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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Daniel M. Coble, Circuit Court Judge

Case No. 2026-CP-40-05213

Danny Ford II.....Respondent,

v.

South Carolina Republican Party and
South Carolina Election Commission
a/k/a State Election Commission Appellants.

APPENDIX

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	Civil Action No.: 2026-CP-40-05213
	)	
DANNY FORD II,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER GRANTING PRELIMINARY
	)	INJUNCTION
SOUTH CAROLINA REPUBLICAN	)	
PARTY, AND SOUTH CAROLINA	)	
ELECTION COMMISSION a/k/a STATE	)	
ELECTION COMMISSION	)	
	)	
Defendants.	)	

Introduction

This matter came before the Court on Plaintiff Danny Ford, II's motion for a preliminary injunction, and on the motion of Defendant South Carolina Republican Party to dissolve the temporary restraining order entered July 31, 2026, and to dismiss the complaint. The Court entered that restraining order and noticed a hearing on August 3, 2026, on notice to all parties, at which the Defendant South Carolina Republican Party (the "SCGOP") and Defendant South Carolina Election Commission (the "Commission") appeared and were fully heard. Because the matter has now been heard on notice and on the merits of the request, any objection that relief was first granted without notice to the State is resolved. *See Crook v. S.C. Election Comm'n*, No. 2025-001777, 2025 WL 2630725 (S.C. Sept. 11, 2025).

At the hearing, the parties agreed to use the verified complaint as evidence for some foundational issues such as that Plaintiff meets the Constitutional requirements for office. The Plaintiff also moved four exhibits into the record without objection from either Defendant. The Court has had time to consider the filings of the parties in advance of the hearing as well as those arguments heard at the hearing.

I. Facts

On or about July 11, 2026, United States Senator Lindsey O. Graham died in office, creating a vacancy to be filled through a special Republican primary election conducted under S.C. Code Ann. § 7-11-55, scheduled for August 11, 2026. Plaintiff timely filed the documents necessary to appear on the special-primary ballot; Plaintiff meets the constitutional qualifications for office. Defendant SCGOP declined to certify Plaintiff on the ground that he did not satisfy Party Rule 11(a)(6), which requires that a candidate have been a registered Republican elector for at least 90 days and have voted in at least two of the last three statewide Republican primaries, subject to a discretionary waiver. (McKissick Declaration at ¶ 7; McKissick Declaration at ¶ 19). Plaintiff appeared on and voted in the June 9, 2026, statewide Republican primary and the June 23, 2026, runoff before the SCGOP began enforcing Rule 11(a)(6).

II. Mootness

As a preliminary matter, this Court must address Defendants’ argument that this action is moot because of the distribution of military and absentee ballots, thus rendering relief by this Court to be impossible. This Court, as well as many others, disagrees.

Mootness has been defined as “when judgment, if rendered, will have no practical legal effect upon existing controversy. This is true when some event occurs making it impossible for [the] reviewing Court to grant effectual relief.” *Byrd v. Irmo High School*, 310 S.C. 426, 431, 468 S.E.2d 861, 864 (1996); *see also Ry. Labor Execs. Ass’n v. Chesapeake W. Ry.*, 915 F.2d 116, 118 (4th Cir. 1990) (Generally, a request for “an injunction to prohibit an act is rendered moot by the happening of the act.”). However, a court may nevertheless take jurisdiction when the issue raised is capable of repetition yet evading review. *See Charleston Cnty School Dist. v. Charleston Cnty Election Com’n*, 336 S.C. 174, 180, 519 S.E.2d 567, 571 (1999) (citing *In Interest of Darlene C.*, 278 S.C. 664, 665, 301 S.E.2d 136, 137 (1983)).

First, Defendants argue that the injunction is moot due to the happening of the act—in this case, the election. However, the mailing of the absentee ballots is but one step in the election process and is not in and of itself the “happening” of the election. To further show this, the tabulation of absentee ballots does not begin until 7:00 am on election day. S.C. Code Ann. § 7-15-420. Here, the August 11, 2026, special election day has not yet occurred and therefore this

issue remains an existing controversy. *See also See Libertarian Party of Virginia v. Virginia State Bd. of Elections*, No. 1:10-CV-615 LMB/TCB, 2010 WL 3732012 (E.D. Va. Sept. 16, 2010) (where the election “has not yet occurred, this controversy remains live”).

Second, Defendants argue that this Court is unable to grant any effectual relief at this stage, such as Plaintiff’s request to be placed as a candidate on the ballot. At this stage in the election, 333 UOCAVA ballots and 1,538 general absentee ballots were distributed on July 29, 2026. The Commission confirmed that 333 is the most UOCAVA ballots there will be and more than 300 of these were sent via e-mail. The roughly 20-30 UOCAVA ballots that were sent by post mail were sent through that method because the voter chose that method; however, the Commission is in agreement with the federal government to reach out and communicate with those individuals to ensure their ballot is returned in time. The Commission has stated that they have e-mail addresses for most, if not all, of the UOCAVA voters. Of these ballots, 28 UOCAVA ballots and 31 general absentee ballots have been returned.¹

Defendants contend that changes to the ballot now would cause confusion with absentee voters, delays at the polls, and accuracy concerns. The unfortunate and tragic circumstances necessitating this special election, while unprecedented in South Carolina, have been similarly addressed in other courts. Following the death of a candidate for the United States Senate less than 16 days before the general election, the Supreme Court of Minnesota addresses the concerns presented by Defendants demonstrating the court’s ability to grant effectual relief even at this stage. *See Erlandson v. Kiffmeyer*, 659 N.W.2d 724 (Minn. 2003). Reducing confusion, the potential for delays, and inaccuracies, the court required replacement ballots to be sent and accompanied by clear instructions. *Id.* at 735. The instructions explained that if a replacement ballot was cast and returned in time to the election officials, the regular absentee ballot previously returned would not be counted. *Id.* Like in *Erlandson v. Kiffmeyer*, Defendants failed to proffer any rational justification against distributing supplemental ballots to absentee voters. *Id.* at 725-26. Further, the concerns and potential harm raised by Defendants are speculative.

Lastly, Defendants neglect to address the application of the exception to the mootness doctrine. This Court finds, regardless of mootness, this controversy fits squarely within the

¹ As of the morning of the hearing, August 3, 2026, provided by Defendant South Carolina Election Commission.

exception of being capable of repetition yet evading review. *See Norman v. Reed*, 502 U.S. 279 (1992) (stating an “[a]ction involving challenge to statutory requirements for political party to gain place on the ballot would be considered even though the election had been concluded, as the issue was one capable of repetition yet evading review.”). Here, a special election is already working with a truncated timeline, and the application of the statute in controversy will persist as it is applied in future elections. *See Storer v. Brown*, 415 U.S. 724, 94 S. Ct. 1274, 39 L. Ed. 2d 714 (1974) (stating that even when an “election is long over, and no effective relief can be provided to the candidates or voters, [the] case is not moot, since the issues properly presented, and their effects on independent candidacies, will persist as the ... statutes are applied in future elections.”).

III. Legal Standard

To obtain a preliminary injunction under South Carolina law, the movant must establish three elements: (1) that he will suffer immediate, irreparable harm absent the injunction; (2) that he has a likelihood of success on the merits; and (3) that he has no adequate remedy at law. *Compton v. S.C. Dep’t of Corr.*, 392 S.C. 361, 709 S.E.2d 639 (2011). A separate “balancing of the equities” is not an independent requirement; that consideration “is subsumed by the irreparable harm and inadequate remedy at law components of the three-part test.” *Poynter Invs., Inc. v. Century Builders of Piedmont, Inc.*, 387 S.C. 583, 694 S.E.2d 15 (2010). A preliminary injunction issues to preserve the status quo pending a final determination on the merits.

The parties dispute whether the injunctive relief sought is mandatory or prohibitive. While either type of injunction carries a high burden to pass, a mandatory injunction sets an even higher bar. However, this is not an illusory or impossible burden to meet – otherwise courts would have said so. But rather, a court should look to see if extraordinary circumstances exist to warrant such equitable relief. “A mandatory injunction is an extraordinary remedy that orders some positive act to be performed.” 43A C.J.S. *Injunctions* § 19 (2019). “Mandatory preliminary injunctions do not preserve the status quo and normally should be granted only in those circumstances where the exigencies of the situation demand such relief.” *Wetzel v. Edwards*, 635 F.2d 283, 286 (4th Cir. 1980). “A mandatory injunction, especially at the preliminary stage of proceedings, should not be granted except in rare instances in which the facts and law are clearly in favor of the moving party.” *Gantt v. Clemson Agr. Coll. Of S.C.*, 208 F. Supp. 416, 418 (W.D.S.C. 1962). “Mandatory preliminary injunctive relief in any circumstance is [disfavored] and warranted only in the most

extraordinary circumstances.” *De La Fuente v. S.C. Democratic Party*, 164 F. Supp. 3d 794, 798 (D.S.C. 2016).

Assuming this is a mandatory injunction, is this case not one of an extraordinary measure: the untimely and unfortunate passing of the state’s senior Senator shortly after winning the runoff; the SCGOP passing a new rule that changed the criteria for who would be certified to run as a Republican; the snap election occurring shortly after the passage of this new rule; the negotiations and agreements between the federal government and the Commission to be in compliance with federal law; the lack of clarity as to what is considered a statewide primary for potential candidates; a former Republican candidate who was certified to run in a statewide primary; the ability for voters to electronically receive and cast their vote; and the short time frame for a court to hear and schedule arguments to rule on the multitude of issues. This Court holds that injunctive relief is warranted in this most extraordinary circumstance.

One could imagine an extraordinary circumstance that would likely warrant a mandatory injunction. Assume the Commission or a political party by complete accident left off a qualified and certified candidate from the ballot. Would that not trigger the most demanding relief by a court to require his or her name placed back on the ballot? The Commission would undoubtedly remedy that situation. If this Court is correct about Plaintiff’s rights being violated, how is his situation any different than the innocent bystander candidate – if not worse.

IV. Likelihood of Success on the Merits

Plaintiff has shown a likelihood of success. South Carolina law ties a party’s certification duty to the qualifications for the office: a political party “must not certify any candidate who does not ... meet the qualifications for the office for which the candidate has filed,” and must certify those who do. S.C. Code Ann. § 7-13-40; S.C. Code Ann. § 7-13-350. Party primaries certifying candidates to the Commission are valid only if “not in conflict with” Title 7 of SC Code or “the Constitution and laws of this State or of the United States.” S.C. Code Ann. § 7-11-20(A). South Carolina resolves doubts in favor of ballot access, distinguishing the fixed qualifications for office from other requirements. S.C. Code Ann. § 7-11-15.

a. State Action

Because South Carolina channels the parties' certification decisions directly onto the state-printed primary ballot, that decision is state action subject to constitutional constraint. *Baskin v. Brown*, 174 F.2d 391 (4th Cir. 1949). As the U.S. Supreme Court has made clear, political parties have First Amendment protections to associate with those like-minded people they want to be associated with. This Court could not agree more with the U.S. Supreme Court's long held rule that "a [s]tate, or a court, may not constitutionally substitute its own judgment for that of the Party." *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 224 (1986) (quoting *Democratic Party of United States v. Wisconsin ex rel. La Follette*, 450 U.S. 107, 123-24 (1981)). A political party's "determination of the boundaries of its own association, and of the structure which best allows it to pursue its political goals, is protected by the Constitution." *Id.* at 224; *see also La Follette*, 450 U.S. at 124 ("And as is true of all expressions of First Amendment freedoms, the courts may not interfere on the ground that they view a particular expression as unwise or irrational.") .

The government cannot force political parties to open its door to anyone that it does not desire, nor can the government force political parties to abolish rules that limit those that may join. However, there is a spectrum to this rule. Private membership, group meetings, general rules and procedural regulations, and the like, are well within a party's constitutional right to make its own decisions without governmental interference. *California Democratic Party v. Jones*, 530 U.S. 567, 567, 120 S. Ct. 2402, 2404, 147 L. Ed. 2d 502 (2000) ("This Nation has a tradition of political associations in which citizens band together to promote candidates who espouse their political views."). On the other hand, the Supreme Court has stricken party primary rules that discriminated based on race. *Smith v. Allwright*, 321 U.S. 649 64 S. Ct. 757, 88 L. Ed. 987 (1944). As conceded by all parties in the present action, race is not at issue here. The Supreme Court has not clearly defined the gray area between racial discrimination and purely First Amendment private club actions.

But recently, courts have hesitated to find state action when, as in this case, racial discrimination is not involved. *See Cousins v. Wigoda*, 419 U.S. 477, 483, n. 4, 95 S.Ct. 541, 545, n. 4, 42 L.Ed.2d 595 (1975) (reserving the question); *O'Brien v. Brown*, 409 U.S. at 4 & n. 1, 92 S.Ct. at 2720 & n. 1 (1972) (not deciding and entertaining "grave doubts" as to actionability of the claim); *Ripon Society, Inc. v. National Republican Party*, 525 F.2d at 574–76 (reserving the question but deciding the merits for the defendants).

Wymbs v. Republican State Exec. Comm. of Fla., 719 F.2d 1072, 1077 (11th Cir. 1983). But it is clear that the spectrum moves into a gray area as political parties become involved with elections generally, and ballot access specifically.

This Court will look to South Carolina case law for guidance when determining if a private party's actions cross into the realm of state action and thus be curtailed by constitutional protections. In *Bruce v. S.C. High Sch. League*, students challenged the eligibility of transfer rules promulgated by the South Carolina High School League, which was a voluntary organization consisting of both public and private schools. *Bruce v. S.C. High Sch. League*, 258 S.C. 546, 549, 189 S.E.2d 817, 818 (1972). The students argued that these rules arbitrarily “deprive[d] them of their right to participate in interscholastic athletics...” and “that interscholastic athletics is a ‘fundamental segment of the educational process of our public schools[.]’” *Bruce*, 258 S.C. at 551. The High School League argued “that participation in high school interscholastic athletics is a mere privilege and not a right; that the rule in question is not arbitrary; and that the courts are without jurisdiction to enjoin its enforcement.” *Id.* The South Carolina Supreme Court held, “It is well established that courts will not interfere with the internal affairs of voluntary associations, except in such cases as fraud, lack of jurisdiction, or the **invasion of property or pecuniary rights or interests**. The decisions of the tribunals of an association with respect to its internal affairs will, in the absence of mistake, fraud, illegality, collusion, or **arbitrariness**, be accepted by the courts as conclusive.” *Id.* (emphasis added). The supreme court further held that the “rule in question does not infringe upon any constitutionally guaranteed right of respondents.” *Id.*

In conjunction with *Bruce*, the seminal case of *Rice v. Elmore* is also instructive. *See Rice v. Elmore*, 165 F.2d 387 (4th Cir. 1947). The Fourth Circuit upheld Judge Waties Waring when he ruled that the South Carolina Democratic Party was indeed a state actor when it held a private primary that excluded Black voters, and thus the political party was constrained by the Constitution. *Id.* at 391 (“When these officials participate in what is a part of the state’s election machinery, they are election officers of the state de facto if not de jure, and as such must observe the limitations of the Constitution. Having undertaken to perform an important function relating to the exercise of sovereignty by the people, they may not violate the fundamental principles laid down by the Constitution for its exercise.”).

The spectrum between a political party's First Amendment rights of freedom of association on one end, and on the other the party's participation in something as fundamental as state elections is wide-ranging and fraught with dicta. However, this Court cannot ignore that the spectrum does exist and at some point a political party may cross it and be subject to constitutional limitations just as state actors are. This Court holds that the SCGOP has waded into the gray area of state action when it certifies to the Commission who is and who is not on the ballot. After that certification, the SCGOP moves from a merely private association comprised of like-minded individuals to a state actor. *See* Order Den. Inj. & Dismissing Compl. at 16, *Inglis v. S.C. Republican Party*, Case No. 2019-CP-40-05486 (S.C. Ct. Comm. Pl. Dec. 10, 2019) (“The SCGOP only becomes a state actor once it decides to hold a presidential preference primary, notifies the State Election Commission of that decision, and undertakes the duty to assist in the administration of the election. **Before** that occurs, the SCGOP is merely a private association comprised of like-minded individuals.” (emphasis added)). This in no way means they lose their First Amendment protections, but merely that they must meet due process requirements.

b. Due Process

On the present record, Plaintiff is likely to establish that Rule 11(6)(a), as applied to him excluding him from the ballot violated his substantive due process rights. If a political party is taking actions of a state actor, then the next question is whether those actions deprived someone of their due process rights under the South Carolina Constitution. Under our Constitution, no person shall “be deprived of life, liberty, or property without due process of law[.]” S.C. Const. art. I, § 3. “Procedural due process imposes constraints on governmental decisions that deprive individuals of liberty or property interests within the meaning of the Due Process Clause.” *Harbit v. City of Charleston*, 382 S.C. 383, 393, 675 S.E.2d 776, 781 (Ct. App. 2009). To prevail on a substantive due process claim, Plaintiffs must show they were “arbitrarily and capriciously deprived of a cognizable property interest rooted in state law.” *Id.* at 394, 675 S.E.2d at 782. In her order denying injunctive relief against the SCGOP for failing to hold a presidential primary, Circuit Court Judge Jocelyn Newman held, “Plaintiffs failed to identify a **liberty or property interest rooted in state law** that entitles them to a presidential preference primary.” Order Den. Inj, at 16, *Inglis v. S.C. Republican Party*, No. 2019CP-40-05486 (S.C. Ct. Comm. Pl. Dec. 11, 2019) (emphasis added).

However, an internal decision by a private, political party on whether or not to hold a presidential primary is distinct from a party certifying or not certifying names to the Commission for a statewide election. S.C. Const. art. I, § 5 (“All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in this Constitution **shall have an equal right to elect officers and be elected to fill public office.**”) (emphasis added). The SCGOP framed this action not as any type of guaranteed right, but simply as a person wanting to run as the *Republican* nominee for U.S. Senate, which is by no means a guaranteed right rooted in state law. The specific facts of this case make it clear to this Court that that is not the circumstances facing the Plaintiff. Plaintiff timely filed the documents necessary to appear on the special-primary ballot, and he meets the constitutional qualifications for office. However, the SCGOP declined to certify Plaintiff on the ground that he did not satisfy Party Rule 11(a)(6), which requires that a candidate have been “a registered Republican elector for at least 90 days,² and who has voted in at least two of the last three statewide Republican primaries...” and is subject to a discretionary waiver. SCGOP R. 11(a)(6)(a) (2026).

Evidence presented at the hearing regarding the SCGOP interpretation, use, and application of its own rules reveals a lack of consistency, which tends to present its decisions on candidate certification as capricious and arbitrary.³ The Court heard testimony and reviewed evidence that the term “statewide primary” was not defined and subject to multiple, credible interpretations. This is made clear by the Defendant’s citing of the Commission’s interpretation of “statewide primary.” The Commission had to release a press release titled, “SEC Addresses Voter Eligibility Question.” *SEC Addresses Voter Eligibility Question*, STATE ELECTION COMM’N (July 15, 2026), <https://scvotes.gov/statement-from-the-south-carolina-state-election-commission/>. Having to release a statement to the public explaining and clarifying who and who is not eligible to vote is far from an assurance of clarity. *Id.* (“The South Carolina State Election Commission (SEC) has completed its review of South Carolina election law regarding voter eligibility for the

² All parties appear to agree that the first requirement of being a registered Republican elector is not possible in this state. The point of this is not to challenge its authority but to bolster the argument that the Party Rule is floundering in arbitrariness.

³ This Court disagrees with Plaintiff’s contention that any rule requiring previous voting criteria runs afoul of the U.S. Constitution or South Carolina Constitution – that would be a court subjecting its views and judgments onto a private party. Rather, this Court is only concerned with substantive due process of an arbitrarily and capriciously applied rule.

August 11 Special Republican Primary.”). Assume the Commission had interpreted the definition of “statewide primary” in the opposite direction – would Plaintiff need to follow the SCGOP’s interpretation or the Commission’s? *But see also* S.C. Att’y Gen. Op. at 2 (Aug. 23, 2024) (interpreting the definition in the same manner as the Commission actually did, and not as was presented in the hypothetical).

Another confusing point is to consider whether the June 9, 2026, primary is considered the same primary as the current special election to be held August 11, 2026. If a potential candidate next year sought to run as a Republican nominee and these were the only two primaries he had voted in, the SCGOP would likely say he does not qualify because the June 9 and August 11 primaries are in fact still only one primary. But then how can the current Plaintiff have been certified for the June 9 primary as a Republican candidate for Commissioner of Agriculture and then have the rules changed so that he is decertified mid-stream? If the June 9 and August 11 primaries are the same, surely due process does not allow this. Again, there are no easy answers, and this Court does not castigate the SCGOP or any political party for promulgating rules to enhance the party. *See* Order Den. Pl.’s Pet. for Dec. Relief, *Ali v. S.C. Democrat Party*, No. 2024-CP-10-1918, at 4 (Apr. 23, 2024) (“Political parties have the right to decide whether or not to certify a candidate for their primary pursuant to their Party Rules under SC Code of Laws §7-13-40.”). But this Court must look to due process in this situation and examine whether it was afforded to Plaintiff.

Given this asymmetry and the lack of safeguards around the SCGOP process and Party Rule 11(a)(6), the Court finds that there is a likelihood of success that Plaintiff can show his state constitutional rights were violated by the SCGOP action.

V. Irreparable Harm and Inadequate Remedy at Law

Turning to remainder of the elements of a preliminary injunction, Plaintiff has also satisfied the remaining elements. The loss of an imminent election is irreparable, and the loss of rights can create an irreparable damage. *Elrod v. Burns*, 427 U.S. 347 (1976). No award of damages could restore the opportunity to appear on the August 11 ballot, so Plaintiff has no adequate remedy at law.

VI. Conclusion

While Defendants brought the Court's attention to the existing military and absentee ballots and the impact a Court's ruling would have on them, Plaintiff requested a prospective option at the August 3, 2026, hearing, requesting to be restored to ballot for early voting and election day, August 11. Plaintiff made no request as to rescission of existing ballots. This means that the Court's Order can be tailored to impose minimal impact on the election.

