Carson Street
Carson City, NV 89701-4717
Lstjules@ag.nv.gov
Attorney for Defendants

and that there is a regular communication by mail between the place of mailing and the place(s) so addressed.


An employee of Chattah Law Group

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Judge: RUSSELL, JUDGE JAMES
TODD

Case No. 23 OC 00051 1B

Ticket No.
CTN:

NEVADA REPUBLICAN PARTY

By:

AGUILAR, FRANCISCO DRSPND

-vs-

By:

Dob: Sex:
Lic: Sid:
STATE OF NEVADA DRSPND

By:

Dob: Sex:
Lic: Sid:

Plate#: Make:
Year: Accident:
Type: Venue:
Location:

NEVADA REPUBLICAN PARTY PLNTPET

Bond:
Type:

Set:
Posted:

Charges:

Ct. Offense Dt: Cvr:
Arrest Dt:
Comments:

Ct. Offense Dt: Cvr:
Arrest Dt:
Comments:

Sentencing:

No.	Filed	Action	Operator	Fine/Cost	Due
1	08/17/23	REQUEST TO SUBMIT	1BPETERSON	0.00	0.00
2	08/17/23	DEFENDANT'S REPLY IN SUPPORT OF THEIR MOTION TO DISMISS	1BPETERSON	0.00	0.00
3	08/17/23	NOTICE OF DEFICIENCY IN NOTICE OF APPEAL	1BPETERSON	0.00	0.00
4	08/17/23	RECEIPT	1BPETERSON	0.00	0.00
5	08/16/23	APPEAL BOND DEPOSIT Receipt: 80895 Date: 08/17/2023	1BPETERSON	500.00	0.00
6	08/16/23	CASE APPEAL STATEMENT	1BPETERSON	0.00	0.00
7	08/16/23	NOTICE OF APPEAL FILED Receipt: 80896 Date: 08/17/2023	1BPETERSON	24.00	0.00
8	08/07/23	PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS AND COUNTERMOTION TO STAY PENDING APPEAL	1BPETERSON	0.00	0.00
9	07/25/23	NOTICE OF ENTRY OF ORDER	1BDORTIZ	0.00	0.00
10	07/21/23	ORDER DENYING MOTION FOR PRELIMINARY INJUNCTION	1BPETERSON	0.00	0.00
11	07/20/23	DEFENDANT'S MOTION TO DISMISS	1BPETERSON	0.00	0.00
12	07/10/23	HEARING HELD: The following event: MOTION HEARING - CIVIL scheduled for 07/10/2023 at 2:00 pm has been resulted as follows: Result: HEARING HELD Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BCFRANZ	0.00	0.00
13	07/07/23	PLAINTIFF'S SUPPLEMENTAL AUTHORITY IN SUPPORT OF ITS MOTION FOR PRELIMINARY INJUNCTION	1BPETERSON	0.00	0.00
14	06/30/23	NOTICE OF ENTRY OF ORDER	1BJULIEH	0.00	0.00
15	06/28/23	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BJULIEH	0.00	0.00

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No.	Filed	Action	Operator	Fine/Cost	Due
16	06/28/23	ORDER GRANTING MOTION TO APPEAR REMOTELY	1BJULIEH	0.00	0.00
17	06/27/23	REQUEST FOR SUBMISSION	1BPETERSON	0.00	0.00
18	06/27/23	DEFENDANT'S MOTION TO APPEAR REMOTELY	1BPETERSON	0.00	0.00
19	06/26/23	REPLY IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION	1BPETERSON	0.00	0.00
20	06/26/23	HEARING DATE MEMO	1BJULIEH	0.00	0.00
21	06/16/23	DEFENDANTS' OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION	1BPETERSON	0.00	0.00
22	06/08/23	NOTICE OF HEARING (NOTICE TO SET)	1BCFRANZ	0.00	0.00
23	06/05/23	AFFIDAVIT OF NON-SERVICE	1BSBARAJAS	0.00	0.00
24	06/05/23	AFFIDAVIT OF SERVICE (2)	1BSBARAJAS	0.00	0.00
25	06/05/23	ORDER TO SET HEARING AND FOR SERVICE	1BSBARAJAS	0.00	0.00
26	06/02/23	MOTION FOR PRELIMINARY INJUNCTION	1BPETERSON	0.00	0.00
27	05/26/23	ISSUING SUMMONS AND ADDITIONAL SUMMONS	1BPETERSON	0.00	0.00
28	05/26/23	COMPLAINT Receipt: 79738 Date: 05/26/2023 Receipt 79738 reversed by 79743 on 05/26/2023. Receipt: 79744 Date: 05/26/2023	1BPETERSON	265.00	0.00
Total:				789.00	0.00
Totals By: COST				289.00	0.00
HOLDING				500.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

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2023 JUL 21 PM 1:20

WILLIAM SCOTT HOEN
CLERK

BY:  DEPUTY

6
7 *Attorneys for Defendants*

8
9 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR CARSON CITY**

11
12 NEVADA REPUBLICAN PARTY,

13 Plaintiff,

14 vs.