For the foregoing reasons, Plaintiff's motion for a preliminary injunction is GRANTED, and the Party's motion to dissolve and to dismiss is DENIED. It is hereby ORDERED:

1. Defendant South Carolina Republican Party is ENJOINED from declining or refusing to certify Plaintiff Danny Ford, II, as a candidate in the August 11, 2026, special Republican primary election for United States Senator on the basis of Rule 11(6)(a) or his prior primary-voting history, and SHALL certify Plaintiff to the Commission as a qualified candidate within twenty-four (24) hours of entry of this Order.
2. Defendant South Carolina Election Commission is ORDERED to include Plaintiff Danny Ford, II, by name as a candidate in the August 11, 2026, special Republican primary election for United States Senator on all ballots feasible for early voting and for election day.
3. This Order is limited to Plaintiff and to the August 11, 2026, special Republican primary election (and any ensuing runoff for that office) and grants no relief beyond placing Plaintiff's name on the ballot as provided above.
4. This preliminary injunction shall remain in effect pending final resolution of this action or further order of this Court.

AND IT IS SO ORDERED

Daniel Coble

Presiding Judge, Court of Common Pleas Fifth
Judicial Circuit

Columbia, South Carolina

Dated: _____, 2026



Richland Common Pleas

Case Caption: Danny Ford II vs South Carolina Republican Party , defendant, et al
Case Number: 2026CP4005213
Type: Order/Other

So Ordered

s/ Daniel Coble, 2774

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ORANGEBURG	)	Civil Action No.: 2026-CP-40-05213
	)	
DANNY FORD II,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER GRANTING TEMPORARY
	)	RESTRAINING ORDER
SOUTH CAROLINA REPUBLICAN	)	
PARTY, AND SOUTH CAROLINA	)	
ELECTION COMMISSION a/k/a	)	
STATE ELECTION COMMISSION	)	
	)	
Defendants.	)	

This matter came before the Court on the Motion of Plaintiff Danny Ford, II ("Plaintiff") for a Temporary Restraining Order pursuant to Rule 65, SCRPC. Plaintiff seeks an order restraining Defendant South Carolina Republican Party (the "Party") from declining to certify Plaintiff, and directing that his name be placed or restored on, the ballot for the special Republican primary election for the vacant office of U.S. Senator from South Carolina by Defendant South Carolina Election Commission (the "Commission").

Having reviewed the verified Complaint, the Motion and supporting Memorandum of Law, and the applicable law, and being fully advised, the Court FINDS, CONCLUDES, and ORDERS as follows.

ALLEGATIONS WITHIN THE VERIFIED COMPLAINT

1. Plaintiff Danny Ford, II, is a citizen of the United States, a resident of and registered voter in Anderson County, South Carolina, and has appeared previously on Statewide Republican ballots this calendar year. Plaintiff was born on October 17, 1985, is 40 years of age, and has been a citizen of the United States his entire life.

2. Defendant South Carolina Republican Party is a political party in the State of South Carolina, established in 1867, with its principal place of operation in Richland County, South Carolina. The Party is responsible for certifying the candidates eligible to appear on the special primary ballot.
3. Defendant South Carolina Election Commission is an agency of the State of South Carolina responsible for administering elections and preparing special primary and general election ballots according to law. The Commission is a party necessary to the grant of complete relief under Rule 19, SCRCF.
4. On or about July 11, 2026, U.S. Senator Lindsey O. Graham died in office, creating a vacancy in the office of U.S. Senator from South Carolina. Prior to his death, Senator Graham had been the duly nominated Republican candidate to appear on the ballot for the general election scheduled for November 3, 2026. His death created a vacancy to be filled pursuant to South Carolina law.
5. Because the vacant nomination was one selected through a party primary and the office was contested in the general election, the vacancy is to be filled through a special primary election conducted pursuant to South Carolina Code § 7-11-55, open only to Republican candidates. The filing period for the special primary opened on Tuesday, July 21, 2026, and closed on Tuesday, July 28, 2026.
6. Plaintiff timely filed the documents necessary to have his name placed on the special Republican primary ballot for the office of U.S. Senator.
7. Plaintiff satisfies each qualification for the office of U.S. Senator fixed by Article I, § 3, Clause 3 of the U.S. Constitution: he is at least 30 years of age, has been a citizen of the United States for at least nine years, and is an inhabitant of the State of South Carolina.
8. It appears based on the record before the Court that the Republican Party recently amended its rules to add Rule 11(a)(6), which requires, among other things, that a candidate have been "[a] registered Republican elector for at least 90 days" and have "voted in at least two of the last three statewide Republican primaries," subject to stated exceptions and a discretionary waiver, effective July 1, 2026. The Court notes that, under existing South Carolina law, electors do not "register" with a political party in order to be eligible to vote in political party primaries.
9. After Plaintiff filed as a candidate in the special Republican primary for U.S. Senator, the Republican Party notified him that his name would not be placed on the ballot. The sole stated grounds for his exclusion was that Plaintiff purportedly had not voted in a

sufficient number of Republican primary elections, in asserted violation of the Party rule described above.

10. Notably, Plaintiff was a candidate for the Republican nomination for Secretary of Agriculture whose name appeared on the party primary and runoff ballots on June 9, 2026, and June 23, 2026 — the last two statewide Republican primary elections conducted in this State — and Plaintiff voted in each of them. The Republican Party did not attempt to exclude Plaintiff from those elections. Further, it is alleged that other candidates for the special Republican primary for U.S. Senate were not denied certification by the Party even though they are alleged to have the same or similar voting history as Plaintiff. Finally, the terms used to assert that Plaintiff has not met these qualifications are not defined within the Republican Party Rules, within Rule 11(6)(a) or otherwise.

11. The special Republican primary election is imminent, and ballots will be finalized, certified, and printed shortly. Absent immediate relief, ballots will be printed and the election conducted without Plaintiff's name, and the opportunity for relief will be lost.

STANDARD OF REVIEW AND APPLICATION OF THE LAW

To obtain a temporary restraining order or preliminary injunction under South Carolina law, the applicant must show: (1) he will suffer immediate, irreparable harm absent the injunction; (2) he has a likelihood of success on the merits; and (3) he has no adequate remedy at law. *Compton v. S.C. Dep't of Corr.*, 392 S.C. 361, 709 S.E.2d 639 (2011); *May for A.R.M. v. Dorchester Sch. Dist. Two*, 442 S.C. 686, 901 S.E.2d 36 (Ct. App. 2024). An injunction is a drastic remedy appropriate when necessary to protect the legal rights of a party. *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 674 S.E.2d 505 (Ct. App. 2009). The obligation to balance the equities is subsumed within the irreparable-harm and inadequate-remedy components of that test. *Poynter Invs., Inc. v. Century Builders of Piedmont, Inc.*, 387 S.C. 583, 694 S.E.2d 15 (2010). The Court concludes that Plaintiff has satisfied each element such that the status quo should be maintained until a hearing may be heard in three days, Monday, August 3.

Likelihood of success on the merits.

Plaintiff has demonstrated a likelihood of success on the merits under three independent and mutually reinforcing bodies of law, any one of which is sufficient.

First, the qualifications for service in the U.S. Senate are fixed exclusively by Article I, § 3 of the U.S. Constitution — age, citizenship, and inhabitancy — and neither a State nor a political party acting within the State's election machinery may add to them.

U.S. Term Limits, Inc. v. Thornton, 514 U.S. 779 (1995) (not followed in *League of Women Voters v. Sec'y of State*, 683 A.2d 769 (Me. 1996)). A requirement that a candidate have voted in some minimum number of party primaries is likely an impermissible added qualification as alleged by Plaintiff.

Second, South Carolina law does not authorize, and affirmatively forecloses, a party-imposed primary-voting qualification. Party rules must not conflict with the provisions of Title 7 or with the Constitution and laws of this State or of the United States. S.C. Code Ann. § 7-11-20(A). A political party's certification duty is tied to the "qualifications for the office" for which a candidate has filed, not to conditions of the Party's own invention; a party must not certify — and must not refuse to certify — a candidate on grounds untethered to those qualifications. S.C. Code Ann. §§ 7-13-40, 7-13-350. South Carolina law distinguishes the fixed qualifications for office from mere ballot-access filing requirements and may resolve doubts in favor of ballot access. S.C. Code Ann. § 7-11-15(B). Where a constitution fixes the qualifications for an office, neither the legislature nor, *a fortiori*, a political party may prescribe additional qualifications. *Joint Legislative Comm. for Jud. Screening Through McConnell v. Huff*, 320 S.C. 241, 464 S.E.2d 324 (1995); *Redfearn v. Bd. of State Canvassers*, 234 S.C. 113, 107 S.E.2d 10 (1959). The exclusive statutory mechanism for filling a nominee vacancy in a special primary, S.C. Code Ann. § 7-11-55, does not contemplate the Party's ad hoc exclusion of a qualified candidate for his voting record. *Tempel v. S.C. State Election Comm'n*, 400 S.C. 374, 735 S.E.2d 453 (2012). Rule 11(a)(6), as applied to exclude Plaintiff, may conflict with these provisions and would then be void as applied.

Third, because South Carolina channels the Party's certification decision directly into ballot qualification, the Party's exclusion of Plaintiff constitutes state action and can raise a constitutional question. *See Baskin v. Brown*, 174 F.2d 391 (1949) (exclusion of voters from a party becomes a state action). Ballot-access restrictions implicate the intertwined rights of candidates and voters to associate for the advancement of political beliefs and to cast their votes effectively, and are evaluated by weighing the character and magnitude of the burden against the precise interests the State advances to justify it. *Anderson v. Celebrezze*, 460 U.S. 780 (1983); *Burdick v. Takushi*, 504 U.S. 428 (1992); *Pisano v. Strach*, 743 F.3d 927 (4th Cir. 2014). The burden here — total exclusion of a concededly qualified candidate from the ballot — triggers the *Anderson-Burdick* test, which could favor Plaintiff. *Cf.* S.C. Code Ann. § 7-11-15(B) and *Cromer v. State of S.C.*, 917 F.2d 819 (4th Cir. 1990). The Party's assertion of its associational autonomy may not alter this conclusion, because that autonomy, while operating as a shield against compelled internal processes, does not allow the Party to delineate from its statutory responsibilities.

Independent of these legal issues, Plaintiff has alleged that he, in the alternative, meets the black letter requirements of the Republican Party Rule 11(a)(6) and that he has been treated differently from other similarly situated candidates. *Cf. League of Women Voters of S.C. v. Alexander*, 446 S.C. 591, 611, 921 S.E.2d 660, 671–72 (2025) (Free and Open Elections Clause and S.C. Constitution’s Equal Protection Clause implicated by disparate treatment under like conditions); *State v. Huntley*, 167 S.C. 476, 166 S.E. 637, 639 (1932) (holding political party rules that deprived non-affiliated voters the right vote unconstitutional under Free and Open Elections Clause because they imposed additional qualifications beyond what the Constitution required).

The Court finds that there is at least a threshold likelihood of success on the merits such that the Court should be more fully informed of the facts and circumstances of this case at a hearing on Monday, August 3.

Irreparable harm and inadequate remedy at law.

The harm to Plaintiff would be irreparable as a matter of law and as a matter of fact. The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury. *Elrod v. Burns*, 427 U.S. 347 (1976). The harm is also uniquely non-recoverable because of the imminence of the special election: once ballots are printed and the election is held without Plaintiff’s name, no order can restore the opportunity that will have passed, and money damages would be no adequate remedy. Plaintiff therefore has no adequate remedy at law. *Compton v. S.C. Dep’t of Corr.*, 392 S.C. 361, 709 S.E.2d 639 (2011).

Balance of equities and public interest.

The balance of the equities weighs sharply in Plaintiff’s favor. Against the total and irreversible loss of Plaintiff’s ballot access and his supporters’ right to cast an effective vote, Defendants face the burden of keeping a qualified candidate on a ballot on which he may lawfully belong. Preserving the status quo imposes minimal hardship on the Party or the State and serves the public’s substantial interest in an open ballot, in voter choice, and in the enforcement of constitutional and statutory rights. The South Carolina Constitution declares that all elections shall be free and open and that every qualified inhabitant possessing the constitutional qualifications shall have an equal right to be elected to public office. S.C. Const. art. I, § 5.

The foregoing findings and conclusions establish that Plaintiff has made the requisite showing required for the relief of a temporary restraining order.

CONCLUSION

IT IS THEREFORE ORDERED that Plaintiff's Motion for a Temporary Restraining Order is **GRANTED** as follows:

1. Defendants are TEMPORARILY RESTRAINED and ENJOINED from removing Plaintiff Danny Ford, II, from the ballot for the special Republican primary election for the office of U.S. Senator from South Carolina, and from refusing to certify his candidacy on the basis of his primary-voting history or Rule 11(a)(6).
2. This Temporary Restraining Order shall take effect immediately upon its entry and shall remain in effect until further order of this Court or until the hearing on Plaintiff's Motion for a Preliminary Injunction, whichever occurs first.
3. A hearing on Plaintiff's Motion for a Preliminary Injunction is scheduled for 3 August, 2026, at 9:30 a.m., at the Richland County Courthouse, at which time the Court will determine whether the relief granted herein should be continued.
4. Because Defendants will suffer no monetary harm from preservation of the status quo, the security required under Rule 65(c), SCRCF, is set in the nominal amount of \$100, to be posted by Plaintiff within 5 days of the entry of this Order.

AND IT IS SO ORDERED.

Presiding Judge, Court of Common Pleas
Fifth Judicial Circuit

_____, South Carolina
Dated: _____, 2026



Richland Common Pleas

Case Caption: Danny Ford II vs South Carolina Republican Party , defendant, et al
Case Number: 2026CP4005213
Type: Order/Other

So Ordered

s/ Daniel Coble, 2774

Electronically signed on 2026-07-31 13:10:58 page 7 of 7

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	Civil Action No.: 2026-CP-40-
	)	
DANNY FORD II,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	TEMPORARY RESTRAINING
	)	ORDER
SOUTH CAROLINA REPUBLICAN	)	
PARTY, AND SOUTH CAROLINA	)	
ELECTION COMMISSION a/k/a STATE	)	
ELECTION COMMISSION	)	
	)	
Defendants.	)	

Upon due consideration of the Plaintiff's verified Motion for *Ex Parte* Temporary Restraining Order, Motion for Preliminary Injunction, and Complaint for Declaratory and Injunctive Relief filed by Plaintiff herein, the Court finds that there is a likelihood that immediate and irreparable harm will result to Plaintiff if he is not certified as a candidate and his name is omitted from the Special Republican Primary ballot for US Senate in violation of the South Carolina Constitution, the United States Constitution, and applicable state election laws and election laws. Therefore, the Court GRANTS Plaintiff's Motion for *Ex Parte* Temporary Restraining Order, Motion for Preliminary Injunction, and Complaint for Declaratory and Injunctive Relief

IT IS THEREFORE ORDERED that Defendant be and is hereby restrained from omitting Plaintiff's name from the Special Republican Primary ballot for the US Senate until a hearing can be held, which is hereby scheduled for 9:30 a.m. Monday, August 3, 2026, at the Richland County

Courthouse, 1701 Main St. #205, Columbia, South Carolina, before the undersigned or pending further Order of the Court.

IT IS FURTHER ORDERED that a bond of One Hundred Dollars (\$100) be posted, as there is minimal risk of financial harm to the Defendants.

AND IT IS SO ORDERED, this _____ day of July 2026.

Honorable Daniel M. Coble
Fifth Judicial Circuit Court Judge



Richland Common Pleas

Case Caption: Danny Ford II vs South Carolina Republican Party , defendant, et al
Case Number: 2026CP4005213
Type: Order/Temporary Injunction

So Ordered

s/ Daniel Coble, 2774

Electronically signed on 2026-07-30 14:31:30 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	Civil Action No.: 2026-CP-40-
	)	
DANNY FORD, II,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	SUMMONS
	)	
SOUTH CAROLINA REPUBLICAN	)	
PARTY, AND SOUTH CAROLINA	)	
ELECTION COMMISSION a/k/a STATE	)	
ELECTION COMMISSION	)	
	)	
Defendants.	)	

YOU ARE HEREBY SUMMONED and required to answer the Amended Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Amended Complaint on the subscriber at his office as 1281 Russell Street, Post Office Box 1084, Orangeburg, South Carolina, 29115, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Amended Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Amended Complaint.

Date: July 30, 2026

Orangeburg, South Carolina

s/ C. Bradley Hutto
C. Bradley Hutto 6436
Skyler B. Hutto 102741
WILLIAMS & WILLIAMS
Post Office Box 1084
Orangeburg, SC 29116
Tel: (803) 534-5218
Fax: (803) 536-6544
Email: cbhutto@williamsattys.com

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	Civil Action No.: 2026-CP-40-
	)	
DANNY FORD, II,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	MOTION FOR <i>EX PARTE</i>
	)	TEMPORARY RESTRAINING
SOUTH CAROLINA REPUBLICAN	)	ORDER, MOTION FOR
PARTY, AND SOUTH CAROLINA	)	PRELIMINARY INJUNCTION, AND
ELECTION COMMISSION a/k/a STATE	)	COMPLAINT
ELECTION COMMISSION	)	FOR DECLARATORY AND
	)	INJUNCTIVE RELIEF
Defendants.	)	

PLAINTIFF hereby files his Motion for *Ex Parte* Temporary Restraining Order, Motion for Preliminary Injunction, and Complaint for Declaratory and Injunctive Relief and would respectfully show unto the Court as follows:

1. Plaintiff Danny Ford, II, is a resident of and registered voter in Anderson County, South Carolina; Plaintiff was born on October 17, 1985, and is 40 years of age; Plaintiff has been a U.S. Citizen his entire life.

2. Defendant SOUTH CAROLINA REPUBLICAN PARTY (hereinafter “Republican Party”) is a political party in the State of South Carolina established in 1867 with its principal place of operation in Richland County, State of South Carolina.

3. Defendant SOUTH CAROLINA ELECTION COMMISSION, also known as the STATE ELECTION COMMISSION, (hereinafter “Defendant SCEC”) is an agency of the State of South Carolina, which has the responsibility for administering elections and preparing special primary and general election ballots according to law. As such, the SCEC is joined under Rule 19, SCRPC as a party necessary to grant complete relief.

4. The alleged questions of law are pertinent to candidates filing for election to the U.S. Senate representing the State of South Carolina.

5. Jurisdiction is proper with this Court, the Richland County Court of Common Pleas, pursuant to Article V, Section 11 of the S.C. Constitution and the Uniform Declaratory Judgment Act, S.C. Code Ann. §§ 15-53-10 *et seq.* Venue is proper in Richland County under South Carolina Code § 15-7-30(C), because the acts giving rise to the allegations here occurred in Richland County.

6. On or about July 11, 2026, U.S. Senator Lindsey O. Graham died in office creating a vacancy for the position of U.S. Senator of the State of South Carolina; Senator Graham had been the duly nominated Republican for the Office of U.S. Senator to appear on the ballot for the General Election to be held on November 3, 2026; and that Senator Graham's death created a vacancy to be filled pursuant to South Carolina Law.

7. That candidates seeking the Republican nomination are required to be nominated by a special primary; the special primary is being held pursuant to South Carolina Code § 7-11-55; that Primary filing opened on Tuesday July 21, 2026, and closed on Tuesday July 28, 2026; that because Senator Graham had opposition in the General Election in November 2026, this special filing period was open only to Republican Party candidates.

8. Defendant Republican Party is responsible for certifying candidates eligible to appear on the Special Primary ballot.

9. That Plaintiff filed the necessary documents with Defendant Republican Party to have his name placed on the ballot.

10. That U.S. Constitution Article 1, Section 3, Clause 3 provides "No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of

the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen”; Plaintiff meets the constitutional qualifications to serve as a U.S. Senator in the State of South Carolina.

11. That South Carolina Code § 7-11-15(B) provides that a candidate for U.S. Senate cannot appear on a special primary ballot unless (in relevant part) the candidate is “certified by the appropriate political party as required by Sections 7-13-40 and 7-13-350, as applicable.”

12. That South Carolina Code § 7-13-40 provides (in relevant part):

Political parties nominating candidates by party primary must verify the qualifications of those candidates prior to certification to the appropriate election commission of the names of candidates to be placed on primary ballots. *The written verification required by this section must contain a statement that each candidate certified meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for office for which he has filed.* A political party must not certify any candidate who does not or will not by the time of the general election, or as otherwise required by law, meet the qualifications for the office for which the candidate has filed, and such candidate’s name shall not be placed on a primary ballot.

(Emphasis added); *see also* S.C. Code Ann. § 7-13-350 (same).

13. That South Carolina Code § 7-11-20(A) provides that “party conventions or party primary elections held by political parties certified as such by the State Election Commission pursuant to the provisions of this title to nominate candidates for any of the offices to be filled in a general or special election must be conducted in accordance with the provisions of this title and with party rules *not in conflict with the provisions of this title or of the Constitution and laws of this State or of the United States.*” (Emphasis added).

14. That on information and belief, Defendant Republican Party recently amended its rules to contain Rule 11(a)(6) to state as follows:

a. “A registered Republican elector for at least 90 days, and who has voted in at

least “two of the last three statewide Republican primaries, in this or any previous state of residence, expecting those who were not old enough to have done so, or who were unable due to active-duty military service. Failing that, a waiver may be granted prior to the candidate certification deadline for: county or municipal offices by a simple majority vote of the respective County Executive Committee; or for multi-county offices, State Houses, State Senate, State Constitutional and federal offices by the State Executive Committee. This rule shall take effect on July 1, 2026. (7-9-20).”

- b. “A registered in and a bona fide resident of the State of South Carolina and of the particular election district, if less than statewide, in which he offers as a candidate for office.”

15. That subsequent to Plaintiff filing as a candidate for the special Republican Primary for U.S. Senate, he was notified by Defendant Republican Party that he would not be placed on the ballot because he was in violation of the Party rule cited above.

16. That Defendant Republican Party Rule 11(a)(6) violates the statutes and laws and Constitution of the United States and the State of South Carolina.

17. That, in the alternative, Plaintiff had been a candidate for the Republican nomination for Secretary of Agriculture whose name appeared on the ballot on June 9, 2026, and June 23, 2026; that these were the last two statewide Republican primary elections conducted in this State and Plaintiff voted in each of them.

18. That, on information and belief, other candidates who were not removed by Defendant Republican Party from the ballot for the Special Republican Primary for the United States Senate have the same or similar voting history as Plaintiff.

**MOTION FOR A *EX PARTE*
TEMPORARY RESTRAINING ORDER
(Rule 65(b), SCRCP)**

19. Each of the paragraphs above is incorporated here verbatim.

20. An *ex parte* temporary restraining order (TRO) may not issue “unless it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before notice can be served and a hearing had thereon.” Rule 65(b), SCRCP.

21. A TRO should issue here to prevent Defendant Republican Party from removing Plaintiff from the Special Primary ballot and to affirmatively require Defendant Republican Party to certify Plaintiff to the SCEC as eligible to appear on the Special Primary ballot.

**MOTION FOR A
PRELIMINARY INJUNCTION
(Rule 65(b), SCRCP)**

22. Each of the paragraphs above is incorporated here verbatim.

23. An injunction is a drastic remedy that is appropriate when demonstrated as necessary to protect the legal rights of a party in the action. AJG Holdings, LLC v. Dunn, 382 S.C. 43, 50–51, 674 S.E.2d 505, 508 (Ct. App. 2009).

24. “Generally, for a preliminary injunction to be granted, the plaintiff must establish that: (1) he would suffer irreparable harm if the injunction is not granted; (2) he will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law.” Id. at 51, 674 S.E.2d at 508. This Court has explained that a court’s obligation to balance the equities “is subsumed by the irreparable harm and inadequate remedy at law components of the three-part test.” Poynter Invs., Inc. v. Century Builders of Piedmont, Inc., 387 S.C. 583, 587, 694 S.E.2d 15, 17 (2010).

25. Plaintiff will be harmed and the citizens of South Carolina will be deprived of an open primary process unless a preliminary injunction issues to maintain the status quo pending a final resolution of this dispute.

FOR A FIRST CAUSE OF ACTION
Declaratory Relief: Free and Open Elections Clause Violation;

26. Each of the paragraphs above is incorporated here verbatim.

27. “All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in th[e] Constitution shall have an equal right to elect officers and be elected to fill public office.” S.C. CONST. art. I, § 5.

28. “The General Assembly shall provide for the nomination of candidates, regulate the time, place and manner of elections, provide for the administration of elections and for absentee voting, ensure secrecy of voting, establish procedures for contested elections, and in act are other provisions necessary to the fulfillment and integrity of the election process.”

29. The Constitution tasks the General Assembly with regulating the time, place, and manner of elections and enacting other provisions necessary to the fulfillment and integrity of the election process. S.C. CONST. art. II, § 10.; that on information and belief, Rule of Defendant Republican Party cited above attempted usurp the Constitutional delegation to the General Assembly contained S.C. CONST. art. II, § 10.

30. South Carolina Code §§ 7-11-15(B), 7-11-20(A), 7-13-40, and 7-13-350 require a political party to verify and certify the qualifications of a candidate to serve in the office for which he has filed, nothing less and nothing more.

31. Pursuant to South Carolina Code § 15-53-20, the Court should declare that actions of Defendant Republican Party:

a. Violate the provisions of the U.S. Constitution;

- b. Violate provisions of the S.C. Constitution;
- c. Violate South Carolina Code §§ 7-11-15(B), 7-11-20(A), 7-13-40, and 7-13-350;
- d. Denies candidates, including Plaintiff, who lawfully filed to run for U.S. Senate, complied with other campaign laws, and who are actively campaigning for public office the equal right to be elected to fill public office; and
- e. Implements an unlawful partisan requirement in violation of the S.C. Constitution and the U.S. Constitution.

32. The Court should enter a final judgment declaring these rights in favor of Plaintiff and against Defendants.

**FOR A SECOND CAUSE OF ACTION
(Permanent Injunctive Relief)**

33. Each of the paragraphs above is incorporated here verbatim.

34. This Court is a co-equal branch of the South Carolina government charged with protecting the individual rights of the People.

35. The right of suffrage is paramount and because “[a]ll political power is vested in and derived from the people only, therefore, they have the right at all times to modify their form of government.” S.C. CONST. art. I, § 1.

36. Accordingly, the Court should exercise its power under South Carolina Code § 15-53-120, and enter a permanent injunction barring Defendant Republican Party from implementing its attempt to bar Plaintiff from having his name placed on the Republican Special Primary ballot for one or more of the reasons set forth above and require the SCEC to include Plaintiff’s name on

the Republican Special Primary ballot, along with such further relief as is necessary and proper to safeguard the integrity of this State's elections.

PRAYER

37. Wherefore, after entering a TRO, the Court should order such further briefing and argument as necessary, then grant a preliminary injunction, followed by any discovery or further proceedings as is necessary before granting final declaratory and injunctive relief as set forth above along with such further relief as the Court deems just and proper.

Respectfully submitted,

Date: July 30, 2026

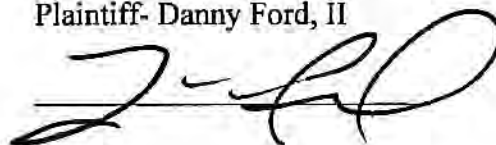
Orangeburg, South Carolina

s/ C. Bradley Hutto
C. Bradley Hutto 6436
Skyler B. Hutto 102741
WILLIAMS & WILLIAMS
Post Office Box 1084
Orangeburg, SC 29116
Tel: (803) 534-5218
Fax: (803) 536-6544
Email: cbhutto@williamsattys.com

VERIFICATION:

I have read the Motion for *Ex Parte* Temporary Restraining Order, Motion for Preliminary Injunction, and Complaint for Declaratory and Injunctive Relief and verify that its contents are true and correct to the best of my knowledge.

Plaintiff- Danny Ford, II



Sworn before me on 07.30.2026

Kaitlyn Wood (Sealed)

Notary Public for South Carolina

My Commission expires 8.15.2035



STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT

Danny Ford, II,) Civil Action No. 2026-CP-40-05213
))

Plaintiff,)

vs.)

South Carolina Republican Party, and)
South Carolina Election Commission)
a/k/a State Election Commission,)

Defendants.)

**SOUTH CAROLINA REPUBLICAN
PARTY'S RESPONSE IN
OPPOSITION TO PLAINTIFF'S
REQUEST FOR TRO AND
PRELIMINARY INJUNCTION**

Defendant South Carolina Republican Party (the SCGOP or the Party) submits this response in opposition to Plaintiff Danny Ford, II's request for a temporary restraining order and preliminary injunction. For the reasons below, the Court should deny Plaintiff's motion because the special primary election is already underway, and Plaintiff is not entitled to injunctive relief.

INTRODUCTION

No one wants to be here. The late Honorable Lindsey Graham won the Republican primary outright in June and was well on his way to serving a fifth term representing the people of South Carolina in the United States Senate. Tragically, he passed away suddenly on the evening of July 11, 2026. As a result, the Party must hold a special primary election to nominate a new Republican candidate to run in the November general election. It is set to take place on August 11, 2026.

Pursuant to an agreement between the State Election Commission and the United States Department of Justice, the Election Commission must send absentee ballots to voters covered by the Uniform and Overseas Citizens Absentee Voting Act (UOCAVA) no later than this Saturday, August 1, 2026. According to the Election Commission, more than half of these UOCAVA ballots

have already been sent by the various county Boards of Voter Registration and Elections, and some voters have already returned ballots. In other words, the election is underway.

Still, Plaintiff ran to the Court earlier today seeking—and ultimately obtaining—an *ex parte* TRO against the Party and the Election Commission.¹ Plaintiff asks the Court to stop the election and require the Election Commission to place his name on the ballot, even though the SCGOP did not certify him because he fails to satisfy recently adopted Party rules.

By way of background, on June 27, 2026, the Party adopted a rule providing that “[n]o candidate shall be certified by the Republican Party who is not, at the time of filing, (a) A registered Republican elector for at least 90 days, and who has voted in at least two of the last three statewide Republican primaries, in this or any previous state of residence, excepting those who were not old enough to have done so, or who were unable due to active-duty military service.” SCGOP R. 11(a)(6)(a) (2026). To be sure, Plaintiff filed the documents necessary to run in the special primary election. But the Party determined he was not qualified under Rule 11(a)(6)(a) because he had not voted in at least two of the last three statewide Republican primaries.

The Supreme Court of the United States has long held that “political belief and association constitute the core of those activities protected by the First Amendment.” *Elrod v. Burns*, 427 U.S. 347, 356 (1976). “And of course this freedom protected against federal encroachment by the First

¹ Plaintiff never actually filed a motion with the Court. And as opposing counsel are aware, the Supreme Court of South Carolina reversed Judge Goodstein—less than a year ago in one of their cases—for issuing an *ex parte* TRO against the State Election Commission. See *Crook v. S.C. Election Comm’n*, Op. No. 2025-MO-041, 2025 S.C. Unpub. LEXIS 88 (S.C. Sept. 11, 2025). After all, our supreme court has repeatedly held “an *ex parte* restraining order is improper when it involves the State.” *State v. Hill*, 266 S.C. 49, 52, 221 S.E.2d 398, 399 (1976); see also *State v. Best*, 257 S.C. 361, 373, 186 S.E.2d 272, 278 (1972) (holding orders granted without notice to the State were improper and may have been set aside on that ground alone). Further, Plaintiff’s proposed order—which mirrors the one reversed in *Crook*—purported to grant an *ex parte* TRO, preliminary injunction, and complaint for declaratory and injunctive relief. The Court cannot grant a complaint, and asking it to grant a preliminary injunction *ex parte* breaks every rule in the book.

Amendment is entitled under the Fourteenth Amendment to the same protection from infringement by the States.” *Cousins v. Wigoda*, 419 U.S. 477, 487 (1975). And “[t]hat principle applies with particular force to protect the First Amendment rights of speech and association of political parties and their members.” *Boston Correll v. Herring*, 212 F. Supp. 3d 584, 609 (E.D. Va. 2016). “Any interference with the freedom of a party is simultaneously an interference with the freedom of its adherents.” *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

For this reason, the Court has “always treated government assertion of control over the internal affairs of political parties—which, after all, are simply groups of like-minded individual voters—as a matter of the utmost constitutional consequence.” *Morse v. Republican Party of Va.*, 517 U.S. 186, 241 (Scalia, J., dissenting); *see also Democratic Party of U.S. v. Wisc. ex rel. LaFollette*, 450 U.S. 107, 121–22 (1981); *Cousins*, 419 U.S. at 487–88; *O’Brien v. Brown*, 409 U.S. 1, 4–5 (1972) (per curiam).

Against this backdrop, Plaintiff’s request should give the Court great pause. Following his loss in the Republican primary for Commissioner of Agriculture, Plaintiff seeks to usurp the Party’s right to set qualifications for candidates running in *its* primaries—when the special election has already started—by asking this Court to overturn the SCGOP’s decision not to certify him. Specifically, he asks for injunctive relief “barring [the Party] from implementing its attempt to bar Plaintiff from having his name placed on the Republican Special Primary ballot” and “requir[ing] the [State Election Commission] to include Plaintiff’s name on the Republican Special Primary ballot.” Compl. at ¶¶ 21 & 36.

South Carolina law gives the Party the sole authority and duty to ensure the qualifications of its candidates and to certify those qualified candidates to run in partisan primaries. So does the constitution. The Court should therefore deny this misguided request because Plaintiff cannot

establish the requisite elements for injunctive relief to issue, and the *Purcell* principle counsels against courts interfering in an ongoing election.

ARGUMENT

“The remedy of an injunction is a drastic one and ought to be applied with caution.” *Strategic Res. Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 544, 627 S.E.2d 687, 689 (2006). “An applicant for a preliminary injunction must allege sufficient facts to state a cause of action for injunction and demonstrate that this relief is reasonably necessary to preserve the rights of the parties during the litigation.” *Allegro, Inc. v. Scully*, 400 S.C. 33, 45, 733 S.E.2d 114, 121 (Ct. App. 2012).

A plaintiff must establish “(1) he will suffer immediate, irreparable harm without the injunction; (2) he has a likelihood of success on the merits; and (3) he has no adequate remedy at law.” *Compton v. S.C. Dep’t of Corr.*, 392 S.C. 361, 366, 709 S.E.2d 639, 642 (2011) (quoting *Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 908 (2004)). “A preliminary injunction should issue only if necessary to preserve the status quo ante.” *Poynter Invs., Inc. v. Century Builders of Piedmont, Inc.*, 387 S.C. 583, 586, 694 S.E.2d 15, 17 (2010).

“Preliminary injunctions may be categorized as either prohibitory or mandatory.” *Billups v. City of Charleston*, 194 F. Supp. 2d 452, 460 (D.S.C. 2016). “Prohibitory preliminary injunctions aim to maintain the status quo and prevent irreparable harm while a lawsuit remains pending.” *Pashby v. Delia*, 709 F.3d 307, 319 (4th Cir. 2013). “Mandatory preliminary injunctions do not preserve the status quo and normally should be granted only in those circumstances where the exigencies of the situation demand such relief.” *Wetzel v. Edwards*, 635 F.2d 283, 286 (4th Cir. 1980). “A mandatory injunction, especially at the preliminary stage of

proceedings, should not be granted except in rare instances in which the facts and law are clearly in favor of the moving party.” *Gantt v. Clemson Agr. Coll. Of S.C.*, 208 F. Supp. 416, 418 (W.D.S.C. 1962). “Mandatory preliminary injunctive relief in any circumstance is disfavored[] and warranted only in the most extraordinary circumstances.” *De La Fuente v. S.C. Democratic Party*, 164 F. Supp. 3d 794, 798 (D.S.C. 2016).

The U.S. Court of Appeals for the Fourth Circuit “has defined the status quo as the ‘last uncontested status between the parties which preceded the controversy.’” *Pashby v. Delia*, 709 F.3d 307, 320 (4th Cir. 2013) (quoting *Aggarao v. MOL Ship Mgmt. Co., Ltd.*, 675 F.3d 355, 378 (4th Cir. 2012)).

Here, Plaintiff seeks to upend, not preserve, the status quo. Plaintiff asks the Court—as an arm of the State—to second guess the Party’s decision not to certify him, which followed the letter of its recently adopted rules, and override it by requiring the State Election Commission “to include Plaintiff’s name on the Republican Special Primary ballot,” Compl. at ¶ 36, even though the election is underway.

Plaintiff thus seeks a mandatory preliminary injunction, which is met with even greater scrutiny from the Court. *See De La Fuente*, 164 F. Supp. 3d at 798 (holding the plaintiff sought “mandatory injunctive relief” by “asking that the court require the Democratic Party to notify the Secretary of State to include him on the primary ballot”); *see also Pashby*, 709 F.3d at 319 (“application of th[e] exacting standard of review [for preliminary injunctions] is even more searching when’ the relief requested ‘is mandatory rather than prohibitory in nature” (alterations in original) (quoting *Perry v. Judd*, 471 F. App’x 219, 223–24 (4th Cir. 2012))).

Because the special election has already begun and Plaintiff cannot succeed on the merits, the Court should deny his request for mandatory and drastic injunctive relief.

I. *The election is underway, and the Court should not interfere with that.*

Of course, “[e]xtreme diligence and promptness are required in election-related matters.” 29 C.J.S. *Elections* § 459. Because Plaintiff seeks extraordinary mandatory injunctive relief “in the period close to an election,” *Andino v. Middleton*, 141 S. Ct. 9, 10 (2020) (Kavanaugh, J., concurring) (citing *Purcell v. Gonzalez*, 549 U.S. 1, 4–6 (2006) (per curiam))—actually during an election—the Court should deny the request.

The Supreme Court of the United States “has repeatedly emphasized that lower federal courts should ordinarily not alter the election rules on the eve of an election,” *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 140 S. Ct. 1205, 1207 (2020). Known as the “*Purcell* principle,” its “wisdom” is “to avoid . . . judicially created confusion” in elections. *Id.* After all, “[c]ourt orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.” *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006).

While the *Purcell* doctrine generally applies when a federal court is asked to intervene in a state election, the considerations remain in full force in state-law cases like this one and are instructive here. The Court can simply replace federalism concerns with the equally weighty separation of powers concerns. Indeed, this Court agreed in another election matter less than two years ago. See Order Den. Mot. for TRO, *ACLU v. State Election Comm’n*, No. 2024-CP-40-06286, at 8 (Nov. 7, 2024) (Coble, J.) (“Voting was already underway when Plaintiff filed this lawsuit. So Plaintiff is instead asking the Court to alter the rules during an election. The SEC and county boards have spent significant time, expense, and effort to ensure a smooth and orderly election. Any court-ordered change at this late date could cause major disruption in the political process, risk considerable voter confusion and delays at the polls, and impose additional taxpayer

expense.” (citing *Purcell*)). “When an election is close at hand, the rules of the road should be clear and settled. That is because running a statewide election is a complicated endeavor.” *Democratic Nat’l Comm. v. Wisc. State Legis.*, 141 S. Ct. 28, 31 (2020) (Kavanaugh, J., concurring). As Justice Kavanaugh recognized,

Even seemingly innocuous late-in-the-day judicial alterations to state election laws can interfere with administration of an election and cause unanticipated consequences. If a court alters election laws near an election, election administrators must first understand the court’s injunction, then devise plans to implement that late-breaking injunction, and then determine as necessary how best to inform voters, as well as state and local election officials and volunteers, about those last-minute changes. It is one thing for state legislatures to alter their own election rules in the late innings and to bear the responsibility for any unintended consequences. It is quite another thing for a . . . court to swoop in and alter carefully considered and democratically enacted state election rules when an election is imminent.

Id.

In reality, the *Purcell* doctrine is just a species of laches that is specific to elections. And it should bar Plaintiff’s claims. As the State Election Commission confirmed, more than half of the UOCAVA ballots have already been sent by the various county Boards of Voter Registration and Elections, and some voted ballots have already been returned. South Carolina citizens have already placed their vote for the Republican candidate for the United States Senate, and the election is underway.

When a court begins to tinker with an election on its eve, the potential for chaos arises. That potential is only exacerbated when an election is already underway. Voter confusion and burdens on election administration are exactly what will happen if the Court entertains Plaintiff’s demands. The “important principle of judicial restraint” under *Purcell* prevents those problems and “thereby protects the State’s interest in running an orderly, efficient election” to give the public

“confidence in the fairness of the election.” *Democratic Nat’l Comm.*, 141 S. Ct. at 31 (Kavanaugh, J., concurring). For that reason alone, the Court deny Plaintiff’s request.

II. *Plaintiff cannot succeed on the merits because forcing the Party to place Plaintiff on the ballot would violate the First Amendment.*

Even so, the SCGOP decided what qualifications to require of its Republican candidates and decided Plaintiff fails to meet those qualifications. After considering the evidence before it, the Party determined Plaintiff had not voted in two of the last three Republican primaries at the time he filed his application. Ex. A.

The Supreme Court of the United States has long held that “a [s]tate, or a court, may not constitutionally substitute its own judgment for that of the Party.” *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 224 (1986) (quoting *Democratic Party of U.S. v. Wisc. ex rel. LaFollette*, 450 U.S. 107, 123–24 (1981)). Indeed, a political party’s “determination of the boundaries of its own association, and of the structure which best allows it to pursue its political goals, is protected by the Constitution.” *Id.* at 224. “And as is true of all expressions of First Amendment freedoms, the courts may not interfere on the ground that they view a particular expression as unwise or irrational.” *LaFollette*, 450 U.S. at 124. As the U.S. Court of Appeals for the District of Columbia Circuit cogently recognized,

What is important . . . is that a party’s choice, as among various ways of governing itself, of the one which seems best calculated to strengthen the party and advance its interests, deserves the protection of the Constitution as much if not more than its condemnation. The express constitutional rights of speech and assembly are of slight value indeed if they do not carry with them a concomitant right of political association. Speeches and assemblies are after all not ends in themselves but means to effect change through the political process. If that is so, there must be a right not only to form political associations but to organize and direct them in the way that will make them the most effective.

Ripon Soc’y, Inc. v. Nat’l Republican Party, 525 F.2d 567, 585 (D.C. Cir. 1975).

Given the First Amendment protections afforded to political parties, the Court has no occasion to substitute its judgment for that of the Party’s executive committee. “[I]t is generally held that where questions [related to party policies or organization] have been submitted to and determined by the proper party tribunal, according to the rules and customs of the party, the courts will give effect to, and will not attempt to review such decision, but, in the absence of fraud, will regard it as conclusive.” *Determination of Controversies Within Political Party*, 169 A.L.R. 1281 § III (1947); *see also generally Bruce v. S.C. High Sch. League*, 258 S.C. 546, 551, 189 S.E.2d 817, 819 (1972) (“It is well established that courts will not interfere with the internal affairs of voluntary associations, except in such cases as fraud, lack of jurisdiction, or the invasion of property or pecuniary rights or interests. The decisions of the tribunal of an association with respect to its internal affairs will, in the absence of mistake, fraud, illegality, collusion, or arbitrariness, be accepted by the courts as conclusive.”).

Plaintiff alleged no such exceptions. So the Court has no role in the Party’s decision. Indeed, other South Carolina courts have agreed. *See Order Den. Pl.’s Pet. for Dec. Relief, Ali vs. S.C. Democrat Party*, No. 2024-CP-10-1918, at 4 (Apr. 23, 2024) (“Political parties have the right to decide whether or not to certify a candidate for their primary pursuant to their Party Rules under SC Code of Laws §7-13-40.”); *see also id.* (“The statute does not compel political parties and require that political parties must certify every candidate who wants to appear on their primary ballot – for good reason – that would, in effect, undermine the very nature of the existence of political parties who have constitutionally protected First Amendment Association rights. ‘Including people unaffiliated with the party—or those with whom the party does not wish to affiliate—‘may seriously distort [the party’s] collective decisions—thus impairing the party’s essential functions.’” (quoting *Follette*, 450 U.S. at 122)).