15 STATE OF NEVADA; FRANCISCO
16 AGUILAR, in his official capacity as
Nevada Secretary of State

17 Defendants.

Case No.: 23OC000511B

Dept. No. I

18 **ORDER DENYING MOTION FOR PRELIMINARY INJUNCTION**

19 On June 2, 2023, Plaintiff the Nevada Republican Party ("NV GOP") filed a Motion
20 for Preliminary Injunction ("Motion"). On June 16, 2023, Defendants the State of Nevada
21 and Francisco Aguilar, in his official capacity as Nevada Secretary of State, filed an
22 Opposition to the Motion. On June 26, 2023, the NV GOP filed a Reply in Support of the
23 Motion. On July 7, 2023, the NV GOP filed a Supplemental Authority in Support of its
24 Motion. July 10, 2023, the Court heard oral argument on the Motion. Sigal Chattah, Esq.
25 argued on behalf of the NV GOP. Deputy Attorney General Laena St-Jules argued on
26 behalf of Defendants. The Court, having considered the Motion and all briefing thereon
27 and the arguments of counsel, DENIES the Motion.

28 ///

1 **I. BACKGROUND**

2 Through its Motion, the NV GOP seeks a preliminary injunction barring Defendants
3 from enforcing provisions of Assembly Bill 126, adopted by the 81st Legislative Session
4 (“AB 126”). Those provisions provide for a presidential preference primary election (“PPP
5 election”) and are codified in NRS 298.600–720. Under the PPP election rules, candidates
6 qualified to be a major political party’s nominee for President of the United States may
7 choose to participate in the PPP election process. NRS 298.660. The rules require a PPP
8 election, paid for by the State, to be held on the first Tuesday in February of each
9 presidential election year if two or more qualified candidates of a major political party file
10 declarations of candidacy with the Secretary of State between October 1 and October 15 of
11 the year preceding the PPP election. NRS 298.650–660; NRS 298.710. If no qualified
12 candidate or only one qualified candidate from a major political party files a declaration of
13 candidacy, no PPP election will be held for that major political party. NRS 298.650(2). The
14 results of any PPP election are not binding on any major political party.

15 The NV GOP claimed in its Motion and Complaint that the PPP election process
16 violates its and its members’ First and Fourteenth Amendment freedom of association
17 rights because it would preclude the NV GOP from using alternative methods to select its
18 presidential nominee. At the hearing on the Motion, the NV GOP conceded that the PPP
19 election process would not bind the NV GOP in its selection of its presidential nominee and
20 the NV GOP would still be able to select its nominee through a caucus. However, the NV
21 GOP argued that a non-binding PPP election is still unconstitutional and should therefore
22 be enjoined. The NV GOP has failed to establish its entitlement to a preliminary
23 injunction, and the Motion is therefore denied.

24 **II. LEGAL STANDARDS**

25 “[I]njunctive relief is extraordinary relief.” *Dep’t of Conservation & Nat. Res., Div.*
26 *of Water Res. v. Foley*, 121 Nev. 77, 80, 109 P.3d 760, 762 (2005). An applicant for a
27 preliminary injunction must show “(1) a likelihood of success on the merits; and (2) a
28 reasonable probability that the non-moving party’s conduct, if allowed to continue, will

1 cause irreparable harm for which compensatory damage is an inadequate remedy.” *Univ.*
2 *& Cmty. Coll. Sys. of Nevada v. Nevadans for Sound Gov’t*, 120 Nev. 712, 721, 100 P.3d
3 179, 187 (2004). Additionally, courts “weigh the potential hardships to the relative parties
4 and others, and the public interest.” *Id.*

5 **III. ANALYSIS**

6 **A. Likelihood of Success on the Merits**

7 The NV GOP seeks injunctive, writ, and declaratory relief to preclude Defendants
8 from enforcing the PPP election provisions against it, or, in the alternative, a declaration
9 that the results of the PPP election are not binding against it. Compl. ¶¶ 24–41. The NV
10 GOP has small likelihood of success on the merits of its claims.

11 **1. Required Joinder of Parties**

12 NRCP 19(a)(1)(b)(i) requires joinder of a party where that party “claims an interest
13 relating to the subject of the action and is so situated that disposing of the action in the
14 person’s absence may . . . as a practical matter impair or impede the person’s ability to
15 protect the interest.” The PPP election applies to major political parties.¹ NRS 298.650.
16 There are two major political parties in Nevada: the NV GOP and the Democratic Party of
17 the State of Nevada (“NSDP”).² The NSDP has not been joined in this litigation.³

18 While the NV GOP only seeks relief to preclude Defendants from enforcing the PPP
19 election provisions against it specifically, the basis for the NV GOP’s requested relief is
20 that the PPP election statutes are unconstitutional. The Court would necessarily have to
21 determine whether the PPP election process is unconstitutional. And if the Court were to
22 find the PPP election process unconstitutional, that finding would apply equally to the
23 NSDP and affect its interests. Joinder of the NSDP is therefore required pursuant to NRCP
24 19.