In all events, no fraud occurred, and the Party’s decision was not arbitrary. Rule 11(a)(6)(a) states, in relevant part, that “[n]o candidate shall be certified by the Republican Party who is not, at the time of filing, (a) A registered Republican elector for at least 90 days, and *who has voted in at least two of the last three statewide Republican primaries.*” SCGOP R. 11 (2026) (emphasis added). Plaintiff’s voting records, which the Party received from the Election Commission, reveal that Plaintiff voted in the June 2026 Republican primary election, including its runoff, but not in the other two most recent statewide Republican primaries. Ex. A. Plaintiff does not and cannot dispute this. He simply claims the June 9, 2026 primary election and the June 23, 2026 primary election runoff should be considered two different elections. Compl. at ¶ 17. They aren’t.

Put simply, the SCGOP followed its own rules and determined—based on the evidence before it—that Plaintiff was not qualified to run as a Republican for the United States Senate. The Party violated no South Carolina law or Constitutional provision in doing so. Nor was the Party’s decision was arbitrary. The Court thus has no role over this dispute, except to accept the decision of the executive committee as conclusive. See Order Den. Mot. for Injunctive Relief, *Inglis v. S.C. Republican Party*, No. 2019-CP-40-05486, at 13–17 (Dec. 11, 2019) (“Under these circumstances, the SCGOP’s decision cannot be deemed illegal or arbitrary, and the Court has no role over this dispute other than to accept the decision of the executive committee as conclusive.”).

* * *

In sum, Plaintiff cannot succeed on the merits. The Court has no role in reviewing the Party’s decision. And even if it did, the executive committee acted well within its discretion according to party rules, and its decision was not arbitrary. Plaintiff is not entitled to a mandatory preliminary injunction, particularly where, as here, that would unconstitutionally interfere with the Party’s rights to freedom of association guaranteed by the First Amendment.

CONCLUSION

For these reasons, the Court should dissolve the *ex parte* TRO and deny Plaintiff's request for a preliminary injunction.

Respectfully submitted,

s/Vordman Carlisle Traywick, III

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Counsel for South Carolina Republican Party

Columbia, South Carolina
July 30, 2026

Exhibit A
to SCGOP's Response in Opposition to
Request for Injunctive Relief

Plaintiff Danny Ford's Voter History



Danny L Ford II
044286347

DoB: [REDACTED]
SSN: [REDACTED]

Active | Active
04 - ANDERSON

- Dashboard
- Details
- Participation
- History
- Notes
- Attachments

Elections & Participation

Registration Date
10/17/2003
Last Voted Date
6/23/2026
[View Details](#)

Address & Precinct

3218 Refuge Rd
Central, SC 29630
04-ANDERSON
Start Date 10/17/2003

Precinct 013 -
Bishop's Branch
Polling Location Refuge
Baptist Church
[View Districts](#)

Details



Danny L Ford II
044286347

DoB:**SSN:**

Active | Active
04 - ANDERSON

- Dashboard
- Details
- Participation
- History
- Notes
- Attachments

Personal Info

Last Name *

Ford

First Name *

Danny

Middle Name

L

Suffix

II

Confirmation Date

01/19/2022

Date of Birth *

SSN *

Proof of Id *

Yes

Driver's License No.

Correspondence Method *

Mail

Status

Active

Reason

Active

Gender *

Male

Race *

White

Email

Residence Address

Street Address *

3218 Refuge Rd

Include apartment, suite, unit, floor, etc.

City State Zip *

Central, SC 29630

Enter ZIP to autofill City and State

County

04 - ANDERSON

Override Address

☐

Mailing Address

Format

United States

Line 1

Line 2

Street Address

Include apartment, suite, unit, floor, etc.

City State Zip

Enter ZIP to autofill City and State

Override Address

☐

Clear Address

Registration

Date

10/17/2003

Edit Registration

Phone

+ Add

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Precinct & Districts

Precinct	013 - Bishop's Branch	US Congressional District	SC Senate District
Polling Location	Refuge Baptist Church	03 - District 3	03 - District 3
Polling Address	219 Refuge Church Rd	SC House District	County Council
City, State, ZIP	Central, SC 29630	006 - District 6	04 - District 4
Match Street File		School District	School Board District At Large
		44 - District 4 Area 4	
		City Council District	
			Watershed District
		Fire District Commissioner	32 - Three and Twenty
		Magistrate Jury Area	Public Service District
		041 - Anderson	Municipality
		Township	
		Misc2 District	Misc1 District
		Special Purpose District	001 - District 1
		S4R - School District 4 Referendum	Virtual Jury Pool

Previous Out of State Registration

State	Address Line 1	City
County	Address Line 2	ZIP Code

Created By System on 10/17/2003

Updated By

Cameron Kutz on 1/19/2022

Participation



Danny L Ford II
044286347

DoB: [REDACTED]5 Active | Active
SSN: [REDACTED] [REDACTED] 04 - ANDERSON

- Dashboard
- Details
- Participation
- History
- Notes
- Attachments

Date Range

Search:

Actions	Election No.	Election Date	Election Name	Participation Status	County	Ballot Type
	22760	08/11/2026	US Senate Special Republican Primary	Eligible	04 - ANDERSON	
	22598	06/09/2026	Statewide Primary	Voted Early-Republican	04 - ANDERSON	
	22598	06/23/2026	Statewide Primary - Runoff	Voted AtPoll-Republican	04 - ANDERSON	
	22617	11/04/2025	Capital Project Sales Tax	Eligible Past Election	04 - ANDERSON	
	22114	11/05/2024	Statewide General Election	Eligible Past Election	04 - ANDERSON	
	22121	06/11/2024	Statewide Primary	Eligible Past Election	04 - ANDERSON	
	22121	06/25/2024	Statewide Primary - Runoff	Eligible Past Election	04 - ANDERSON	
	22097	02/24/2024	Republican PPP	Eligible Past Election	04 - ANDERSON	
	22096	02/03/2024	Democratic PPP	Eligible Past Election	04 - ANDERSON	
	22095	11/07/2023	Anderson County School Dist.4 Referendum	Eligible Past Election	04 - ANDERSON	
	21643	11/08/2022	Statewide General Election	Eligible Past Election	04 - ANDERSON	
	21644	06/14/2022	Statewide Primary	Eligible Past Election	04 - ANDERSON	

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Actions	Election No.	Election Date	Election Name	Participation Status	County	Ballot Type
	21644	06/28/2022	Statewide Primary - Runoff	Eligible Past Election	04 - ANDERSON	
	21520	05/18/2021	Anderson Cnty Fire Commission Referendum	Eligible Past Election	04 - ANDERSON	
	21112	11/03/2020	Statewide General Election	Eligible Past Election	04 - ANDERSON	
	21112	11/17/2020	Statewide General Election - Runoff	Eligible Past Election	04 - ANDERSON	
	21113	06/09/2020	Statewide Primary	Eligible Past Election	04 - ANDERSON	
	21113	06/23/2020	Statewide Primary - Runoff	Eligible Past Election	04 - ANDERSON	
	21056	02/29/2020	Presidential Preference Primary	Eligible Past Election	04 - ANDERSON	
	20578	11/06/2018	Statewide General Election	Eligible Past Election	04 - ANDERSON	
	20578	11/20/2018	Statewide General Election - Runoff	Eligible Past Election	04 - ANDERSON	
	20579	06/12/2018	Statewide Primary Election	Eligible Past Election	04 - ANDERSON	
	20579	06/26/2018	Statewide Primary Election - Runoff	Eligible Past Election	04 - ANDERSON	
	20358	05/30/2017	State Senate District 3 Special Election	Eligible Past Election	04 - ANDERSON	
	20384	05/02/2017	Anderson County School Dist 4 Referendum	Eligible Past Election	04 - ANDERSON	
	20359	04/11/2017	State Senate District 3 Primary	Eligible Past Election	04 - ANDERSON	
	20359	04/25/2017	State Senate District 3 Primary - Runoff	Eligible Past Election	04 - ANDERSON	

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Actions	Election No.	Election Date	Election Name	Participation Status	County	Ballot Type
	20026	11/08/2016	Statewide General Election	Eligible Past Election	04 - ANDERSON	
	20025	06/14/2016	Statewide Primary	Eligible Past Election	04 - ANDERSON	
	20025	06/28/2016	Statewide Primary - Runoff	Eligible Past Election	04 - ANDERSON	
	20007	02/27/2016	Presidential Preference Primary	Eligible Past Election	04 - ANDERSON	
	19547	11/04/2014	Statewide General Election	Eligible Past Election	04 - ANDERSON	
	19547	11/18/2014	Statewide General Election - Runoff	Eligible Past Election	04 - ANDERSON	
	19548	06/10/2014	Statewide Primary Election	Eligible Past Election	04 - ANDERSON	
	19548	06/24/2014	Statewide Primary Election - Runoff	Eligible Past Election	04 - ANDERSON	
	19080	11/06/2012	2012 Statewide General Election	Voted AtPoll	04 - ANDERSON	
	19081	06/12/2012	2012 Statewide Primary	Eligible Past Election	04 - ANDERSON	
	19081	06/26/2012	2012 Statewide Primary - Runoff	Eligible Past Election	04 - ANDERSON	
	12643	01/21/2012	Presidential Preference Primary	Eligible Past Election	04 - ANDERSON	
	11974	11/04/2008	2008 Statewide General Election	Voted AtPoll	04 - ANDERSON	
	11176	06/08/2004	2004 Statewide Dem & Rep Primary	Voted AtPoll-Republican	04 - ANDERSON	

Showing 1 to 41 of 41 entries

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

DANNY FORD II,

Plaintiff,

v.

SOUTH CAROLINA REPUBLICAN PARTY,
AND SOUTH CAROLINA ELECTION
COMMISSION A/K/A STATE ELECTION
COMMISSION,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2026-CP-40-05213

**DEFENDANT SOUTH CAROLINA
ELECTION COMMISSION'S MEMO IN
OPPOSITION TO THE TEMPORARY
RESTRAINING ORDER DATED JULY 30,
2026.**

The South Carolina State Election Commission (Defendant or Election Commission), by and through the undersigned counsel, at the Court's request provides this Memo in Opposition to Plaintiff's Motion for an Ex Parte Temporary Restraining Order, and the ensuing order issued July 30, 2026 time stamped 2:33 P.M. (hereinafter, "the TRO").

I. Background.

The Election Commission is currently engaged in coordinating a special primary election (the Special Primary) to replace the Republican Party's nominee, Lindsey Graham, for United States Senate in the November 2026 general election. This Special Primary is being conducted pursuant to S.C. Code § 7-11-55. The filing period for the Special Primary closed on Tuesday, July 28, 2026. That day the South Carolina Republican Party (SCRP) certified to the Election Commission nine candidates to appear on the Special Primary ballots. The Plaintiff was not certified by the SCRP. The Special Primary is scheduled to be conducted August 11, 2026.

The Election Commission is responsible for preparing ballots to be used during statewide primary elections in South Carolina. S.C. Code § 7-13-1655. Political parties must certify to the Election Commission who is to appear on the political party's ballots. The Election Commission has no discretion on its own to either place a candidate's name on a political party primary ballot or remove it. Such instruction must come from the political party. S.C. Code §§ 7-11-15; 7-13-40.

The Election Commission received no notice that the Plaintiff was seeking an ex-parte restraining order, was going to appear before the Court to secure such an order, or had secured such an order, until after the TRO had been obtained. The TRO states in pertinent part: "It is therefore ordered that Defendant be and is hereby restrained from omitting Plaintiff's name from the Special Republican Primary ballot for the US Senate until a hearing can be held, which is hereby scheduled for 9:30 a.m. Monday, August 3, 2026, at the Richland County Courthouse, 1701 Main St. #205, Columbia, South Carolina, before the undersigned or pending further Order of the Court." Therefore, even if the Order was intended to restrain only the Defendant South Carolina Republican Party and not the Election Commission, such an order implicates the Election Commission because it prepares ballots for the various County Boards of Voter Registration and Elections (BVREs) to use when conducting elections. This includes regular absentee ballots, and absentee ballots sent to voters eligible to vote pursuant to the Uniform and Overseas Citizens Absentee Voting Act (UOCAVA) (See 52 U.S.C.A. § 20301 et seq. and S.C. Code § 7-15-600 et seq.)

UOCAVA ballots are normally to be sent to eligible voters no later than 45 days before an election day (S.C. Code § 7-15-680; 52 U.S.C.A. § 20302(a)(8)). Given the accelerated election schedule required for the Special Primary by S.C. Code § 7-11-55, this was impossible to comply with this 45-day requirement. Therefore, the Election Commission, in cooperation with the United

States Department of Justice (USDOJ), entered into a Memorandum of Agreement (MOA) with USDOJ stipulating when UOCAVA ballots were to be provided to eligible voters. (See Exhibit A). Pursuant to the MOA, all UOCAVA ballots for the August 11, 2026 Special Election are to be sent to eligible voters no later than this Saturday, August 1, 2026. As stated above, these ballots are already in the process of being sent by the BVREs. Any order interfering with the schedule stipulated in the MOA will cause the Election Commission to be in violation of the MOA.

South Carolina BVREs have already started sending UOCAVA ballots to eligible voters. As of today, approximately 220 UOCAVA ballots have been delivered to eligible voters, and 21 voted UOCAVA ballots have been returned. A further 459 regular absentee ballots have been sent out by the BVREs.

II. Argument.

Pursuant to Rule 65(a), SCRCP, “No temporary injunction shall be issued without notice to the adverse party”. Here the Election Commission received no notice that the ex parte hearing was being conducted and did not learn of the TRO until about the time it was entered by the Court. Procedurally, this case is similar to that in *Crook v. S.C. Election Comm’n*, 2025 S.C. Unpub. LEXIS 88 (S.C. Sept. 11, 2025). There the plaintiff had sought an order restraining the Election Commission from sharing voter data with USDOJ. The plaintiff appeared ex parte before the Calhoun County Circuit Court, without notice to the Election Commission, and obtained an ex parte order temporarily restraining the Election Commission from sharing voter data with USDOJ. On appeal to the South Carolina Supreme Court, the Supreme Court ruled the restraining order issued in that case failed to comply with the requirements of Rule 65, SCRCP. This was partly because the court’s order failed to establish that the plaintiff was entitled to injunctive relief

because it did not elaborate on the imminent injury alleged by the plaintiff or why the order was granted without notice. (*Id.* at P.4). However, the Supreme Court also noted that “. . . this Court has held an ex parte restraining order is improper when it involves the State. (citing *State v. Hill*, 266 S.C. 49, 52, 221 S.E.2d 398, 399 (1976); also citing *State v. Best*, 257 S.C. 361, 373, 186 S.E.2d 272, 278 (1972) (holding orders granted without notice to the State were improper and may have been set aside on that ground alone).” (*Id.*)

The Election Commission is a South Carolina state agency established by act of the General Assembly. See S.C. Code §§ 7-3-10; 7-3-20. Here the Plaintiff has obtained an ex parte temporary restraining order without notice to the Election Commission. Therefore, as the court found in *Crook*, and consistent with its citation to *State v. Best*, because the Election Commission did not receive notice of the ex parte motion and hearing, this Court should vacate the TRO pending further proceedings at the hearing scheduled for August 3, 2026.

Respectfully Submitted,

/S/ _____

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Attorney for South Carolina Election Commission

CERTIFICATE OF SERVICE

I, Thomas Nicholson General Counsel for the South Carolina State Election Commission, hereby certify that a true and correct copy of the foregoing *MEMO IN OPPOSITION TO THE TEMPORARY RESTRAINING ORDER DATED JULY 30, 2026* has been served on the following on July 30, 2026.

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_____/S/_____

Thomas W. Nicholson

MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES AND THE STATE OF SOUTH CAROLINA, THROUGH CONWAY BELANGIA, THE CHIEF ELECTION OFFICER OF THE STATE OF SOUTH CAROLINA AND THE SOUTH CAROLINA ELECTION COMMISSION, REGARDING COMPLIANCE WITH THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT FOR THE AUGUST 11, 2026 SPECIAL PRIMARY ELECTION AND AUGUST 25, 2026 SPECIAL PRIMARY RUNOFF FOR UNITED STATES SENATE

I. Introduction

This agreement is entered into between the United States of America, through the United States Department of Justice (“United States”), and the State of South Carolina through the Executive Director of the South Carolina State Election Commission, Conway Belangia (“Executive Director”), in his official capacity as Chief Election Officer of the State of South Carolina, and the South Carolina State Election Commission (“Commission”). The purpose of this agreement is to secure the voting rights of absent uniformed services and overseas voters protected by the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), 52 U.S.C. § 20301, *et seq.* UOCAVA provides that absent uniformed services voters and overseas voters (“UOCAVA Voters”) shall be permitted “to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal Office.” 52 U.S.C. § 20302.

This matter arises out of UOCAVA’s requirement that states transmit validly requested absentee ballots to UOCAVA voters not later than 45 days before an election – including a special election – for Federal office when the voter’s request is received at least 45 days before the election. 52 U.S.C. § 20302(a)(8)(A), *United States v. West Virginia*, No. 2:14-cv-27456, 2014 WL 7338867, at *5 (S.D.W. Va. Dec. 22, 2014) (holding that transmission of corrected ballots to UOCAVA voters only 32 days before election violated 52 U.S.C. § 20302(a)(8)(A)). Federal law further provides that, where a state holds a runoff for Federal office, there must be “a plan that provides absentee ballots are made available to absent uniformed services voters and overseas voters in a manner that gives them sufficient time to vote in the runoff election.” *Id.* at 20302(a)(9).

The Executive Director's office is the state official responsible for the implementation of UOCAVA in South Carolina, S.C. Code § 7-3-20(D)(15), although the Commission also bears some responsibility for implementing UOCAVA. *See* S.C. Code §§ 7-15-650, 7-15-690. South Carolina's special primary election date is set by statute, S.C. Code § 7-11-55. Due to the death of Senator Lindsey Graham, the special primary election to replace the late Sen. Graham as the Republican nominee for the 2026 General Election must occur on August 11, 2026 and any runoff primary election, if necessary, must occur on August 25, 2026. *Id.*

The South Carolina General Assembly requires a political party's candidate selected through a primary election to be replaced through a "special primary election" if the candidate passes away. S.C. Code § 7-11-55. Individuals interested in running during the special primary must file a statement of intention of candidacy, with a filing period starting the "second Tuesday after the death" and remaining open for one week. *Id.* The special primary election must then occur "on the second Tuesday immediately following the close of the filing period" and any runoff, if a candidate fails to obtain the required percentage of votes cast, "two weeks after the first primary." *Id.* To allow primary voters to select a replacement for the late Senator Lindsey Graham on the Republican ballot, candidate qualifying closes on July 28, 2026 with the Federal special primary occurring on August 11, 2026. These two deadlines require the election to occur 30 days from the date of Sen. Graham's death and 13 days after the candidate filing period. Any runoff election must occur two weeks after the Federal special primary, or 44 days from Sen. Graham's death and 27 days from the close of the candidate filing period. Both the Federal special primary and runoff elections, therefore, must occur in far less than the 45-day requirement set forth in UOCAVA by which applicable voters may request their ballots.

Neither the Executive Director nor the Commission have authority to change the date of the special primary election. S.C. Const. art. II, § 10 and *Bailey*, 844 S.E.2d at 394 (discussing separation of powers in South Carolina). Under South Carolina law, only the South Carolina General Assembly may “regulate the time, place, and manner” of an election. S.C. Const. art. II, § 10, *Bailey v. South Carolina State Election Commission*, 844 S.E.2d 390, 394 (S.C. 2020).

The United States, the Executive Director, and the Commission, through their respective counsels, have conferred and agree that this matter should be resolved without the burden and expense of litigation. The parties share the goal of ensuring that South Carolina’s UOCAVA voters will have sufficient opportunity to request and receive absentee ballots and to submit marked absentee ballots in time to be counted for the August 11, 2026, Federal special primary election and any August 25, 2026, Federal special runoff election, if necessary. As consideration for this Agreement, the United States has agreed to forgo litigation under UOCAVA as to the August 11, 2026, Federal special primary election and any August 25, 2026, Federal special runoff election subject to compliance with the terms of this Agreement. The parties negotiated in good faith and hereby enter into this Agreement as an appropriate resolution of any UOCAVA claims or UOCAVA compliance issues noted by the United States that are caused by the circumstances described above.

II. Recitals

The parties stipulate and agree that:

1. The United States District Court for the District of South Carolina has jurisdiction to enforce the provisions of UOCAVA, 52 U.S.C. §§ 20301 *et seq.*, and the Federal Court would have jurisdiction over an action brought by the United States to enforce the terms of this Agreement.

2. The United States Attorney General is authorized to enforce the provisions of UOCAVA, 52 U.S.C. § 20307.
3. The State of South Carolina, by and through the Executive Director of the Commission, is responsible for complying with UOCAVA and ensuring that validly requested absentee ballots are transmitted to UOCAVA voters in accordance with the statute's terms. 52 U.S.C. § 20302(b).
4. Conway Belangia is the Executive Director of the South Carolina State Election Commission. The Executive Director is the Chief Election Official for the State of South Carolina responsible for overseeing election administration. S.C. Code § 7-3-20(A). The Executive Director's Office is the state office responsible for the implementation of UOCAVA. *Id.* § 7-3-20(D)(15).
5. State law delegates to the Commission the responsibility, "in cooperation with United States government agencies" to "take all steps and action as may be necessary" to "ensure that all South Carolina residents eligible to vote as provided by the [UOCAVA]... have the opportunity to receive and cast any ballot they would have been eligible to cast if they resided in and remained in South Carolina." S.C. Code § 7-15-690. This includes runoff elections. *Id.* § 7-15-650.
6. Under State law, the Executive Director and the State Election Commission are, therefore, jointly responsible for ensuring South Carolina's compliance with UOCAVA.
7. Section 102(a)(8)(A) of UOCAVA requires that states transmit validly requested ballots to UOCAVA voters not later than 45 days before an election for Federal office when the request is received at least 45 days before the election, unless a waiver is granted

by the Department of Defense pursuant to Section 102(g) of UOCAVA. 52 U.S.C. § 20302(a)(8)(A), (g).

8. No waiver can be provided under the circumstances. None of the hardship criteria set forth in Section 102(g)(2) apply to South Carolina's special primary and runoff elections. 52 U.S.C. § 20302(g)(2).
9. Absent any intervening legislative or judicial action, South Carolina will conduct a special primary election on August 11, 2026, and any runoff on August 25, 2026, in which voters will select the Republican candidate for U.S. Senate who will stand for election during the Federal general election on November 3, 2026.
10. For the June 9, 2026 primary for Federal office, South Carolina received timely requests for absentee ballots from approximately 1,051 voters who are entitled to cast ballots pursuant to the provisions of UOCAVA.
11. For the August 11, 2026, special primary election, to fully comply with UOCAVA, South Carolina would have needed to send absentee ballots to UOCAVA qualified voters no later than June 27, 2026, which was before Sen. Graham passed away and more than a month before the resulting candidate filing period would end under South Carolina law.
12. The State takes the position under South Carolina law that UOCAVA voters who participated in the June 9, 2026, Democratic Party Primary election are ineligible to participate in the August 11, 2026, Federal special primary election or August 25, 2026 runoff election. *See* S.C. Code § 7-13-1010.
13. South Carolina's inability to transmit ballots to UOCAVA voters by the 45th day before the August 11, 2026, Federal special primary election may violate 52 U.S.C.

§ 20302(a)(8)(A). Absent corrective action, the inability of election officials in South Carolina to notify UOCAVA voters about the special primary election and provide the opportunity for those voters to request absentee ballots by the 45th day in advance of the August 11, 2026 Federal special primary election would deprive United States citizens protected under UOCAVA of a sufficient opportunity to vote in that election.

14. The parties have engaged in extensive discussions and have reached an agreement on a series of actions that the State will take to remedy any potential violation of 52 U.S.C. § 20302(a)(8)(A) arising from some South Carolina elections officials' inability to comply with the UOCAVA deadline to transmit UOCAVA ballots for the August 11, 2026, Federal special primary election, which could result in some UOCAVA voters not having a sufficient opportunity to receive, mark, and timely return the absentee ballots they have requested in time for them to count in aforementioned, Federal special primary election or runoff. It is the intent of the parties that the State immediately undertake and complete the actions set forth in this Agreement.

15. The parties recognize that the Executive Director, the Commission, and the State have taken actions to begin implementation of this Agreement. Among these actions:

- a. South Carolina law permits UOCAVA voters who provide an email address to request that their UOCAVA application "be considered a standing request for electronic delivery of a ballot for all elections held through December thirty-first of the year following the calendar year of the date of the application." S.C. Code § 7-15-730.
- b. Pursuant to S.C. Code § 7-15-690, State Election Commission Policy and Procedures permit UOCAVA voters to receive and return absentee ballots via

electronic transmissions to their county elections office. Military & Overseas Citizens. *See also, What is the easiest way to vote as a UOCAVA Voter*, and *How do I return my ballot*, South Carolina Election Commission, <https://scvotes.gov/voters/military-overseas-citizens/> (last accessed July 14, 2026).

- c. Acting upon its authority under S.C. Code § 7-15-650, the State Election Commission employs an Instant Runoff Voting (IRV) for UOCAVA voters in primary election which allows those voters to “rank the primary candidates and serve[] as the [their] ballot[s] in the event of a runoff.” *Id.* at *What is Instant Runoff Voting (IRV)*. If the UOCAVA voter’s primary candidate does not make the runoff, the “highest ranked candidate of the two remaining will receive the voter’s vote in the runoff.” *Id.* *See also* 52 U.S.C. § 20302(a)(9).

16. The parties agree that the terms specified in this Agreement, in addition to the actions described above in paragraph 15, will provide sufficient time for UOCAVA voters to receive, mark, and timely return their absentee ballots so they can be counted in the August 11, 2026, Federal special primary election and August 25, 2026 special primary runoff, if necessary.

III. Terms of Agreement

Now, therefore, for full and adequate consideration given and received, the United States, the Executive Director and the Commission agree that:

1. The State through the Executive Director and the Commission shall contact all counties regarding the compressed timeline for the Federal special primary election and explain the counties’ responsibilities to receive and process applications to vote absentee under

UOCAVA, transmit ballots to UOCAVA voters, or any other responsibility to facilitate the process by which UOCAVA voters receive and return their completed ballots.

2. No later than August 1, 2026, the State through the Executive Director and the Commission shall ensure that the county boards of elections transmit ballots for the August 11, 2026 Federal special primary election electronically to all of the State's UOCAVA voters who have validly requested such ballots, including those who, as part of their application, requested that they remain on the permanent list through December 31, 2027, and who provided their email addresses to State or County election officials. The ballots will include Instant Runoff Voting for a potential runoff election on August 25, 2026.
3. All UOCAVA ballots transmitted shall include information that UOCAVA voters may transmit their completed ballots to the counties by email. Similarly, information transmitted with the ballot shall state that all UOCAVA ballots must be received by county election officials no later than August 11, 2026, at 7:00 pm eastern daylight time, whether by electronic transmission, express mail, or post. For UOCAVA voters participating only in a potential runoff election, ballots must be received by county election officials no later than August 25, 2026, at 7:00 pm eastern daylight time, whether by electronic transmission, express mail, or post.
4. By July 24, 2026, the State through the Executive Director and the Commission shall affirmatively contact all eligible UOCAVA voters who have not requested that their applications "be considered a standing request" to receive electronic ballots for all elections held through December 31, 2027, and notify them of the Federal special primary election and potential runoff election. The information provided shall include

details on how UOCAVA voters may request, complete, and return the completed ballots by email to their county election officials, including the deadlines for when ballots need to be received.

5. By no later than Friday, July 24, 2026, the State through the Executive Director and the Commission shall contact all eligible UOCAVA voters who participated in the June 9, 2026 primary election for Federal office and/or the June 23, 2026 runoff and who requested their ballots by mail. The State shall inform the voters contacted of the compressed timelines for the Federal special primary and runoff and request that they provide an email address or other manner to deliver the ballots electronically if those voters wish to participate in the August 11, 2026, Federal special primary and August 25, 2026, runoff. The information provided shall include details on how UOCAVA voters may request, complete, and return the completed ballots by email to their county election officials, including the deadlines for when ballots need to be received.
6. By no later than July 24, 2026, the State through the Executive Director and the Commission shall publicize the deadlines about the special primary and runoff elections and the information in this Memorandum of Agreement to potential South Carolina UOCAVA voters including providing information to the Federal Voting Assistance Program (FVAP) for inclusion on their website and emails sent by FVAP. The information published shall include details on how UOCAVA voters may request, complete, and return the completed ballots to their county election officials and the availability of the Federal Write-In Absentee Ballot to participate in the primary election and runoff, including the deadline for when ballots need to be received.

7. Should it at any time appear that any South Carolina election official will be unable to transmit UOCAVA ballots for the August 11, 2026 Federal special primary election by August 1, 2026, or the State through the Executive Director or Commission, determines it is impossible to do so for any reason, the Executive Director and the Commission shall immediately notify the United States of the circumstances causing the expected delay, and the parties shall meet and confer to discuss appropriate modification of this Agreement or other necessary remedial measures.
8. The State shall provide a report to the United States Department of Justice no later than Tuesday, August 4, 2026, concerning the transmittal of UOCAVA ballots for the August 11, 2026 Federal special primary election. The report shall (a) certify when ballots were transmitted in each county; and (b) specify for each county the number of requests received, the number of UOCAVA ballots transmitted, and the method of transmittal.
9. The State shall provide a report to the United States Department of Justice no later than August 30, 2026, in a format agreed to by the parties to this Agreement, concerning the UOCAVA ballots received and counted for the August 11, 2026 Federal primary special election and the August 25, 2026, Federal primary runoff election, if necessary.
10. In consideration of the State through the Executive Director complying with the terms of this Agreement, the United States agrees to forgo litigation under UOCAVA as to the August 11, 2026 Federal special primary election and the August 25, 2026 Federal special runoff primary election.
11. In the event of any intervening change in Federal or state law or modification of the dates of, or deadlines associated with, the August 11, 2026 Federal special primary election and any August 25, 2026 Federal special runoff election, the parties agree to

work cooperatively to modify this Agreement, if necessary, to address any actual or potential UOCAVA-related issues.

IV. Time Period of Agreement

The State's obligations under this Agreement shall commence immediately and shall expire in their entirety on September 18, 2026.

V. Enforcement

The terms of this Agreement are intended to resolve the potential violation of 52 U.S.C. §§ 20302(a)(8) and 20302(a)(9) arising from the anticipated late transmission of all UOCAVA ballots requested by qualified South Carolina voters for the August 11, 2026, Federal special primary election and August 25, 2026 Federal special runoff election, if necessary.

If the parties are unable to resolve any dispute regarding the terms of this Agreement, the parties agree that the dispute may be resolved by the United States District Court for the District of South Carolina in an action brought by the United States to enforce this Agreement and/or UOCAVA.

Where the State materially fails in any manner to comply with the terms of this Agreement, this Agreement is enforceable immediately in the United States District Court for the District of South Carolina as set forth above, and additionally, in such event, the United States may also take any other actions necessary to enforce 52 U.S.C. §§ 20302(a)(8) and 20302(a)(9) in the United States District Court, including seeking appropriate relief as a substitute for or in addition to the actions that are subject of this Agreement. Nothing in this Agreement precludes the State from modifying or amending South Carolina law or the United States from taking appropriate enforcement action against the State for any other violations of UOCAVA that are not the subject of this Agreement.

VI. General

This Agreement is binding on the parties and their successors in office. The parties agree to the admissibility of this Agreement in any subsequent proceeding for its enforcement, or other action filed to enforce any violation of UOCAVA, 52 U.S.C. § 20301, *et seq.*

FOR THE UNITED STATES:

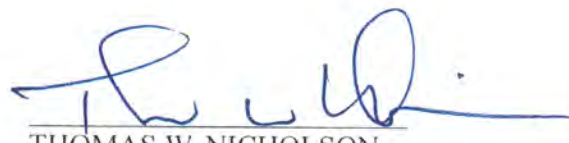
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950 Pennsylvania Avenue NW, 4CON
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Dated July 20, 2026

FOR THE STATE OF SOUTH CAROLINA:


CONWAY BELANGIA
Chief Elections Officer
Office of the Executive Director,
South Carolina Election Commission
Dated July 20, 2026


THOMAS W. NICHOLSON
General Counsel
South Carolina Election Commission
Dated July 20, 2026

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

DANNY FORD II,

Plaintiff,

v.

SOUTH CAROLINA REPUBLICAN PARTY,
AND SOUTH CAROLINA ELECTION
COMMISSION A/K/A STATE ELECTION
COMMISSION,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2026-CP-40-05213

AFFIDAVIT OF CONWAY BELANGIA.

Personally appeared before me, Conway Belangia, who, first being duly sworn, deposes and says that:

1. I am over eighteen years old and of sound mind.
2. I am a resident of Richland County, South Carolina.
2. I am the Executive Director of the South Carolina State Election Commission (Election Commission).

3. Pursuant to S.C. Code § 7-3-20 (D)(15), I am the chief state election official responsible for implementing and enforcing South Carolina's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), as set forth in the U.S.C., Title 42, Section 1973ff, et seq.

4. There is a Special Republican Primary scheduled for August 11, 2026, to replace the late Senator Lindsey Graham as the Republican Party's nominee for United States Senate in the November 2026 general election.

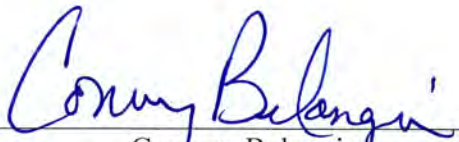
5. UOCAVA ballots are sent to eligible voters by the Board of Voter Registration and Elections (BVREs) for the county of the voter's residence. Pursuant to an agreement with the United States Department of Justice, the Election Commission is to ensure that UOCAVA absentee ballots for the August 11, 2026, Special Republican Primary are sent to eligible voters no later than Saturday, August 1, 2026.

6. South Carolina County BVREs started sending UOCAVA ballots to eligible voters as early as July 29, 2026.

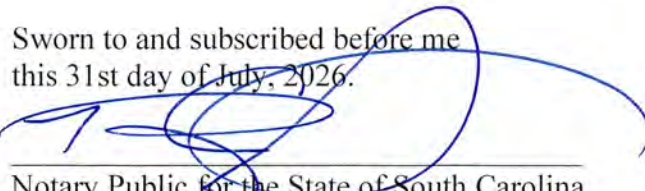
7. As of the morning of July 31, 2026, approximately 280 UOCAVA ballots have already been sent by the various BVREs to eligible voters. This is well over half of the UOCAVA voters eligible to vote in the Special Republican Primary. Approximately 29 voted UOCAVA ballots have been returned.

8. In addition to UOCAVA absentee ballots, the BVREs are sending eligible voters regular absentee ballots. As of the morning of July 31, 2026, approximately 1,111 regular absentee ballots have been sent out by the BVREs.

9. Further Affiant saith not.


Conway Belangia

Sworn to and subscribed before me
this 31st day of July, 2026.


Notary Public for the State of South Carolina.
My Commission expires: 6-15-2031



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON
	)	PLEAS
COUNTY OF ORANGEBURG	)	
	)	Civil Action No.: 2026-CP-40-05213
	)	
DANNY FORD II,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	REPLY TO MEMORANDA
SOUTH CAROLINA REPUBLICAN	)	
PARTY, AND SOUTH CAROLINA	)	
ELECTION COMMISSION a/k/a	)	
STATE ELECTION COMMISSION	)	
	)	
Defendants.	)	

ARGUMENT

Ex Parte/Notice in light of State requirements

The Defendant's ex parte/notice objection is curable and does not reach the merits. The Court has effectively cured this issue by asking for additional briefing before an Order is issued and setting a hearing.

Purcell

The Party's Purcell argument does not apply to this Court. The Party concedes that Purcell "generally applies when a federal court is asked to intervene" and asks this Court to substitute "separation of powers" for federalism. No authority supports that leap. Purcell is a doctrine of federal-court restraint; courts have squarely held it "is about federal court intervention, not state court intervention" *Pierce v. N. Carolina State Bd. of Elections*, 713 F. Supp. 3d 195 (E.D.N.C. 2024), and state high courts decline to import it as a limit on their own authority *Harkenrider v. Hochul*, 38 N.Y.3d 494, 197 N.E.3d 437 (2022). This Court applies South Carolina's injunction standard, not a federal abstention rule.

Status Quo

Ford seeks a prohibitory injunction that preserves the status quo. The Party recasts the relief as a disfavored “mandatory” injunction. That mislabels it. The status quo is “the last uncontested status between the parties which preceded the controversy” *Pashby v. Delia*, 709 F.3d 307 (4th Cir. 2013) (*Abrogated*). Plaintiff has been certified as a candidate for the Republican party before, and very recently. He was only notified that he would not be included on this ballot on the last day of filing for the office.

SC Code Title 7

The Party’s stated autonomy cannot override Title 7. Party rules are valid only if “not in conflict with the provisions of this title or of the Constitution and laws of this State or of the United States.” S.C. Code Ann. § 7-11-20. South Carolina keys certification to “the qualifications for the office,” directing that a party “must not certify” a candidate only where he fails those qualifications. S.C. Code Ann. § 7-13-40; S.C. Code Ann. § 7-13-350. A prior-primary-voting requirement is not a qualification for the office of United States Senator. The non-review cases are inapposite: *Bruce* turned on a rule that implicated no constitutional right, vested no discretion in officials, and applied uniformly *Bruce v. S.C. High Sch. League*, 258 S.C. 546, 189 S.E.2d 817 (1972). Rule 11(a)(6) is the opposite — it burdens a constitutionally qualified candidate’s ballot access, contains a discretionary waiver, and was applied unevenly.

Respectfully submitted,

s/ C. Bradley Hutto

C. Bradley Hutto 6436

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Date: July 31, 2026

Orangeburg, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
	)	
Danny Ford, II,	)	Civil Action No. 2026-CP-40-05213
	)	
Plaintiff,	)	
	)	
vs.	)	<u>SOUTH CAROLINA REPUBLICAN</u>
	)	<u>PARTY' MOTION TO DISSOLVE THE</u>
	)	<u>TRO AND RESPONSE FURTHER</u>
South Carolina Republican Party, and	)	<u>OPPOSING INJUNCTIVE RELIEF,</u>
South Carolina Election Commission	)	<u>AND MOTION TO DISMISS</u>
a/k/a State Election Commission,	)	
	)	
Defendants.	)	
	)	

Defendant South Carolina Republican Party (the SCGOP or the Party) submits this motion to dissolve the July 31, 2026 temporary restraining order (TRO) and response further opposing Plaintiff Danny Ford, II's request for preliminary injunction. For the reasons below, Plaintiff is wrong on the law, and he is not entitled to mandatory injunctive relief in the middle of an election. And because key events have already occurred that render the Court's ability to award any meaningful relief impossible, the Court should dismiss the complaint.

INTRODUCTION

On June 27, 2026, the Party adopted a rule providing that "[n]o candidate shall be certified by the Republican Party who is not, at the time of filing, (a) A registered Republican elector for at least 90 days, and who has voted in at least two of the last three statewide Republican primaries, in this or any previous state of residence, excepting those who were not old enough to have done so, or who were unable due to active-duty military service." SCGOP R. 11(a)(6)(a) (2026).

Almost a month later, following the tragic and untimely death of the late U.S. Senator Lindsey O. Graham, the candidate filing period opened for the special Republican primary election to replace him. Filing lasted from noon on July 21, 2026 to noon on July 28, 2026. Plaintiff, for

his part, chose to wait until 30 minutes before the noon filing deadline on July 28 to submit his paperwork. While he filed the necessary documents to run in the special primary, the Party made a timely determination that he could not run under the SCGOP banner because he had not voted in at least two of the last three statewide Republican primaries pursuant to Rule 11(a)(6)(a).

Meanwhile, the election began for this snap primary. The State Election Commission finalized the ballot and coordinated with the various county Boards of Voter Registration and Elections to send absentee ballots to voters covered by the Uniform and Overseas Citizens Absentee Voting Act (UOCAVA). Under an agreement with the U.S. Department of Justice (DOJ), that had to occur by Saturday, August 1, 2026. According to Executive Director Conway Belangia, all UOCAVA ballots have been sent, and voters have already returned ballots. Even so, Plaintiff demands to get his name on the ballot. But he hasn't gone about it the right way.

Start with his attempt to seek an *ex parte* TRO and his counsel's failure to alert the Court to relevant adverse authority of which they were aware. See *Crook v. S.C. Election Comm'n*, Op. No. 2025-MO-041, 2025 S.C. Unpub. LEXIS 88 (S.C. Sept. 11, 2025) (reversing *ex parte* TRO against the State Election Commission obtained by the same counsel here); *State v. Hill*, 266 S.C. 49, 52, 221 S.E.2d 398, 399 (1976) (holding "an *ex parte* restraining order is improper when it involves the State"); *State v. Best*, 257 S.C. 361, 373, 186 S.E.2d 272, 278 (1972) (holding orders granted without notice to the State were improper and may be set aside on that ground alone). Once the Party alerted the Court of Plaintiff's improper procedural moves, the Court gave him a pass and allowed him to submit a brief on how to deal with his deficient pleadings. Even still and on top of that, Plaintiff's proposed order did not comply with the rule. See Rule 65(d), SCRCP.

Consider next the failure to seek the correct relief in the issued TRO. Plaintiff sought and the Court granted his request to merely restrain and enjoin "Defendants . . . from removing Plaintiff

Danny Ford, II, from the ballot for the special Republican primary election for the office of U.S. Senator from South Carolina, and from refusing to certify his candidacy on the basis of his primary-voting history or Rule 11(a)(6).” Order Gr. TRO at 6, *Ford v. S.C. Republican Party*, Case No. 2026-40-05213 (S.C. Ct. Comm. Pl. July 31, 2026). Respectfully, it is impossible to remove someone’s name from a ballot when he was never on the ballot in the first place.

In his attempt to avoid seeking a mandatory injunction, which is the only way Plaintiff could get meaningful relief here, he stopped nothing. The order indicates “ballots will be printed and the election conducted without Plaintiff’s name, and the opportunity for relief will be lost.” *Id.* at 3. But that already happened: UOCAVA ballots are out the door. Noticeably absent is any mention of the county boards of voter registration and elections. What should they do? And what about the votes already cast? Is the State to tear up the agreement with DOJ and see what happens?

Of course, “[e]very . . . restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained.” Rule 65(d), SCRCP. The order here, in essence, does not order anything because ballots are out and voters have voted. Critical and irreversible events have already happened, and nothing in the order says how Defendants are supposed to unring the bell. In reality, they cannot. So Plaintiff is not entitled to any relief, and the Court should dissolve the TRO and dismiss the complaint. *Cf. Sloan v. Friends of the Hunley, Inc.*, 369 S.C. 20, 26, 630 S.E.2d 474, 477 (2006) (“A moot case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court.”); *Ry. Labor Execs. Ass’n v. Chesapeake W. Ry.*, 915 F.2d 116, 118 (4th Cir. 1990) (Generally, a request for “an injunction to prohibit an act is rendered moot by the happening of the act.”).