25
26 ¹ NRS 293.128 sets out the procedure for a political party to qualify as a major political party. NRS 293.0655;
NRS 293.128.

27 ² See <https://www.nvsos.gov/sos/organized-political-parties> (last visited July 17, 2023).

28 ³ In its Order to Set Hearing and For Service, dated June 5, 2023, the Court ordered the Plaintiff to “serve a
copy of their [Complaint] and Motion for Preliminary Injunction upon . . . the Nevada Democratic party as a
[potential] indispensable party.”

1 “If the interest of the absent parties may be affected or bound by the decree, they
2 must be brought before the court, or it will not proceed to a decree.” *Univ. of Nev. v.*
3 *Tarkanian*, 95 Nev. 389, 396, 594 P.2d 1159, 1163 (1979); *see also Schwob v. Hemsath*, 98
4 Nev. 293, 294, 646 P.2d 1212, 1212 (1982) (“Failure to join an indispensable party is fatal
5 to a judgment . . .”). Because the NSDP has not been joined in this action, the Court will
6 not be able to enter a final order, and the Complaint will be subject to dismissal pursuant
7 to NRCP 12(b)(6). Consequently, as it stands, the NV GOP has little likelihood of
8 succeeding on the merits of its claims.

9 2. The NV GOP’s Claims

10 The core of the NV GOP’s lawsuit is that the PPP election process is an
11 unconstitutional infringement of the freedom of association.⁴ The First and Fourteenth
12 Amendments protect individuals’ rights to “gather in association for the purpose of
13 advancing shared belief” and for the “common advancement of political beliefs.” *Democratic*
14 *Party of United State v. Wisconsin ex rel. La Follette*, 450 U.S. 107, 121–22 (1981). Political
15 parties thus have the right to “identify the people who constitute the association” and “to
16 select a standard bearer who best represents the party’s ideologies and preferences.” *Eu v.*
17 *San Francisco Cty. Democratic Central Committee*, 489 U.S. 214, 224 (1989). Notably,
18 however, when a State gives a party a role in the election process, such as by allowing
19 parties to have their candidates appear with party endorsement on the general-election
20 ballot, the party’s rights to choose a candidate-selection process is circumscribed. *New York*
21 *State Bd. of Elections v. Lopez Torres*, 552 U.S. 196, 203 (2008). In such a case, “the State
22 acquires a legitimate governmental interest in ensuring the fairness of the party’s
23 nominating process, enabling it to prescribe what the process must be.” *Id.* A State
24 therefore does not unduly burden the freedom of association, for example, when it requires

25 ⁴ The NV GOP cites to the legislative history of Senate Bill 292 of the 81st Legislative Session (“SB 292”) as
26 support for its argument that the PPP election process is unconstitutional. However, legislative history is
27 only relevant where statutes are ambiguous, *State v. Lucero*, 127 Nev. 92, 95, 249 P.3d 1226, 1228 (2011),
28 and the NV GOP has not argued that AB 126 is ambiguous or provided any citation supporting the use of a
different statute’s legislative history to interpret it. The statutes repealed by SB 292 moreover differ
significantly from the challenged provisions of AB 126. The Court therefore finds no basis to consider SB
292’s legislative history in resolving this Motion.

1 a party to hold a primary election. *See Alaskan Indep. Party v. Alaska*, 545 F.3d 1173, 1180
2 (9th Cir. 2008) (holding that Alaska’s mandatory primary election was not an undue burden
3 on political parties’ associational rights). The Court in *Alaskan Indep. Party* further
4 articulated that direct primaries are beneficial to democracy and trump any interest a
5 political party has in designing its own rules for nominating candidates. *Id.* at 1178
6 (quoting *Lightfoot v. Eu*, 964 F.2d 865, 873 (9th Cir. 1992)).

7 Justice Kennedy, in a concurring opinion, summarized it best: “Encouraging citizens
8 to vote is a legitimate, essential, state objective; for the constitutional order must be
9 preserved by a strong, participatory democratic process.” *Cal. Democratic Party v. Jones*
10 530 U.S. 567, 587 (2000). In fact, the United States Supreme Court has held “it ‘too plain
11 for argument’ . . . that a State may require parties to use the primary format for selecting
12 their nominees.” *Id.* at 582. Although states cannot hold blanket primaries—where any
13 registered voter could vote for any candidate of any party for a given office—they can clearly
14 hold primaries to “assure that intraparty competition is resolved in a democratic fashion.”
15 (*Id.*)

16 Here, the NV GOP has failed to articulate a basis for finding the PPP election process
17 unconstitutional. The PPP election process does not limit the NV GOP’s ability to select
18 its own method for determining its candidate of choice. Moreover, major political party
19 candidates for President of the United States are free to decide whether to participate in a
20 PPP election, and voters are free to choose not to vote in a PPP election. The NV GOP also
21 has not identified any party rule or Nevada statute that is in conflict. There is,
22 consequently, no impact on any major political party’s candidate-selection process and no
23 burden on the freedom of association. To the extent there is a burden, it is slight and the
24 State’s legitimate interests (discussed in Section III.C below) justify the burden.

25 Even further, the NV GOP failed to present any relevant case law to support its
26 claims. The only case the NV GOP cited to support its position that primary elections are
27 unconstitutional was a 1996 trial court level case in Arizona that granted a preliminary
28 injunction that temporarily enjoined Arizona’s presidential preference election. *Arizona*

1 *State Democratic Committee v. Hull*, No. CV96-00909 (Maricopa County Super. Ct. Feb 1,
2 1996). However, when the Court inquired whether the NV GOP knew that Arizona utilized
3 presidential preference elections today, they conceded they did now know that. This
4 revealed the NV GOP failed to research their only supporting case law despite the case
5 being not a final determination on the merits, not binding authority, and later overturned
6 as Arizona continues to use presidential preference elections.

7 The NV GOP is therefore unlikely to succeed on the merits of its claims. The NV
8 GOP's claim for declaratory relief likely fails due to a lack of a justiciable controversy. *Doe*
9 *v. Bryan*, 102 Nev. 523, 525, 728 P.3d 443, 444 (1986). Because the PPP election is non-
10 binding and does not require the NV GOP, any candidate, or any voter to do anything, there
11 is likely no "concrete dispute admitting of an immediate and definitive determination of
12 the parties' rights." *Id.* (citation omitted).

13 The writ of prohibition claim is likely to fail because, as the NV GOP appears to
14 concede, there is an adequate remedy at law. NRS 34.330; Mot. at 5. The NV GOP argues
15 that a court may entertain a petition for a writ of prohibition where there is an adequate
16 remedy at law if there is an important issue of law that needs clarification. Mot. at 5-6
17 (quoting *State v. Second Judicial Dist. Court ex rel. Cnty. of Washoe*, 118 Nev. 609, 615, 55
18 P.3d 420, 423 (2002)). However, as discussed above, the PPP election process does not
19 impermissibly burden any constitutional right and there is likely no important legal issue
20 in need of clarification.

21 The NV GOP is also unlikely to succeed on its request for injunctive relief because
22 injunctive relief is a remedy, not a standalone cause of action. *State Farm Mut. Auto. Ins.*
23 *Co. v. Jafbros Inc.*, 109 Nev. 926, 928, 860 P.2d 176, 178 (1993) (explaining that the
24 "existence of a right violated is a prerequisite to the granting of an injunction" and "an
25 injunction will not issue 'to restrain an act which does not give rise to a cause of action'");
26 *Shell Oil Co. v. Richter*, 52 Cal. App. 2d 165, 168, 125 P.2d 930, 932 (Cal. App. 1942)
27 ("Injunctive relief is a remedy and not, in itself, a cause of action, and a cause of action
28 must exist before injunctive relief may be granted."). Because the NV GOP's declaratory

1 and writ relief claims likely fail and because there is no constitutional violation, injunctive
2 relief likely cannot be granted as a remedy.

3 Finally, for all claims, the NV GOP is unlikely to be able to establish standing. In
4 cases challenging the constitutionality of a statute, “a requirement of standing is that the
5 litigant personally suffer injury that can be fairly traced to the allegedly unconstitutional
6 statute.” *Elley v. Stephens*, 104 Nev. 413, 416, 760 P.2d 768 (1988). The NV GOP indicates
7 that its grievance is that the PPP election process would “interfere with a political party’s
8 processes for selecting presidential candidates.” Mot. at 6. But the PPP election process is
9 not binding on any major political party, and the NV GOP therefore likely cannot establish
10 a personal injury to support standing.

11 **B. Irreparable Harm**

12 The NV GOP argues that it would suffer irreparable harm if both a non-binding
13 primary and a binding caucus are held. The Court finds that while there may be some
14 minor confusion to the public, the benefits of holding a more inclusive primary for voters to
15 be able to state their preferences far outweigh those concerns. In short, the NV GOP has
16 failed to establish a reasonable probability of irreparable harm absent a preliminary
17 injunction.

18 **C. Public Interest and Hardship to the Parties**

19 Even if the NV GOP had established a likelihood of success on the merits and that
20 it would suffer irreparable harm, the Court may still decline the request for a preliminary
21 injunction based on the potential hardships to the parties and the considerations of the
22 public interest. *See Univ. & Comm. College Sys. of Nevada*, 120 Nev. at 721, 100 P.3d at
23 187. As discussed, the NV GOP has not identified any harm other than minor confusion
24 about the nomination process.

25 On the other hand, Defendants have identified public interests that weigh heavily
26 against a preliminary injunction. Those interests include that voting by ballot in a PPP
27 election provides voters with more security and confidence, preserves the overall integrity
28 of the election process, encourages voter participation including because votes may be cast

1 early and by mail and military-overseas ballot, simplifies the process, and elevates
2 Nevadans' voices by affording them the opportunity to declare primary election results
3 early on in the nationwide process. The Court finds the public interest is served by allowing
4 voters to have broader input in stating their preferences in a non-binding primary election.