Plaintiff fares no better on the merits. To be sure, “the qualifications for service in Congress set forth in the text of the Constitution are ‘fixed,’ at least in the sense that they may not be supplemented by Congress,” and “[c]ourts have struck down state-imposed qualifications” too. *U.S. Term Limits v. Thornton*, 514 U.S. 779, 798–99 (1995). But neither Congress nor the State has sought to add to constitutional qualifications to serve in Congress. Nor has the Party. *Cf. Anderson v. S.C. Election Comm’n*, 397 S.C. 551, 558, 725 S.E.2d 704, 707 (2012) (per curiam) (distinguishing “filing requirements to appear on a ballot” from “qualifications for service”). Rather, based on its experience in the June primary, the Party made a “determination of the boundaries of its own association, and of the structure which best allows it to pursue its political goals,” *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 224 (1986), in certifying nominees to run under the Republic name. And that “is protected by the Constitution.” *Id.* Plaintiff’s reliance on *U.S. Term Limits* is therefore misplaced.

Indeed, “political belief and association constitute the core of those activities protected by the First Amendment.” *Elrod v. Burns*, 427 U.S. 347, 356 (1976). “[T]his freedom protected against federal encroachment by the First Amendment is entitled under the Fourteenth Amendment to the same protection from infringement by the States.” *Cousins v. Wigoda*, 419 U.S. 477, 487 (1975). “Any interference with the freedom of a party is simultaneously an interference with the freedom of its adherents.” *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957). For this reason, the Court has “always treated government assertion of control over the internal affairs of political parties—which, after all, are simply groups of like-minded individual voters—as a matter of the utmost constitutional consequence.” *Morse v. Republican Party of Va.*, 517 U.S. 186, 241 (Scalia, J., dissenting); *see also Democratic Party of U.S. v. Wisc. ex rel. LaFollette*, 450 U.S. 107, 121–22 (1981); *Cousins*, 419 U.S. at 487–88; *O’Brien v. Brown*, 409 U.S. 1, 4–5 (1972) (per curiam).

Yet Plaintiff asks the Court to issue an injunction “barring [the Party] from implementing its attempt to bar Plaintiff from having his name placed on the Republican Special Primary ballot” and “requir[ing] the [State Election Commission] to include Plaintiff’s name on the Republican Special Primary ballot.” Compl. at ¶¶ 21 & 36. The Court should respectfully decline the invitation to issue a mandatory injunction, dissolve the TRO, and dismiss the complaint.

STANDARD

“The remedy of an injunction is a drastic one and ought to be applied with caution.” *Strategic Res. Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 544, 627 S.E.2d 687, 689 (2006). Plaintiff must show “(1) he will suffer immediate, irreparable harm without the injunction; (2) he has a likelihood of success on the merits; and (3) he has no adequate remedy at law.” *Compton v. S.C. Dep’t of Corr.*, 392 S.C. 361, 366, 709 S.E.2d 639, 642 (2011) (quoting *Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 908 (2004)). “A preliminary injunction should issue only if necessary to preserve the status quo ante.” *Poynter Invs., Inc. v. Century Builders of Piedmont, Inc.*, 387 S.C. 583, 586, 694 S.E.2d 15, 17 (2010).

“A mandatory injunction is an extraordinary remedy that orders some positive act to be performed.” 43A C.J.S. *Injunctions* § 19 (2019). “Mandatory preliminary injunctions do not preserve the status quo and normally should be granted only in those circumstances where the exigencies of the situation demand such relief.” *Wetzel v. Edwards*, 635 F.2d 283, 286 (4th Cir. 1980). “A mandatory injunction, especially at the preliminary stage of proceedings, should not be granted except in rare instances in which the facts and law are clearly in favor of the moving party.” *Gantt v. Clemson Agr. Coll. Of S.C.*, 208 F. Supp. 416, 418 (W.D.S.C. 1962). “Mandatory preliminary injunctive relief in any circumstance is disfavored[] and warranted only in the most extraordinary circumstances.” *De La Fuente v. S.C. Democratic Party*, 164 F. Supp. 3d 794, 798

(D.S.C. 2016). The Fourth Circuit “has defined the status quo as the ‘last uncontested status between the parties which preceded the controversy.’” *Pashby v. Delia*, 709 F.3d 307, 320 (4th Cir. 2013) (quoting *Aggarao v. MOL Ship Mgmt. Co., Ltd.*, 675 F.3d 355, 378 (4th Cir. 2012)).

Where a plaintiff asks “the Court to require the [Party] to perform a positive act,” state and federal courts have held he is “seeking a mandatory preliminary injunction.” Order Den. Inj. & Dismissing Compl. at 7–8, *Inglis v. S.C. Republican Party*, Case No. 2019-CP-40-05486 (S.C. Ct. Comm. Pl. Dec. 10, 2019); see also *De La Fuente*, 164 F. Supp. 3d at 798 (holding the plaintiff sought “mandatory injunctive relief by “asking that the court require the Democratic Party to notify the Secretary of State to include him on the primary ballot”); 43A C.J.S. *Injunctions* § 19 (“A mandatory injunction is an extraordinary remedy that orders some positive act to be performed.”).

So too here. Although Plaintiff seeks to creatively frame his complaint and proposed orders as seeking prohibitory relief, the only way he can get true relief here is if the Court requires the Party to certify him and directs the State Election Commission to place him on the ballot, rescind ballots, tear up an agreement with the U.S. Department of Justice, discard votes, and issue new ballots to UOCAVA and other absentee voters. Those are all positive, mandatory acts that shatter the status quo predating the lawsuit. Yet that’s the only way he wins. Plaintiff therefore must seek a mandatory preliminary injunction.¹ If he’s not, then the Court must dismiss the complaint. Regardless, Plaintiff—after sleeping on his rights—is not entitled to such a drastic remedy because he cannot succeed on the merits.

¹ That Plaintiff ran in the June Republican primary is of no moment because it predated the rule. Rule 11(a)(6)(a) was in place for a month before Plaintiff filed for *this office*. The Party has the right to promulgate its own rules and determine the qualifications of its candidates. Likewise, the State Election Commission must follow an orderly process for running an election. In this particular one, that included an agreement with the U.S. Department of Justice regarding UOCAVA voters. All of that was in place and working before Plaintiff filed this lawsuit. That is the status quo, and it is what Plaintiff seeks to upset via mandatory injunctive relief.

ARGUMENT

Assuming (without conceding) Plaintiff made the requisite showing of irreparable harm, a preliminary injunction “has never been regarded as strictly a matter of right, even though irreparable injury may otherwise result to the plaintiff.” *Gantt*, 208 F. Supp. at 417. For at least three reasons, Plaintiff is not likely to—indeed cannot—succeed on the merits. *First*, he failed to show why the Court should or could interfere with an ongoing election. *Second*, the Party’s decision finding him unqualified under its own rules to run as a Republican is correct and not subject to second-guessing. *Third*, the constitutional claims Plaintiff raises either (1) were not pled in the complaint or (2) ignore the absence of state action and fail on their own accord.

I. The Court should not interfere in an ongoing election.

Of course, “[e]xtreme diligence and promptness are required in election-related matters.” 29 C.J.S. *Elections* § 459. Because Plaintiff seeks extraordinary mandatory injunctive relief “in the period close to an election,” *Andino v. Middleton*, 141 S. Ct. 9, 10 (2020) (Kavanaugh, J., concurring) (citing *Purcell v. Gonzalez*, 549 U.S. 1, 4–6 (2006) (per curiam))—actually during an election—the Court should deny the request. The U.S. Supreme Court “has repeatedly emphasized that lower federal courts should ordinarily not alter the election rules on the eve of an election,” *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 140 S. Ct. 1205, 1207 (2020). Known as the “*Purcell* principle,” its “wisdom” is “to avoid . . . judicially created confusion” in elections. *Id.* That’s because “[c]ourt orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.” *Purcell*, 549 U.S. at 4–5.

While the *Purcell* doctrine generally applies when a federal court is asked to intervene in a state election, the considerations remain in full force in state-law cases like this one. Indeed, this

Court agreed in another election matter less than two years ago. *See* Order Den. Mot. for TRO, *ACLU v. State Election Comm’n*, No. 2024-CP-40-06286, at 8 (Nov. 7, 2024) (Coble, J.) (“Voting was already underway when Plaintiff filed this lawsuit. So Plaintiff is instead asking the Court to upend an ongoing election. The State Election Commission and county boards have spent significant time, expense, and effort to ensure a smooth and orderly election. Any court-ordered change at this late date could cause major disruption in the political process, risk considerable voter confusion and delays at the polls, and impose additional taxpayer expense.”).

“When an election is close at hand, the rules of the road should be clear and settled. That is because running a statewide election is a complicated endeavor.” *Democratic Nat’l Comm. v. Wisc. State Legis.*, 141 S. Ct. 28, 31 (2020) (Kavanaugh, J., concurring).

Even seemingly innocuous late-in-the-day judicial alterations to state election laws can interfere with administration of an election and cause unanticipated consequences. If a court alters election laws near an election, election administrators must first understand the court’s injunction, then devise plans to implement that late-breaking injunction, and then determine as necessary how best to inform voters, as well as state and local election officials and volunteers, about those last-minute changes. It is one thing for state legislatures to alter their own election rules in the late innings and to bear the responsibility for any unintended consequences. It is quite another thing for a . . . court to swoop in and alter carefully considered and democratically enacted state election rules when an election is imminent.

Id.

Here, with all due respect, Defendants do not “understand the court’s injunction” and cannot “devise plans to implement that late-breaking injunction” for the reasons explained above.

Id. To be fair, the Court simply granted the relief Plaintiff sought, so any confusion lies squarely at his feet. Even so, the *Purcell* doctrine—which is really is just a species of laches specific to elections—should bar Plaintiff’s claims. That is especially so where, as here, *Plaintiff* created this

timing problem by filing at the last second without providing any notice of his intent to do so. Had he filed earlier in the one-week window, the parties could have dealt with this issue in due course. As the State Election Commission confirmed, however, the various county Boards of Voter Registration and Elections have already sent out all UOCAVA ballots. And South Carolina citizens have already placed their vote for the Republican candidate for the United States Senate. The election is underway, and the prejudice is palpable.

On that note, Plaintiff's balance-of-the-equities argument misses the mark. For one, it is blackletter law in South Carolina that "the 'balancing the equities' requirement is neither necessary nor appropriate in a preliminary injunction case, where the three requirements (irreparable harm, success on merits, and inadequate remedy at law) are well established and clearly delineate the burden of proof and of persuasion." *Poynter Invs.*, 387 S.C. at 587, 694 S.E.2d at 17.

For another, Plaintiff would fail that balancing test in any event. By waiting until the very end of the period to file for U.S. Senate after losing his prior race for Agriculture Commissioner, Plaintiff "unreasonably delayed in filing and pursuing this action," and "the only relief available at this late date would prejudice Defendants" given all that has happened. *De La Fuente*, 164 F. Supp. 3d at 806. The State Election Commission, together with the county boards, has finalized and distributed ballots. And the Party has scheduled debates and worked to educate voters about the special primary and the nine candidates (out of twelve) who were certified. Time and money has been spent.² "Based on the time frame of the primary election process, it is simply too late to grant the relief requested: the primary would be thrown into confusion." *Id.* So even if it were appropriate to consider, the balance of the equities does not tip in Plaintiff's favor.

² To that end, the conclusory finding that a \$100 bond was sufficient because Defendants would experience no harm is unsupported by any evidence in the record and fails as a matter of law.

In short, changing the ballot when an election is already underway only invites chaos. Voter confusion and burdens on election administration are not theoretical. They are profound. Yet the “important principle of judicial restraint” under *Purcell* prevents all that and “protects the State’s interest in running an orderly, efficient election” to give the public “confidence in the fairness of the election.” *Democratic Nat’l Comm.*, 141 S. Ct. at 31 (Kavanaugh, J., concurring). For that reason alone, whether under laches or *Purcell*, the Court should deny Plaintiff’s request for mandatory injunctive relief.

II. *The Court cannot interfere with the Party’s decision finding Plaintiff unqualified to run as a Republican.*

The U.S. Supreme Court has long held that “a [s]tate, or a court, may not constitutionally substitute its own judgment for that of the Party.” *Tashjian*, 479 U.S. 208, 224 (1986) (quoting *LaFollette*, 450 U.S. at 123–24). A political party’s “determination of the boundaries of its own association, and of the structure which best allows it to pursue its political goals, is protected by the Constitution.” *Id.* at 224. “And as is true of all expressions of First Amendment freedoms, the courts may not interfere on the ground that they view a particular expression as unwise or irrational.” *LaFollette*, 450 U.S. at 124.

What is important . . . is that a party’s choice, as among various ways of governing itself, of the one which seems best calculated to strengthen the party and advance its interests, deserves the protection of the Constitution as much if not more than its condemnation. The express constitutional rights of speech and assembly are of slight value indeed if they do not carry with them a concomitant right of political association. Speeches and assemblies are after all not ends in themselves but means to effect change through the political process. If that is so, there must be a right not only to form political associations but to organize and direct them in the way that will make them the most effective.

Ripon Soc’y, Inc. v. Nat’l Republican Party, 525 F.2d 567, 585 (D.C. Cir. 1975).

Given the First Amendment protections afforded to political parties, the Court has no

occasion to “substitute” *Tashjian*, 479 U.S. at 224 (quoting *LaFollette*, 450 U.S. at 123–24), its judgment for that of the Party’s executive committee. See *Determination of Controversies Within Political Party*, 169 A.L.R. 1281 § III (1947) (“[I]t is generally held that where questions [related to party policies or organization] have been submitted to and determined by the proper party tribunal, according to the rules and customs of the party, the courts will give effect to, and will not attempt to review such decision, but, in the absence of fraud, will regard it as conclusive.”); *Bruce v. S.C. High Sch. League*, 258 S.C. 546, 551, 189 S.E.2d 817, 819 (1972) (“It is well established that courts will not interfere with the internal affairs of voluntary associations, except in such cases as fraud, lack of jurisdiction, or the invasion of property or pecuniary rights or interests. The decisions of the tribunal of an association with respect to its internal affairs will, in the absence of mistake, fraud, illegality, collusion, or arbitrariness, be accepted by the courts as conclusive.”).

Indeed, other South Carolina courts have agreed. See Order Den. Pl.’s Pet. for Dec. Relief, *Ali v. S.C. Democrat Party*, No. 2024-CP-10-1918, at 4 (Apr. 23, 2024) (“Political parties have the right to decide whether or not to certify a candidate for their primary pursuant to their Party Rules under SC Code of Laws §7-13-40.”); see also *id.* (“The statute does not compel political parties and require that political parties must certify every candidate who wants to appear on their primary ballot—for good reason—that would, in effect, undermine the very nature of the existence of political parties who have constitutionally protected First Amendment Association rights. ‘Including people unaffiliated with the party—or those with whom the party does not wish to affiliate—‘may seriously distort [the party’s] collective decisions—thus impairing the party’s essential functions.’” (quoting *Follette*, 450 U.S. at 122)).

In all events, the Party got it right. The applicable rule, which was passed in the ordinary course, provides that “[n]o candidate shall be certified by the Republican Party who is not, at the

time of filing, (a) A registered Republican elector for at least 90 days, and *who has voted in at least two of the last three statewide Republican primaries.*” SCGOP R. 11(a)(6)(a) (2026) (emphasis added). Plaintiff’s voting records, which the Party received from the Election Commission, reveal he voted in the June 2026 Republican primary election, including its runoff, but not in the other two most recent statewide Republican primaries. Ex. A.

Plaintiff cannot dispute this. He simply claims the June 9, 2026 primary election and the June 23, 2026 primary election runoff should be considered two different elections. Compl. at ¶ 17. They aren’t. *Cf.* S.C. Att’y Gen. Op. at 2 (Aug. 23, 2024) (stating “nothing in the law requires that a qualified elector must vote in an election or primary election in order to secure their right to vote in a corresponding runoff,” and “[t]his makes sense if an election and a subsequent runoff are indeed considered one electoral event with one frozen set of qualified electors”); *SEC Addresses Voter Eligibility Question*, STATE ELECTION COMM’N (July 15, 2026), <https://scvotes.gov/statement-from-the-south-carolina-state-election-commission/> (finding “voters who participated in the June Democratic Primary are not eligible to vote in the August 11 Special Republican Primary” because it is the same election).

Put simply, the SCGOP followed its own rules and determined—based on the evidence before it—that Plaintiff could not run *as a Republican* for the United States Senate. And its determination was consistent with how the Attorney General and State Election Commission view what constitutes the same election. *See id.*

“Under these circumstances, the SCGOP’s decision cannot be deemed illegal or arbitrary, and the Court has no role over this dispute other than to accept the decision of the executive committee as conclusive.” Order Den. Inj, at 13–17, *Inglis v. S.C. Republican Party*, No. 2019-CP-40-05486 (S.C. Ct. Comm. Pl. Dec. 11, 2019).

III. *Plaintiff's constitutional claims lack merit.*

Finishing with the constitutional bingo, none of the provisions invoked for the first time in Plaintiff's proposed order are at issue here. To start, the only constitutional claim raised in the complaint arose under the free-and-open-elections clause. So the other claims are not properly before the Court. In all events, the Party did not violate any constitutional provision.

In 1972, the U.S. Supreme Court predicted the challenging constitutional questions that would accompany judicial intervention in political intraparty disputes, including justiciability, whether party action amounted to state action, the reach of the Due Process Clause, and the vital rights of freedom of association guaranteed by the First Amendment. *See O'Brien*, 409 U.S. at 4 (per curiam). "Political squabbles are not as easily resolved in . . . courts as are some other disputes." *Wymbs v. Republican State Exec. Comm. of Fla.*, 719 F.2d 1072, 1076 (11th Cir. 1983).

"[T]he process of selecting its nominee . . . often determines the party's positions on the most significant public policy issues of the day" and anoints the nominee as "the party's ambassador to the general electorate in winning it over to the party's views." *Cal. Democratic Party v. Jones*, 530 U.S. 567, 575 (2000). And setting a Republican voting history requirement as part of that nominee selection process is "an initial policy determination" by a political party "of a kind clearly for nonjudicial discretion" the Court cannot resolve with "judicially discoverable and manageable standards." *Baker v. Carr*, 369 U.S. 186, 217 (1962). The Supreme Court, for its part, has recognized a difference between action by "state law rather than action by a political party." *Bullock v. Carter*, 405 U.S. 134, 140 n.16 (1972).

After all, "most rights secured by the Constitution are protected only against infringement by governments." *Flagg Bros., Inc. v. Brooks*, 436 U.S. 149, 156 (1978). The "Fourteenth Amendment to the Constitution of the United States protects citizens against *state action*." *Keeler*

v. Mauney, 330 S.C. 568, 572, 500 S.E.2d 123, 125 (Ct. App. 1998) (emphasis added). Plaintiff's beef is with the SCGOP's decision, not the State Election Commission. Indeed, his complaint clarifies the State Election Commission is named as a necessary party only to carry out a remedy. But he has not shown the Party's "conduct, as alleged, has amounted to, or would constitute, state action." *Wymbs*, 719 F.2d at 1077.

"[C]ourts have hesitated to find state action when . . . racial discrimination is not involved," *id.*, and the Court "may not interfere on the ground that [it] view[s] a particular expression as unwise or irrational," *LaFollette*, 450 U.S. at 123–24. The cases where "the Supreme Court overturned a series of increasingly subtle tactics employed to exclude blacks from participating in the Texas Democratic Party's candidate selection process, do not stand for the proposition that all actions of political parties constitute state action without regard to the surrounding circumstances." *Republican Party of Conn. v. Tashjian*, 599 F. Supp. 1228, 1232 (D. Conn. 1984).

Race isn't at issue here. Because the Party is a voluntary association of like-minded individuals, not an arm of the State of South Carolina, no state action is at issue here either. As a result, Plaintiff's constitutional claims fail as a matter of law.

Even so, assuming without deciding state action, "only suspect classes and fundamental rights receive intermediate or strict scrutiny," and "[t]he right to run for office has not been deemed a fundamental right." *Biener v. Calio*, 361 F.3d 206, 215 (3d Cir. 2004) (citing *Bullock*, 405 U.S. at 142–43). And "*LaFollette* and cases like it stand for the proposition that courts should not lightly disturb political parties' decisions of strategy." *Wymbs*, 719 F.2d at 1077.

Here, to prevent Trojan horse candidacies, the Party adopted an eminently sensible rule requiring a candidate seeking to run as a Republican to have voted in at least two of the last three Republican primaries. This rule was adopted in the ordinary course. No one knew we were going

to lose South Carolina’s Senior Senator, triggering a special primary to replace him as a candidate. When the time came for filing, though, the rule was in place. And Plaintiff did not comply with it. The Court can quickly find the voting-history requirement is rationally related to a host of legitimate interests, including “to protect the integrity of its political processes from frivolous or fraudulent candidacies.” *Bullock*, 405 U.S. at 145 (citing *Jenness v. Fortson*, 403 U.S. 431, 442 (1971)). “Keeping the ballot manageable is an interest sufficient to meet the low standard of review.”³ *Biener*, 361 F.3d at 215.

As the Supreme Court acknowledged, the “interest in keeping ballots within manageable, understandable limits is of the highest order.” *Lubin v. Panish*, 415 U.S. 709, 715 (1974) (citing *Bullock*, 405 U.S. at 144–45). The Supreme Court even said “[t]hat ‘laundry list’ ballots discourage voter participation and confuse and frustrate those who do participate is too obvious to call for extended discussion.” *Id.* And “a State has an interest, if not a duty, to protect the integrity of its political processes from frivolous or fraudulent candidacies.” *Bullock*, 405 U.S. at 145 (citing *Jenness*, 403 U.S. at 442). The Party seeks to avoid people who aren’t true Republicans running under the SCGOP banner in its primaries. So it passed Rule 11(a)(6)(a) to accomplish its political strategic objectives and help ferret out those folks. To the extent the Court can even scrutinize those objectives, the Party’s decision more than survives rational basis review.