5 Accordingly, the Court ORDERS that:

- 6 1. The NV GOP's Motion for Preliminary Injunction is denied; and
- 7 2. The Attorney General will serve a notice of entry of this order on all other
8 parties and file proof of such service within 7 days after the date the Court sends this order
9 to Defendants' attorneys.

10 DATED July 21, 2023

11
12 
DISTRICT COURT JUDGE

13 Respectfully submitted:

14 Dated this 20th day of July, 2023

15 AARON D. FORD
16 Attorney General

17 By: /s/ Laena St-Jules
18 LAENA ST-JULES (Bar No. 15156)
19 Deputy Attorney General
20 State of Nevada
21 Office of the Attorney General
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22 *Attorneys for Defendants*

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WILLIAM SCOTT HOEN
CLERK ✓
BY [Signature] DEPUTY

7 *Attorneys for Defendants*
8

9 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR CARSON CITY**
11

12 NEVADA REPUBLICAN PARTY,
13 Plaintiff,

Case No.: 23OC000511B
Dept. No. I

14 vs.

15 STATE OF NEVADA; FRANCISCO
16 AGUILAR, in his official capacity as
Nevada Secretary of State

17 Defendants.

18 **NOTICE OF ENTRY OF ORDER**


19 **TO: ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:**

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28 ///

1 YOU, AND EACH OF YOU, please take notice that an Order Denying Motion for
2 Preliminary Injunction was entered in the above-entitled matter on July 21, 2023. A copy
3 of said Order is attached hereto as Exhibit 1.

4 DATED this 25th day of July 2023

5 AARON D. FORD
6 Attorney General

7 By: 
8 LAENA ST. JULES (Bar No. 15156)
9 Deputy Attorney General
10 Office of the Attorney General
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16 *Attorneys for Defendants*

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1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the State of Nevada, Office of the Attorney General,
3 and that on this 25th day of July 2023, I served a true and correct copy of the foregoing
4 **NOTICE OF ENTRY OF ORDER**, by placing said document in the U.S. First Class
5 Regular Mail, postage prepaid, addressed to:

6 Sigal Chattah, Esq.
7 CHATTAH LAW GROUP
8 5875 S. Rainbow Blvd. #204
9 Las Vegas, NV 89118
10 T: (702) 360-6200
11 F: (702) 643-6292

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13 Aaron D. Van Sickle
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INDEX OF EXHIBITS

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Exhibit 1

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1 AARON D. FORD
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1 **I. BACKGROUND**

2 Through its Motion, the NV GOP seeks a preliminary injunction barring Defendants
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6 A. Likelihood of Success on the Merits

7 The NV GOP seeks injunctive, writ, and declaratory relief to preclude Defendants
8 from enforcing the PPP election provisions against it, or, in the alternative, a declaration
9 that the results of the PPP election are not binding against it. Compl. ¶¶ 24–41. The NV
10 GOP has small likelihood of success on the merits of its claims.

11 1. Required Joinder of Parties

12 NRC 19(a)(1)(b)(i) requires joinder of a party where that party “claims an interest
13 relating to the subject of the action and is so situated that disposing of the action in the
14 person’s absence may . . . as a practical matter impair or impede the person’s ability to
15 protect the interest.” The PPP election applies to major political parties.¹ NRS 298.650.
16 There are two major political parties in Nevada: the NV GOP and the Democratic Party of
17 the State of Nevada (“NSDP”).² The NSDP has not been joined in this litigation.³

18 While the NV GOP only seeks relief to preclude Defendants from enforcing the PPP
19 election provisions against it specifically, the basis for the NV GOP’s requested relief is
20 that the PPP election statutes are unconstitutional. The Court would necessarily have to
21 determine whether the PPP election process is unconstitutional. And if the Court were to
22 find the PPP election process unconstitutional, that finding would apply equally to the
23 NSDP and affect its interests. Joinder of the NSDP is therefore required pursuant to NRC
24 19.

25
26 ¹ NRS 293.128 sets out the procedure for a political party to qualify as a major political party. NRS 293.0655;
NRS 293.128.

27 ² See <https://www.nvsos.gov/sos/organized-political-parties> (last visited July 17, 2023).

28 ³ In its Order to Set Hearing and For Service, dated June 5, 2023, the Court ordered the Plaintiff to “serve a
copy of their [Complaint] and Motion for Preliminary Injunction upon . . . the Nevada Democratic party as a
[potential] indispensable party.”

1 “If the interest of the absent parties may be affected or bound by the decree, they
2 must be brought before the court, or it will not proceed to a decree.” *Univ. of Nev. v.*
3 *Tarkanian*, 95 Nev. 389, 396, 594 P.2d 1159, 1163 (1979); *see also Schwob v. Hemsath*, 98
4 Nev. 293, 294, 646 P.2d 1212, 1212 (1982) (“Failure to join an indispensable party is fatal
5 to a judgment . . .”). Because the NSDP has not been joined in this action, the Court will
6 not be able to enter a final order, and the Complaint will be subject to dismissal pursuant
7 to NRCP 12(b)(6). Consequently, as it stands, the NV GOP has little likelihood of
8 succeeding on the merits of its claims.

9 2. The NV GOP’s Claims

10 The core of the NV GOP’s lawsuit is that the PPP election process is an
11 unconstitutional infringement of the freedom of association.⁴ The First and Fourteenth
12 Amendments protect individuals’ rights to “gather in association for the purpose of
13 advancing shared belief” and for the “common advancement of political beliefs.” *Democratic*
14 *Party of United State v. Wisconsin ex rel. La Follette*, 450 U.S. 107, 121–22 (1981). Political
15 parties thus have the right to “identify the people who constitute the association” and “to
16 select a standard bearer who best represents the party’s ideologies and preferences.” *Eu v.*
17 *San Francisco Cty. Democratic Central Committee*, 489 U.S. 214, 224 (1989). Notably,
18 however, when a State gives a party a role in the election process, such as by allowing
19 parties to have their candidates appear with party endorsement on the general-election
20 ballot, the party’s rights to choose a candidate-selection process is circumscribed. *New York*
21 *State Bd. of Elections v. Lopez Torres*, 552 U.S. 196, 203 (2008). In such a case, “the State
22 acquires a legitimate governmental interest in ensuring the fairness of the party’s
23 nominating process, enabling it to prescribe what the process must be.” *Id.* A State
24 therefore does not unduly burden the freedom of association, for example, when it requires

25 ⁴ The NV GOP cites to the legislative history of Senate Bill 292 of the 81st Legislative Session (“SB 292”) as
26 support for its argument that the PPP election process is unconstitutional. However, legislative history is
27 only relevant where statutes are ambiguous, *State v. Lucero*, 127 Nev. 92, 95, 249 P.3d 1226, 1228 (2011),
28 and the NV GOP has not argued that AB 126 is ambiguous or provided any citation supporting the use of a
different statute’s legislative history to interpret it. The statutes repealed by SB 292 moreover differ
significantly from the challenged provisions of AB 126. The Court therefore finds no basis to consider SB
292’s legislative history in resolving this Motion.

1 a party to hold a primary election. See *Alaskan Indep. Party v. Alaska*, 545 F.3d 1173, 1180
2 (9th Cir. 2008) (holding that Alaska’s mandatory primary election was not an undue burden
3 on political parties’ associational rights). The Court in *Alaskan Indep. Party* further
4 articulated that direct primaries are beneficial to democracy and trump any interest a
5 political party has in designing its own rules for nominating candidates. *Id.* at 1178
6 (quoting *Lightfoot v. Eu*, 964 F.2d 865, 873 (9th Cir. 1992)).

7 Justice Kennedy, in a concurring opinion, summarized it best: “Encouraging citizens
8 to vote is a legitimate, essential, state objective; for the constitutional order must be
9 preserved by a strong, participatory democratic process.” *Cal. Democratic Party v. Jones*
10 530 U.S. 567, 587 (2000). In fact, the United States Supreme Court has held “it ‘too plain
11 for argument’ . . . that a State may require parties to use the primary format for selecting
12 their nominees.” *Id.* at 582. Although states cannot hold blanket primaries—where any
13 registered voter could vote for any candidate of any party for a given office—they can clearly
14 hold primaries to “assure that intraparty competition is resolved in a democratic fashion.”
15 (*Id.*)

16 Here, the NV GOP has failed to articulate a basis for finding the PPP election process
17 unconstitutional. The PPP election process does not limit the NV GOP’s ability to select
18 its own method for determining its candidate of choice. Moreover, major political party
19 candidates for President of the United States are free to decide whether to participate in a
20 PPP election, and voters are free to choose not to vote in a PPP election. The NV GOP also
21 has not identified any party rule or Nevada statute that is in conflict. There is,
22 consequently, no impact on any major political party’s candidate-selection process and no
23 burden on the freedom of association. To the extent there is a burden, it is slight and the
24 State’s legitimate interests (discussed in Section III.C below) justify the burden.

25 Even further, the NV GOP failed to present any relevant case law to support its
26 claims. The only case the NV GOP cited to support its position that primary elections are
27 unconstitutional was a 1996 trial court level case in Arizona that granted a preliminary
28 injunction that temporarily enjoined Arizona’s presidential preference election. *Arizona*

1 *State Democratic Committee v. Hull*, No. CV96-00909 (Maricopa County Super. Ct. Feb 1,
2 1996). However, when the Court inquired whether the NV GOP knew that Arizona utilized
3 presidential preference elections today, they conceded they did now know that. This
4 revealed the NV GOP failed to research their only supporting case law despite the case
5 being not a final determination on the merits, not binding authority, and later overturned
6 as Arizona continues to use presidential preference elections.