Next, Plaintiff’s free-and-open-elections clause claim fails out of the batter’s box. *See* S.C. CONST. art. I, § 5 (“All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in this Constitution shall have an equal right to elect

³ Plaintiff did not bring First and Fourteenth Amendment claims in his complaint. Nor does his complaint purport to raise claims on behalf of voters. Thus, the *Anderson–Burdick* framework has no purchase here. *See Tully v. Okeson*, 977 F.3d 608, 616 (7th Cir. 2020) (holding “all election laws affecting the right to vote are subject to the *Anderson/Burdick* test, but election laws that do not curtail the right to vote need only pass rational-basis scrutiny”). Even if those claims were at issue, precedent makes clear this ballot-access claim is subject only to rational basis review.

officers and be elected to fill public office.”). “The South Carolina Free and Open Elections Clause protects an individual’s right to vote, but it does not create a right for political parties or their dedicated voters to have their chosen candidates win.” *League of Women Voters of S.C. v. Alexander*, 446 S.C. 591, 611, 921 S.E.2d 660, 671 (2025). In *Alexander*, our supreme court chronicled the three prior cases in which it analyzed the clause. *Id.* at 609, 921 S.E.2d at 670 (citing *Cothran v. W. Dunklin Pub. Sch. Dist. No. 1-C*, 189 S.C. 85, 200 S.E. 95 (1938), *State v. Huntley*, 167 S.C. 476, 166 S.E. 637 (1932); *Gardner v. Blackwell*, 167 S.C. 313, 166 S.E. 338 (1932)). None helps Plaintiff here because “an equal right to . . . be elected to fill public office,” S.C. CONST. art. I, § 5, is irrelevant to a political party’s decision on who to certify in a primary.

Nor is the case cited in Plaintiff’s proposed order on point. It merely says “when a state Constitution names the qualifications for a constitutional office, the *legislature* has no authority to prescribe additional qualifications, or to remove any of the requirements provided for in the Constitution, unless that instrument, expressly or by implication, gives the legislature such power.” *Joint Legis. Comm. for Judicial Screening ex rel. McConnell v. Huff*, 320 S.C. 241, 244, 464 S.E.2d 324, 326 (1995) (emphasis added) (quoting *McLure v. McElroy*, 211 S.C. 106, 118, 44 S.E.2d 101 (1947)). Again, we aren’t dealing with a statute here, and the Party did not add to the constitutional qualifications to *serve* in the U.S. Senate. *Cf. Anderson*, 397 S.C. at 558, 725 S.E.2d at 707 (distinguishing “filing requirements to appear on a ballot” from “qualifications for service”). Also, Plaintiff had other means at his disposal for seeking this office. *E.g.*, S.C. Code Ann. § 7-11-70.

Finally, Plaintiff’s equal protection claim does not hold water. Consider a few examples. Clark Nielsen, for his part, was not certified because he does not live in South Carolina. Senator Darline Graham voted in a Republican primary runoff in 2024 and the 2026 Republican primary. Because those are two separate elections, she was certified. Same with Glenda Gail Parker. After

obtaining her voting record, the Party confirmed she voted in a Virginia Republican primary in 2024 and the South Carolina Republican primary in 2026. Plaintiff, on the other hand, voted in the 2026 Republican primary and runoff *for the same election*. The equal protection clause, of course, “does not prohibit different treatment of people in different circumstances under the law.” *Harbit v. City of Charleston*, 382 S.C. 383, 396, 675 S.E.2d 776, 782–83 (Ct. App. 2009).

* * *

In sum, Plaintiff cannot succeed on the merits. The Court has no role in reviewing the Party’s decision. And even if it did, the executive committee acted well within its discretion according to party rules and the law, and its decision was not arbitrary. Plaintiff is therefore not entitled to a mandatory preliminary injunction, particularly when that would unconstitutionally interfere with the Party’s rights to freedom of association guaranteed by the First Amendment.

CONCLUSION

For these reasons, the Court should dissolve the TRO, deny Plaintiff’s request for a preliminary injunction, and dismiss the complaint.

Respectfully submitted,

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Counsel for South Carolina Republican Party

Columbia, South Carolina
 August 2, 2026

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
	)	
Danny Ford, II,	)	Civil Action No. 2026-CP-40-05213
	)	
Plaintiff,	)	
	)	
vs.	)	<u>NOTICE OF FILING OF</u>
	)	<u>DECLARATION OF DREW</u>
	)	<u>MCKISSICK</u>
South Carolina Republican Party, and	)	
South Carolina Election Commission	)	
a/k/a State Election Commission,	)	
	)	
Defendants.	)	
	)	

Defendant South Carolina Republican Party, by and through the undersigned counsel, submits the Declaration of Drew McKissick, Chairman of South Carolina Republican Party, attached as Exhibit A, in support of its Motion to Dissolve the Temporary Restraining Order and in response in opposition to injunctive relief.

Respectfully submitted,

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Columbia, South Carolina
 August 2, 2026

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
Danny Ford, II,	)	Civil Action No. 2026-CP-40-05213
	)	
Plaintiff,	)	
	)	
vs.	)	DECLARATION OF
	)	DREW MCKISSICK
	)	
South Carolina Republican Party, and	)	
South Carolina Election Commission	)	
a/k/a State Election Commission,	)	
	)	
Defendants.	)	
	)	
	)	

I, Drew McKissick, upon my personal knowledge, hereby submit this Declaration pursuant to 28 U.S.C. § 1746 under penalty of perjury and declare as follows:

1. My name is Drew McKissick, the Chairman of the South Carolina Republican party ("SCGOP").
2. I have served as Chairman of the SCGOP for ten years.
3. As Chairman, I have participated in numerous election cycles.
4. As Chairman, I have verified the qualifications of candidates prior to certification to the appropriate election commission of the names of the candidates to be placed on the primary

ballots in at least five election cycles. I have observed approximately several hundred candidates per cycle.

5. As Chairman of the SCGOP, my job responsibilities include working to develop consensus about potential rule changes to suggest to the State Convention.

6. Because state law does not yet provide partisan voter registration, we sought a minimal objective standard which the Party could use regarding candidate certification decisions.

7. In the normal course of business, on June 27, 2026, the SCGOP adopted a change to Rule 11 (a)(6) to state as follows:

“A registered Republican elector for at least 90 days, and who has voted in at least two the last three Republican primaries, in this or any previous state of residence, expecting those who were not old enough to have done so, and who were unable to active-duty military service. Failing that, a waiver may be granted prior to the candidate certification deadline for: county or municipal offices by a simple majority vote of the respective County Executive Committee; or for multi-county offices, State Houses, State Senate, State Constitutional or federal offices by the State Executive Committee. This rule shall take effect on July 1, 2026. (7-9-20).”

8. As we all know, United States Senator Lindsey Graham died a tragic death almost a month after the Rule had been changed.

9. Under South Carolina law, filing for the special Republican primary election lasted one week from noon, on July 21 to noon on July 28.

10. Twelve candidates filed during this filing period.

11. Unbeknownst to me, or it appears anyone else, for that matter, plaintiff filed in the last hour of the filing period.

12. Per South Carolina law, the election is scheduled for August 11, 2026. Being mindful of the State Election Commission's need to move quickly to distribute ballots, and after verbal agreement with the same, we moved quickly to certify the names of the candidates for our primary ballot.

13. Upon review of candidate voting records, I, along with senior SCGOP staff, determined three of the candidates did not meet the Rule 11 standard. State Election Commission voting records were used to confirm this information.

14. The state Executive Committee met shortly after the noon deadline on July 28, 2026. We reported the results of our review of all candidate voting records to the Executive Committee.

15. During the course of reviewing this information with the Executive Committee, I asked if anyone sought to bring a motion before the committee regarding candidate status under Rule 11, which allows the committee to grant a waiver of the certification requirements. After hearing no motion, I asked again if anyone had a motion to be placed before the Committee. No member of the Executive Committee made such a motion. Thus, the nine candidates were approved and certified to the State Election Commission per South Carolina law.

16. As a result, the Executive Committee refused to certify the three candidates whose voting records did not meet the new Rule 11 minimal requirement, including the Plaintiff. The other nine names were submitted to the State Election Commission.

17. Candidate Clark Neilson was not certified because he was not a resident of the South Carolina and thus, did not meet Rule 11 residency requirements.

18. Candidate Darius Mitchell was not certified because he did not meet the Rule 11 requirement to have voted in two of the last three statewide Republican primaries.

19. Plaintiff Ford was not certified because he did not meet the Rule 11 requirement to have voted in two of the last three statewide Republican primaries. Plaintiff Ford voted in the same election, the June 9 primary and June 23 runoff. This does not qualify as two separate "statewide Republican party primaries."

20. Since we certified the candidates, the election process commenced immediately. UOCAVA ballots have been distributed, meet and greets have occurred, and the first debate is Monday night.

21. The SC Republican Party complied with the law, verified, and certified the qualifications of those seeking to be the Republican nominee for US Senate.



Drew McKissick
Chairman
South Carolina Republican Party

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	Civil Action No.: 2026-CP-40-05213
	)	
	)	
DANNY FORD II,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	REPLY TO MOTION
	)	
SOUTH CAROLINA REPUBLICAN	)	
PARTY, AND SOUTH CAROLINA	)	
ELECTION COMMISSION a/k/a	)	
STATE ELECTION COMMISSION	)	
	)	
Defendants.	)	

ARGUMENT

I. The controversy is justiciable and not moot; the Court has subject-matter jurisdiction.

SCGOP contends the case is moot because ballots have issued, so no relief is possible. That is wrong on the law and unsupported on the face of the Complaint.

Mootness requires that “an intervening event render[] any grant of effectual relief impossible.” *Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 630 S.E.2d 474 (2006)) An injunction is mooted only “by the happening of the act” — a rule the Fourth Circuit confines to acts already “completed.” *Ry. Lab. Executives Ass’n v. Chesapeake W. Ry.*, 915 F.2d 116 (4th Cir. 1990). The special primary set for August 11, 2026 has not occurred, and the Complaint seeks to place Ford on that ballot - therefore remains available. On substantially similar facts — a candidate seeking ballot access while absentee balloting was already underway — the court held that because “the November 2, 2010 election has not yet occurred, this controversy remains live,” and it could still order the candidate listed. *Libertarian Party of Virginia v. Virginia State Bd. of Elections*, No. 1:10-CV-615 LMB/TCB, 2010 WL 3732012 (E.D. Va. Sept. 16, 2010). Even if the election intervened, this dispute is in the category of “capable of repetition, yet evading review” on a compressed special-primary calendar (*Norman v. Reed*, 502 U.S. 279, 112 S. Ct. 698, 116 L. Ed. 2d 711

(1992)), a doctrine South Carolina applies to election disputes. *Charleston Cnty. Sch. Dist. v. Charleston Cnty. Election Comm’n*, 336 S.C. 174, 519 S.E.2d 567 (1999).

II. *The constitutional claims are adequately pleaded.*

SCGOP argues that the “only constitutional claim raised in the complaint arose under the free-and-open-elections clause,” and that the other constitutional theories appeared “for the first time in Plaintiff’s proposed order.” The Complaint refutes that premise. Plaintiff pleads that Rule 11(a)(6) “violates the statutes and laws and Constitution of the United States and the State of South Carolina,” recites the qualifications fixed by U.S. Const. art. I, § 3, cl. 3, alleges he meets them, and expressly asks the Court to declare that the Party’s actions “[v]iolate the provisions of the U.S. Constitution.” Plaintiff does not, on this motion, expand those theories beyond what the Complaint states; he asks only that they be preserved as pleaded.

SCGOP’s “no state action” argument does not support dismissal. SCGOP is charged with certifying candidates directly onto the State-printed special-primary ballot - the mechanism our that makes its actions state actions. *Baskin v. Brown*, 174 F.2d 391 (4th Cir. 1949). That is a question for the merits, not the pleadings.

III. *The Party’s Declaration cannot support a Rule 12(b)(6) dismissal.*

Much of the motion — including SCGOP’s account of how it applied Rule 11(a)(6) and its “same election” characterization of Plaintiff’s voting record — rests on the McKissick Declaration and a factual dispute. Therefore, dismissal is inappropriate.

Respectfully submitted,

s/ C. Bradley Hutto
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Date: August 2, 2026

Orangeburg, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
	)	
Danny Ford, II,	)	Civil Action No. 2026-CP-40-05213
	)	
Plaintiff,	)	
	)	
vs.	)	<u>ORDER</u>
	)	
South Carolina Republican Party, and	)	
South Carolina Election Commission	)	
a/k/a State Election Commission,	)	
	)	
Defendants.	)	
	)	

This matter came before the Court on Plaintiff Danny Ford, II's verified complaint for declaratory and injunctive relief. In his July 30, 2026 complaint, Plaintiff sought an *ex parte* temporary restraining order (TRO), preliminary injunction, and permanent injunction barring Defendant South Carolina Republican Party (the Party) from enforcing its recently passed rule to not certify him as a candidate in the Republican special primary election for U.S. Senate and requiring Defendant State Election Commission to include his name on the primary ballot.

At Plaintiff's request, the Court issued an *ex parte* TRO at 2:33 P.M. on July 30, 2026. Later that afternoon, Defendants contacted the Court to object to the *ex parte* TRO, arguing it contravened the Supreme Court of South Carolina's precedent holding that "an *ex parte* temporary restraining order is improper when it involves the State." *State v. Hill*, 266 S.C. 49, 52, 221 S.E.2d 398, 399 (1976); *see also State v. Best*, 257 S.C. 361, 373, 186 S.E.2d 272, 278 (1972) (holding orders granted without notice to the State were improper and may have been set aside on that ground alone). Indeed, our supreme court reversed another member of this Court less than a year ago for issuing an *ex parte* TRO against the State Election Commission. *See Crook v. S.C. Election Comm'n*, Op. No. 2025-MO-041, 2025 S.C. Unpub. LEXIS 88 (S.C. Sept. 11, 2025).

To comply with precedent and Rule 65, SCRCP, the Court therefore requested expedited briefing from Defendants to freshly consider the *ex parte* TRO. Both Defendants promptly submitted briefing to the Court on the evening of July 30, 2026.

According to Defendants, under an agreement between the State Election Commission and the U.S. Department of Justice, absentee ballots must be sent to voters covered by the Uniform and Overseas Citizens Absentee Voting Act (UOCAVA) no later than Saturday, August 1, 2026. The Election Commission indicates the various county Boards of Voter Registration and Elections have already sent more than half of these UOCAVA ballots, and some voters have already returned ballots. In other words, the election has begun. The Party and the State Election Commission both share concerns under *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006).¹

After careful consideration of the evidence and arguments of counsel to date, the Court **DISSOLVES** the *ex parte* TRO to preserve the status quo at this time because—as Defendants note—the Republican special primary election for U.S. Senate is already underway. *See Poynter Invs., Inc. v. Century Builders of Piedmont, Inc.*, 387 S.C. 583, 586, 694 S.E.2d 15, 17 (2010) (“A preliminary injunction should issue only if necessary to preserve the status quo ante.”); *Pashby v. Delia*, 709 F.3d 307, 320 (4th Cir. 2013) (defining “status quo as the ‘last uncontested status between the parties which preceded the controversy’” (quoting *Aggarao v. MOL Ship Mgmt. Co., Ltd.*, 675 F.3d 355, 378 (4th Cir. 2012))). This ruling is without prejudice to any party’s right to argue on the merits at the upcoming hearing.

To that end, the parties are instructed to appear at the Richland County Courthouse for a hearing at 9:30 A.M. on Monday, August 3, 2026. Further, Plaintiff is instructed to file a motion for preliminary injunction—to the extent he still seeks one—that specifically addresses each

¹ The Party also raises additional issues that the Court declines to reach at this stage.

element required for one to issue and why the Court should intervene in an ongoing election. *See* Rule 65, SCRCPP; *Compton v. S.C. Dep't of Corr.*, 392 S.C. 361, 366, 709 S.E.2d 639, 642 (2011) (requiring a plaintiff show “(1) he will suffer immediate, irreparable harm without the injunction; (2) he has a likelihood of success on the merits; and (3) he has no adequate remedy at law” (quoting *Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 908 (2004))). That brief shall be filed no later than noon on Saturday, August 1, 2026. Defendants shall then file a response, as necessary, by no later than 5:00 P.M. on Sunday, August 2, 2026. Plaintiff may address any arguments in reply during the hearing on August 3, 2026.

AND IT IS SO ORDERED.

Daniel M. Coble, Chief Administrative Judge
Richland County Court of Common Pleas
Fifth Judicial Circuit of South Carolina

Columbia, South Carolina
July 31, 2026

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
	)	
Danny Ford, II,	)	Civil Action No. 2026-CP-40-05213
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<u>ORDER</u>
South Carolina Republican Party, and	)	
South Carolina Election Commission	)	
a/k/a State Election Commission,	)	
	)	
Defendants.	)	
	)	

This matter came before the Court on Plaintiff Danny Ford, II’s motion for preliminary injunction. Defendant South Carolina Republican Party (SCGOP or the Party) moved to dissolve the July 31, 2026 temporary restraining order, opposed the motion for preliminary injunction, and moved to dismiss the complaint. Defendant State Election Commission filed a response opposing injunctive relief. Both Defendants stress that the Republican special primary for U.S. Senate is underway. For the reasons below, the Court dissolves the TRO and denies Plaintiff’s motion because he is not entitled to mandatory injunctive relief in the middle of an election.

BACKGROUND

On June 27, 2026, the Party adopted a rule providing that “[n]o candidate shall be certified by the Republican Party who is not, at the time of filing, (a) A registered Republican elector for at least 90 days, and who has voted in at least two of the last three statewide Republican primaries, in this or any previous state of residence, excepting those who were not old enough to have done so, or who were unable due to active-duty military service.” SCGOP R. 11(a)(6)(a) (2026).

Almost a month later, following the untimely death of the late U.S. Senator Lindsey O. Graham, the candidate filing period opened for the special Republican primary election to replace

him. Filing lasted from noon on July 21, 2026 to noon on July 28, 2026. Plaintiff filed his paperwork to run shortly before the noon deadline on July 28. While he filed the necessary documents to run in the special primary, the Party determined he could not run under the SCGOP banner because he had not voted in at least two of the last three statewide Republican primaries pursuant to Rule 11(a)(6)(a).

Meanwhile, the election began. The State Election Commission finalized the ballot and coordinated with the various county Boards of Voter Registration and Elections to send absentee ballots to voters covered by the Uniform and Overseas Citizens Absentee Voting Act (UOCAVA). Under an agreement with the U.S. Department of Justice (DOJ), that occurred before Saturday, August 1, 2026. According to State Election Commission, all UOCAVA ballots have been sent, and voters have returned ballots. Still, Plaintiff demands to get his name on the ballot.

On July 31, 2026, the Court granted Plaintiff's request to restrain and enjoin Defendants "from removing Plaintiff Danny Ford, II, from the ballot for the special Republican primary election for the office of U.S. Senator from South Carolina, and from refusing to certify his candidacy on the basis of his primary-voting history or Rule 11(a)(6)."¹ Order Gr. TRO at 6, *Ford v. S.C. Republican Party*, Case No. 2026-40-05213 (S.C. Ct. Comm. Pl. July 31, 2026).

The parties have submitted extensive briefing and evidence, and the Court held a hearing at the Richland County Courthouse on August 3, 2026. Accordingly, the matter is now ripe for the Court's review and disposition.

STANDARD

"The remedy of an injunction is a drastic one and ought to be applied with caution." *Strategic Res. Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 544, 627 S.E.2d 687, 689 (2006). Plaintiff

¹ Plaintiff, however, was never on the ballot. Further, UOCAVA ballots are out the door, and voters have already cast their votes in the special primary.

must show “(1) he will suffer immediate, irreparable harm without the injunction; (2) he has a likelihood of success on the merits; and (3) he has no adequate remedy at law.” *Compton v. S.C. Dep’t of Corr.*, 392 S.C. 361, 366, 709 S.E.2d 639, 642 (2011) (quoting *Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 908 (2004)). “A preliminary injunction should issue only if necessary to preserve the status quo ante.” *Poynter Invs., Inc. v. Century Builders of Piedmont, Inc.*, 387 S.C. 583, 586, 694 S.E.2d 15, 17 (2010).

“A mandatory injunction is an extraordinary remedy that orders some positive act to be performed.” 43A C.J.S. *Injunctions* § 19 (2019). “Mandatory preliminary injunctions do not preserve the status quo and normally should be granted only in those circumstances where the exigencies of the situation demand such relief.” *Wetzel v. Edwards*, 635 F.2d 283, 286 (4th Cir. 1980). “A mandatory injunction, especially at the preliminary stage of proceedings, should not be granted except in rare instances in which the facts and law are clearly in favor of the moving party.” *Gantt v. Clemson Agr. Coll. Of S.C.*, 208 F. Supp. 416, 418 (W.D.S.C. 1962). “Mandatory preliminary injunctive relief in any circumstance is disfavored[] and warranted only in the most extraordinary circumstances.” *De La Fuente v. S.C. Democratic Party*, 164 F. Supp. 3d 794, 798 (D.S.C. 2016). The Fourth Circuit “has defined the status quo as the ‘last uncontested status between the parties which preceded the controversy.’” *Pashby v. Delia*, 709 F.3d 307, 320 (4th Cir. 2013) (quoting *Aggarao v. MOL Ship Mgmt. Co., Ltd.*, 675 F.3d 355, 378 (4th Cir. 2012)).

Where a plaintiff asks “the Court to require the [Party] to perform a positive act,” state and federal courts have held he is “seeking a mandatory preliminary injunction.” Order Den. Inj. & Dismissing Compl. at 7–8, *Inglis v. S.C. Republican Party*, Case No. 2019-CP-40-05486 (S.C. Ct. Comm. Pl. Dec. 10, 2019); *see also De La Fuente*, 164 F. Supp. 3d at 798 (holding the plaintiff sought “mandatory injunctive relief by “asking that the court require the Democratic Party to notify

the Secretary of State to include him on the primary ballot”); 43A C.J.S. *Injunctions* § 19 (“A mandatory injunction is an extraordinary remedy that orders some positive act to be performed.”).