7 The NV GOP is therefore unlikely to succeed on the merits of its claims. The NV
8 GOP's claim for declaratory relief likely fails due to a lack of a justiciable controversy. *Doe*
9 *v. Bryan*, 102 Nev. 523, 525, 728 P.3d 443, 444 (1986). Because the PPP election is non-
10 binding and does not require the NV GOP, any candidate, or any voter to do anything, there
11 is likely no "concrete dispute admitting of an immediate and definitive determination of
12 the parties' rights." *Id.* (citation omitted).

13 The writ of prohibition claim is likely to fail because, as the NV GOP appears to
14 concede, there is an adequate remedy at law. NRS 34.330; Mot. at 5. The NV GOP argues
15 that a court may entertain a petition for a writ of prohibition where there is an adequate
16 remedy at law if there is an important issue of law that needs clarification. Mot. at 5-6
17 (quoting *State v. Second Judicial Dist. Court ex rel. Cnty. of Washoe*, 118 Nev. 609, 615, 55
18 P.3d 420, 423 (2002)). However, as discussed above, the PPP election process does not
19 impermissibly burden any constitutional right and there is likely no important legal issue
20 in need of clarification.

21 The NV GOP is also unlikely to succeed on its request for injunctive relief because
22 injunctive relief is a remedy, not a standalone cause of action. *State Farm Mut. Auto. Ins.*
23 *Co. v. Jafbros Inc.*, 109 Nev. 926, 928, 860 P.2d 176, 178 (1993) (explaining that the
24 "existence of a right violated is a prerequisite to the granting of an injunction" and "an
25 injunction will not issue 'to restrain an act which does not give rise to a cause of action'");
26 *Shell Oil Co. v. Richter*, 52 Cal. App. 2d 165, 168, 125 P.2d 930, 932 (Cal. App. 1942)
27 ("Injunctive relief is a remedy and not, in itself, a cause of action, and a cause of action
28 must exist before injunctive relief may be granted."). Because the NV GOP's declaratory

1 and writ relief claims likely fail and because there is no constitutional violation, injunctive
2 relief likely cannot be granted as a remedy.

3 Finally, for all claims, the NV GOP is unlikely to be able to establish standing. In
4 cases challenging the constitutionality of a statute, “a requirement of standing is that the
5 litigant personally suffer injury that can be fairly traced to the allegedly unconstitutional
6 statute.” *Elley v. Stephens*, 104 Nev. 413, 416, 760 P.2d 768 (1988). The NV GOP indicates
7 that its grievance is that the PPP election process would “interfere with a political party’s
8 processes for selecting presidential candidates.” Mot. at 6. But the PPP election process is
9 not binding on any major political party, and the NV GOP therefore likely cannot establish
10 a personal injury to support standing.

11 **B. Irreparable Harm**

12 The NV GOP argues that it would suffer irreparable harm if both a non-binding
13 primary and a binding caucus are held. The Court finds that while there may be some
14 minor confusion to the public, the benefits of holding a more inclusive primary for voters to
15 be able to state their preferences far outweigh those concerns. In short, the NV GOP has
16 failed to establish a reasonable probability of irreparable harm absent a preliminary
17 injunction.

18 **C. Public Interest and Hardship to the Parties**

19 Even if the NV GOP had established a likelihood of success on the merits and that
20 it would suffer irreparable harm, the Court may still decline the request for a preliminary
21 injunction based on the potential hardships to the parties and the considerations of the
22 public interest. See *Univ. & Comm. College Sys. of Nevada*, 120 Nev. at 721, 100 P.3d at
23 187. As discussed, the NV GOP has not identified any harm other than minor confusion
24 about the nomination process.

25 On the other hand, Defendants have identified public interests that weigh heavily
26 against a preliminary injunction. Those interests include that voting by ballot in a PPP
27 election provides voters with more security and confidence, preserves the overall integrity
28 of the election process, encourages voter participation including because votes may be cast

1 early and by mail and military-overseas ballot, simplifies the process, and elevates
2 Nevadans' voices by affording them the opportunity to declare primary election results
3 early on in the nationwide process. The Court finds the public interest is served by allowing
4 voters to have broader input in stating their preferences in a non-binding primary election.

5 Accordingly, the Court ORDERS that:

- 6 1. The NV GOP's Motion for Preliminary Injunction is denied; and
- 7 2. The Attorney General will serve a notice of entry of this order on all other
8 parties and file proof of such service within 7 days after the date the Court sends this order
9 to Defendants' attorneys.

10 DATED July 21, 2023


DISTRICT COURT JUDGE

13 Respectfully submitted:

14 Dated this 20th day of July, 2023

15 AARON D. FORD
16 Attorney General

17 By: /s/ Laena St-Jules
18 LAENA ST-JULES (Bar No. 15156)
19 Deputy Attorney General
20 State of Nevada
21 Office of the Attorney General
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Carson City, NV 89701-4717
T: (775) 684-1265
F: (775) 684-1108
LStJules@ag.nv.gov

22 *Attorneys for Defendants*

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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on this 21 day of July, 2023, I deposited for mailing, postage paid, at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

Laena St-Jules
100 North Carson Street
Carson City, NV 89701

Sigal Chattah
5875 S. Rainbow Blvd. #204
Las Vegas, NV 89118


Joshua P. La Bella, Esq.
Law Clerk, Dept. I

RETRIEVED FROM DEMOCRACY.ORG

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 23 OC 00051 1B

TITLE: NEVADA REPUBLICAN PARTY VS
STATE OF NEVADA AND FRANCISCO
AGUILAR

07/10/23 – DEPT. I – HONORABLE JAMES T. RUSSELL
C. Franz, Clerk – Not Reported

PRELIMINARY INJUNCTION

Present: Segal Chattah counsel for Plaintiff; Laena St-Jules, Deputy A.G. counsel for Defendants.

Statements were made by Court.

Counsel presented arguments.

Court stated findings for the record;

COURT ORDERED: It does not grant any preliminary injunction at this time.

St-Jules to prepare order.

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

2023 AUG 17 PM 3:38

In The First Judicial District Court of the State of Nevada
In and for Carson City

NEVADA REPUBLICAN PARTY,

Case No.: 23 OC 00051 1B

Plaintiff,

Dept. No.: I

vs.

STATE OF NEVAADA; FRANCISCO
AGUILAR, in his official capacity as Nevada
Secretary of State,

**NOTICE OF DEFICIENCY IN NOTICE
OF APPEAL**

Defendant.

PLEASE TAKE NOTICE that a Notice of Appeal was filed August 16, 2023, in the above-entitled action despite the fact that there appears to be the following deficiency(ies) noted by the Clerk at the time of filing:

- \$24.00 District Court filing fee not paid.
- \$250.00 filing fee for the Clerk of the Supreme Court not paid.
- Document not signed.
- Document presented was not an original.
- Case Appeal Statement not filed.
- No proof of service upon opposing counsel/litigant.
- Other


DATED this 17 day of August, 2023.

WILLIAM SCOTTHOEN, CLERK

By _____, Deputy

CERTIFICATE OF SERVICE

I hereby certify that I am employed by the Office of the Carson City District Court Clerk, Carson City, Nevada, and that on the 17 day of August, 2023, I served the foregoing NOTICE OF DEFICIENCY IN NOTICE OF APPEAL by e-filing with appeal documents to Elizabeth A. Brown, Clerk of the Supreme Court, 201 S. Carson Street, Ste. 250, Carson City, NV 89701-4702 and by depositing for mailing a true copy thereof to CHATTAH LAW GROUP 5875 S. Rainbow Blvd. #204, Las Vegas, Nevada 89118 and by Reno-Carson Messenger Service.



Judicial Clerk

RETRIEVED FROM DEMOCRACYDOCS.COM

DISTRICT COURT CIVIL COVER SHEET

Carson City County, Nevada

Case No. 2300005118

(Assigned by Clerk's Office)

Dept: J & FILED

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
NEVADA REPUBLICAN PARTY	STATE OF NEVADA FRANCISCO AGUILAR DEPUTY
Attorney (name/address/phone):	Attorney (name/address/phone):
SIGAL CHATTAH, ESQ. NV BAR NO. 8264 5875 S. RAINBOW BLVD. #204 LAS VEGAS, NV 89145	

2023 MAY 26 PM 3:46

II. Nature of Controversy (please select the one most applicable filing type below)

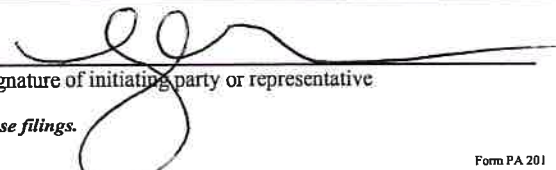
Civil Case Filing Types

<p>Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Foreclosure Mediation Assistance <input type="checkbox"/> Other Title to Property <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<p>Negligence</p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p>Malpractice</p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<p>Torts</p> <p>Other Torts</p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<p>Probate</p> <p>Probate (select case type and estate value)</p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside () Surviving Spouse <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p>Estate Value</p> <input type="checkbox"/> Greater than \$300,000 <input type="checkbox"/> \$200,000-\$300,000 <input type="checkbox"/> \$100,001-\$199,999 <input type="checkbox"/> \$25,001-\$100,000 <input type="checkbox"/> \$20,001-\$25,000 <input type="checkbox"/> \$2,501-20,000 <input type="checkbox"/> \$2,500 or less	<p>Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p>Contract Case</p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<p>Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p>Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p>Appeal Other</p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<p>Civil Writ</p> <p>Civil Writ</p> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrantum		<p>Other Civil Filing</p> <p>Other Civil Filing</p> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

May 26, 2023

Date


Signature of initiating party or representative

See other side for family-related case filings.