So too here. Although Plaintiff claims he is seeking prohibitory relief, the only way he can get true relief here is if the Court requires the Party to certify him and directs the State Election Commission to place him on the ballot, rescind ballots, disregard an agreement with the U.S. Department of Justice, discard votes, and issue new ballots to UOCAVA and other absentee voters. Those are all positive, mandatory acts that disrupt the status quo predating the lawsuit. Plaintiff is therefore seeking a mandatory preliminary injunction.

ARGUMENT

Assuming (without deciding) Plaintiff made the requisite showing of irreparable harm, a preliminary injunction “has never been regarded as strictly a matter of right, even though irreparable injury may otherwise result to the plaintiff.” *Gantt*, 208 F. Supp. at 417. For at least three reasons, Plaintiff is not likely to succeed on the merits. *First*, he failed to show why the Court should or could interfere with an ongoing election. *Second*, he is not likely to show the Party’s decision finding him unqualified under its own rules to run as a Republican was arbitrary or unlawful. *Third*, Plaintiff is unlikely to succeed on his constitutional claims.

I. The Court declines to interfere in an ongoing election.

Of course, “[e]xtreme diligence and promptness are required in election-related matters.” 29 C.J.S. *Elections* § 459. Because Plaintiff seeks extraordinary mandatory injunctive relief “in the period close to an election,” *Andino v. Middleton*, 141 S. Ct. 9, 10 (2020) (Kavanaugh, J., concurring) (citing *Purcell v. Gonzalez*, 549 U.S. 1, 4–6 (2006) (per curiam))—actually during an election—the Court must proceed with great caution. The U.S. Supreme Court “has repeatedly emphasized that lower federal courts should ordinarily not alter the election rules on the eve of an

election,” *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 140 S. Ct. 1205, 1207 (2020). Known as the “*Purcell* principle,” its “wisdom” is “to avoid . . . judicially created confusion” in elections. *Id.* That’s because “[c]ourt orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.” *Purcell*, 549 U.S. at 4–5.

While the *Purcell* doctrine generally applies when a federal court is asked to intervene in a state election, the considerations remain in full force in state-law cases like this one. Indeed, this Court agreed in another election matter less than two years ago. *See* Order Den. Mot. for TRO, *ACLU v. State Election Comm’n*, No. 2024-CP-40-06286, at 8 (Nov. 7, 2024) (Coble, J.) (“Voting was already underway when Plaintiff filed this lawsuit. So Plaintiff is instead asking the Court to upend an ongoing election. The State Election Commission and county boards have spent significant time, expense, and effort to ensure a smooth and orderly election. Any court-ordered change at this late date could cause major disruption in the political process, risk considerable voter confusion and delays at the polls, and impose additional taxpayer expense.”).

“When an election is close at hand, the rules of the road should be clear and settled. That is because running a statewide election is a complicated endeavor.” *Democratic Nat’l Comm. v. Wisc. State Legis.*, 141 S. Ct. 28, 31 (2020) (Kavanaugh, J., concurring).

Even seemingly innocuous late-in-the-day judicial alterations to state election laws can interfere with administration of an election and cause unanticipated consequences. If a court alters election laws near an election, election administrators must first understand the court’s injunction, then devise plans to implement that late-breaking injunction, and then determine as necessary how best to inform voters, as well as state and local election officials and volunteers, about those last-minute changes. It is one thing for state legislatures to alter their own election rules in the late innings and to bear the responsibility for any unintended consequences. It is quite another thing for a . . . court to swoop in and alter carefully

considered and democratically enacted state election rules when an election is imminent.

Id.

Although this Court has indeed extended an election deadline before,² that situation is distinguishable from the present one because (1) it involved voter registration, which unlike candidate filing, implicates the fundamental right to vote; (2) the order was issued a month before the election, not in the middle of one; (3) it occurred in the wake of the extraordinary circumstances following Hurricane Helene; and (4) the State Election Commission did not oppose the relief sought. Here, on the other hand, the State Election Commission indicated that the only way to effectively grant the relief requested by the Plaintiff, would be a new election.

Under the unique circumstances here, the Court finds the *Purcell* doctrine—which is really a species of laches specific to elections—bars Plaintiff’s claims. Plaintiff created this timing problem by filing at the last second. Had he filed earlier in the one-week window, the parties could have dealt with this issue in due course. Thus, Plaintiff “unreasonably delayed in filing and pursuing this action” and “the only relief available at this late date would prejudice Defendants” given all that has happened. *De La Fuente*, 164 F. Supp. 3d at 806. As the State Election Commission confirmed, the various county Boards of Voter Registration and Elections have already sent out all UOCAVA ballots.³ South Carolina citizens have already placed their vote for the Republican candidate for the United States Senate. And the Party has scheduled debates and worked to educate voters about the special primary and the nine candidates (out of twelve) who

² See Order Gr. Inj., *S.C. Democratic Party v. Knapp*, Case No. 2024-CP-40-05967 (Oct. 4, 2024).

³ At the hearing, the State Election Commission updated the Court with the following ballot and vote reports: 333 UOCAVA ballots have been requested and sent to voters. Of this total, 28 voters have voted and returned their absentee ballots. And over 1,500 regular absentee ballots have been distributed, and 31 voters have voted and returned their absentee ballot.

were certified. “Based on the time frame of the primary election process, it is simply too late to grant the relief requested: the primary would be thrown into confusion.” *Id.* Time and money have been spent, the election is underway, voters have voted, and the prejudice is palpable.

In short, changing the ballot when an election is already underway only invites chaos. Voter confusion and burdens on election administration are not theoretical. They are profound. Yet the “important principle of judicial restraint” under *Purcell* prevents all that and “protects the State’s interest in running an orderly, efficient election” to give the public “confidence in the fairness of the election.” *Democratic Nat’l Comm.*, 141 S. Ct. at 31 (Kavanaugh, J., concurring). For that reason alone, whether under laches or *Purcell*, the Court declines to grant Plaintiff’s request for mandatory injunctive relief.

II. *The Court must proceed carefully when asked to interfere with the Party’s decision finding Plaintiff unqualified to run as a Republican.*

“[P]olitical belief and association constitute the core of those activities protected by the First Amendment.” *Elrod v. Burns*, 427 U.S. 347, 356 (1976). “[T]his freedom protected against federal encroachment by the First Amendment is entitled under the Fourteenth Amendment to the same protection from infringement by the States.” *Cousins v. Wigoda*, 419 U.S. 477, 487 (1975). “Any interference with the freedom of a party is simultaneously an interference with the freedom of its adherents.” *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

For this reason, the Court has “always treated government assertion of control over the internal affairs of political parties—which, after all, are simply groups of like-minded individual voters—as a matter of the utmost constitutional consequence.” *Morse v. Republican Party of Va.*, 517 U.S. 186, 241 (Scalia, J., dissenting); *see also Democratic Party of U.S. v. Wisc. ex rel. LaFollette*, 450 U.S. 107, 121–22 (1981); *Cousins*, 419 U.S. at 487–88; *O’Brien v. Brown*, 409 U.S. 1, 4–5 (1972) (per curiam).

Here, Plaintiff asks the Court to issue an injunction “barring [the Party] from implementing its attempt to bar Plaintiff from having his name placed on the Republican Special Primary ballot” and “requir[ing] the [State Election Commission] to include Plaintiff’s name on the Republican Special Primary ballot.” Compl. at ¶¶ 21 & 36.

The U.S. Supreme Court has long held that “a [s]tate, or a court, may not constitutionally substitute its own judgment for that of the Party.” *Tashjian*, 479 U.S. 208, 224 (1986) (quoting *LaFollette*, 450 U.S. at 123–24). A political party’s “determination of the boundaries of its own association, and of the structure which best allows it to pursue its political goals, is protected by the Constitution.” *Id.* at 224. “And as is true of all expressions of First Amendment freedoms, the courts may not interfere on the ground that they view a particular expression as unwise or irrational.” *LaFollette*, 450 U.S. at 124.

What is important . . . is that a party’s choice, as among various ways of governing itself, of the one which seems best calculated to strengthen the party and advance its interests, deserves the protection of the Constitution as much if not more than its condemnation. The express constitutional rights of speech and assembly are of slight value indeed if they do not carry with them a concomitant right of political association. Speeches and assemblies are after all not ends in themselves but means to effect change through the political process. If that is so, there must be a right not only to form political associations but to organize and direct them in the way that will make them the most effective.

Ripon Soc’y, Inc. v. Nat’l Republican Party, 525 F.2d 567, 585 (D.C. Cir. 1975).

Given the First Amendment protections afforded to political parties, the Court has no occasion to “substitute” *Tashjian*, 479 U.S. at 224 (quoting *LaFollette*, 450 U.S. at 123–24), its judgment for that of the Party’s executive committee. See *Determination of Controversies Within Political Party*, 169 A.L.R. 1281 § III (1947) (“[I]t is generally held that where questions [related to party policies or organization] have been submitted to and determined by the proper party

tribunal, according to the rules and customs of the party, the courts will give effect to, and will not attempt to review such decision, but, in the absence of fraud, will regard it as conclusive.”); *Bruce v. S.C. High Sch. League*, 258 S.C. 546, 551, 189 S.E.2d 817, 819 (1972) (“It is well established that courts will not interfere with the internal affairs of voluntary associations, except in such cases as fraud, lack of jurisdiction, or the invasion of property or pecuniary rights or interests. The decisions of the tribunal of an association with respect to its internal affairs will, in the absence of mistake, fraud, illegality, collusion, or arbitrariness, be accepted by the courts as conclusive.”).

Indeed, other South Carolina courts have agreed. *See* Order Den. Pl.’s Pet. for Dec. Relief, *Ali v. S.C. Democrat Party*, No. 2024-CP-10-1918, at 4 (Apr. 23, 2024) (“Political parties have the right to decide whether or not to certify a candidate for their primary pursuant to their Party Rules under SC Code of Laws §7-13-40.”); *see also id.* (“The statute does not compel political parties and require that political parties must certify every candidate who wants to appear on their primary ballot—for good reason—that would, in effect, undermine the very nature of the existence of political parties who have constitutionally protected First Amendment Association rights. ‘Including people unaffiliated with the party—or those with whom the party does not wish to affiliate—‘may seriously distort [the party’s] collective decisions—thus impairing the party’s essential functions.’” (quoting *Follette*, 450 U.S. at 122)).

In all events, the Party’s decision was not arbitrary. The applicable rule, which was passed in the ordinary course, provides that “[n]o candidate shall be certified by the Republican Party who is not, at the time of filing, (a) A registered Republican elector for at least 90 days, and *who has voted in at least two of the last three statewide Republican primaries.*” SCGOP R. 11(a)(6)(a) (2026) (emphasis added). Plaintiff’s voting records, which the Party received from the Election Commission, reveal he voted in the June 2026 Republican primary election, including its runoff,

but not in the other two most recent statewide Republican primaries. Ex. A.

Plaintiff cannot dispute this. He simply claims the June 9, 2026 primary election and the June 23, 2026 primary election runoff should be considered two different elections. Compl. at ¶ 17. As the Party convincingly argues, they are not. *Cf.* S.C. Att’y Gen. Op. at 2 (Aug. 23, 2024) (stating “nothing in the law requires that a qualified elector must vote in an election or primary election in order to secure their right to vote in a corresponding runoff,” and “[t]his makes sense if an election and a subsequent runoff are indeed considered one electoral event with one frozen set of qualified electors”); *SEC Addresses Voter Eligibility Question*, STATE ELECTION COMM’N (July 15, 2026), <https://scvotes.gov/statement-from-the-south-carolina-state-election-commission/> (finding “voters who participated in the June Democratic Primary are not eligible to vote in the August 11 Special Republican Primary” because it is the same election).

Put simply, the SCGOP followed its own rules and determined—based on the evidence before it—that Plaintiff could not run *as a Republican* for the United States Senate. The Party’s decision to set the objective standard of voting in at least two of the three past statewide Republican primaries is not arbitrary. Further, reviewing voting records of individual candidates was part of the Party’s due diligence for candidate certification. Based on that review, the Party found Plaintiff had voted twice in the same “primary,” while other candidates satisfied the requirement in different ways. And its determination was consistent with how the Attorney General and State Election Commission view what constitutes the same election. *See id.*

“Under these circumstances, the SCGOP’s decision cannot be deemed illegal or arbitrary, and the Court has no role over this dispute other than to accept the decision of the executive committee as conclusive.” Order Den. Inj, at 13–17, *Inglis v. S.C. Republican Party*, No. 2019-CP-40-05486 (S.C. Ct. Comm. Pl. Dec. 11, 2019).

III. *Plaintiff's constitutional claims lack merit.*

Last, the Court finds Plaintiff is not likely to succeed on the merits of the various constitutional claims he asserts in the complaint and briefing.

To be sure, “the qualifications for service in Congress set forth in the text of the Constitution are ‘fixed,’ at least in the sense that they may not be supplemented by Congress,” and “[c]ourts have struck down state-imposed qualifications” too. *U.S. Term Limits v. Thornton*, 514 U.S. 779, 798–99 (1995). But neither Congress nor the State has sought to add to constitutional qualifications to serve in Congress. Nor has the Party. *Cf. Anderson v. S.C. Election Comm’n*, 397 S.C. 551, 558, 725 S.E.2d 704, 707 (2012) (per curiam) (distinguishing “filing requirements to appear on a ballot” from “qualifications for service”). Rather, based on its experience in the June primary, the Party made a “determination of the boundaries of its own association, and of the structure which best allows it to pursue its political goals,” *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 224 (1986), in certifying nominees to run under the Republic name. And that “is protected by the Constitution.” *Id.* Plaintiff’s reliance on *U.S. Term Limits* is therefore misplaced.

In 1972, the U.S. Supreme Court predicted the challenging constitutional questions that would accompany judicial intervention in political intraparty disputes, including justiciability, whether party action amounted to state action, the reach of the Due Process Clause, and the vital rights of freedom of association guaranteed by the First Amendment. *See O’Brien*, 409 U.S. at 4 (per curiam). “Political squabbles are not as easily resolved in . . . courts as are some other disputes.” *Wymbs v. Republican State Exec. Comm. of Fla.*, 719 F.2d 1072, 1076 (11th Cir. 1983).

“[T]he process of selecting its nominee . . . often determines the party’s positions on the most significant public policy issues of the day” and anoints the nominee as “the party’s ambassador to the general electorate in winning it over to the party’s views.” *Cal. Democratic*

Party v. Jones, 530 U.S. 567, 575 (2000). And setting a Republican voting history requirement as part of that nominee selection process is “an initial policy determination” by a political party “of a kind clearly for nonjudicial discretion” the Court cannot resolve with “judicially discoverable and manageable standards.” *Baker v. Carr*, 369 U.S. 186, 217 (1962). The Supreme Court, for its part, has recognized a difference between action by “state law rather than action by a political party.” *Bullock v. Carter*, 405 U.S. 134, 140 n.16 (1972).

After all, “most rights secured by the Constitution are protected only against infringement by governments.” *Flagg Bros., Inc. v. Brooks*, 436 U.S. 149, 156 (1978). The “Fourteenth Amendment to the Constitution of the United States protects citizens against *state action*.” *Keeler v. Mauney*, 330 S.C. 568, 572, 500 S.E.2d 123, 125 (Ct. App. 1998) (emphasis added). Plaintiff contests the SCGOP’s decision, not any action on the part of the State Election Commission. Indeed, his complaint clarifies the State Election Commission is named as a necessary party only to carry out a remedy. But he has not shown the Party’s “conduct, as alleged, has amounted to, or would constitute, state action.” *Wymbs*, 719 F.2d at 1077.

“[C]ourts have hesitated to find state action when . . . racial discrimination is not involved,” *id.*, and the Court “may not interfere on the ground that [it] view[s] a particular expression as unwise or irrational,” *LaFollette*, 450 U.S. at 123–24. The cases where “the Supreme Court overturned a series of increasingly subtle tactics employed to exclude blacks from participating in the Texas Democratic Party’s candidate selection process, do not stand for the proposition that all actions of political parties constitute state action without regard to the surrounding circumstances.” *Republican Party of Conn. v. Tashjian*, 599 F. Supp. 1228, 1232 (D. Conn. 1984).

Race is not at issue here. Because the Party is a voluntary association of like-minded individuals, not an arm of the State of South Carolina, the Court thus questions whether state action

is present here. Even so, assuming without deciding state action, “only suspect classes and fundamental rights receive intermediate or strict scrutiny,” and “[t]he right to run for office has not been deemed a fundamental right.” *Biener v. Calio*, 361 F.3d 206, 215 (3d Cir. 2004) (citing *Bullock*, 405 U.S. at 142–43). And “*LaFollette* and cases like it stand for the proposition that courts should not lightly disturb political parties’ decisions of strategy.” *Wymbs*, 719 F.2d at 1077.

Here, to prevent “Trojan horse candidacies,” the Party adopted a rule requiring a candidate seeking to run as a Republican to have voted in at least two of the last three Republican primaries. This rule was adopted in the ordinary course. After careful consideration of the law, the Court finds the Party’s rule is rationally related to its legitimate interests, including “to protect the integrity of its political processes from frivolous or fraudulent candidacies.” *Bullock*, 405 U.S. at 145 (citing *Jenness v. Fortson*, 403 U.S. 431, 442 (1971)). “Keeping the ballot manageable is an interest sufficient to meet the low standard of review.”⁴ *Biener*, 361 F.3d at 215.

As the Supreme Court acknowledged, the “interest in keeping ballots within manageable, understandable limits is of the highest order.” *Lubin v. Panish*, 415 U.S. 709, 715 (1974) (citing *Bullock*, 405 U.S. at 144–45). The Supreme Court even said “[t]hat ‘laundry list’ ballots discourage voter participation and confuse and frustrate those who do participate is too obvious to call for extended discussion.” *Id.* And “a State has an interest, if not a duty, to protect the integrity of its political processes from frivolous or fraudulent candidacies.” *Bullock*, 405 U.S. at 145 (citing *Jenness*, 403 U.S. at 442). The Party seeks to avoid people who aren’t true Republicans running under the SCGOP banner in its primaries. So it passed Rule 11(a)(6)(a) to accomplish its political

⁴ Plaintiff did not bring First and Fourteenth Amendment claims in his complaint. Nor does his complaint purport to raise claims on behalf of voters. Thus, the *Anderson–Burdick* framework has no purchase here. See *Tully v. Okeson*, 977 F.3d 608, 616 (7th Cir. 2020) (holding “all election laws affecting the right to vote are subject to the *Anderson/Burdick* test, but election laws that do not curtail the right to vote need only pass rational-basis scrutiny”). Even if those claims were at issue, precedent makes clear this ballot-access claim is subject only to rational basis review.

strategic objectives. To the extent the Court can scrutinize those objectives, the Party’s decision is likely to survive rational basis review.

Next, the Court finds Plaintiff is not likely to succeed on his free-and-open-elections clause claim. See S.C. CONST. art. I, § 5 (“All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in this Constitution shall have an equal right to elect officers and be elected to fill public office.”). “The South Carolina Free and Open Elections Clause protects an individual’s right to vote, but it does not create a right for political parties or their dedicated voters to have their chosen candidates win.” *League of Women Voters of S.C. v. Alexander*, 446 S.C. 591, 611, 921 S.E.2d 660, 671 (2025). In *Alexander*, our supreme court chronicled the three prior cases in which it analyzed the clause. *Id.* at 609, 921 S.E.2d at 670 (citing *Cothran v. W. Dunklin Pub. Sch. Dist. No. 1-C*, 189 S.C. 85, 200 S.E. 95 (1938), *State v. Huntley*, 167 S.C. 476, 166 S.E. 637 (1932); *Gardner v. Blackwell*, 167 S.C. 313, 166 S.E. 338 (1932)). None helps Plaintiff here because “an equal right to . . . be elected to fill public office,” S.C. CONST. art. I, § 5, is irrelevant to a political party’s decision on who to certify in a primary.

Nor does the case on which Plaintiff relies. It merely says “when a state Constitution names the qualifications for a constitutional office, the *legislature* has no authority to prescribe additional qualifications, or to remove any of the requirements provided for in the Constitution, unless that instrument, expressly or by implication, gives the legislature such power.” *Joint Legis. Comm. for Judicial Screening ex rel. McConnell v. Huff*, 320 S.C. 241, 244, 464 S.E.2d 324, 326 (1995) (emphasis added) (quoting *McLure v. McElroy*, 211 S.C. 106, 118, 44 S.E.2d 101 (1947)). A party rule is at issue here, not a statute passed by the General Assembly, and the Party did not add to the constitutional qualifications to serve in the U.S. Senate. *Cf. Anderson*, 397 S.C. at 558, 725 S.E.2d at 707 (distinguishing “filing requirements to appear on a ballot” from “qualifications for service”).

Finally, Plaintiff's equal protection claim is unavailing. In advancing this claim, he primarily points to Senator Darline Graham, who voted in a Republican primary runoff in 2024 and the 2026 Republican primary. But because those are two separate elections, she was certified. Plaintiff, on the other hand, voted in the 2026 Republican primary and runoff *for the same election*. The equal protection clause, of course, "does not prohibit different treatment of people in different circumstances under the law." *Harbit v. City of Charleston*, 382 S.C. 383, 396, 675 S.E.2d 776, 782–83 (Ct. App. 2009).

* * *

Given all that has transpired, the Court also questions whether it could grant any effective relief at this stage. *Cf. Sloan v. Friends of the Hunley, Inc.*, 369 S.C. 20, 26, 630 S.E.2d 474, 477 (2006) ("A moot case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court."); *Ry. Labor Execs. Ass'n v. Chesapeake W. Ry.*, 915 F.2d 116, 118 (4th Cir. 1990) (Generally, a request for "an injunction to prohibit an act is rendered moot by the happening of the act."). At any rate, because Plaintiff is not likely to succeed on the merits, he is not entitled to a mandatory preliminary injunction in the middle of an election.

CONCLUSION

For these reasons, the Court hereby **DISSOLVES** the TRO entered on July 31, 2026, and **DENIES** Plaintiff's motion for preliminary injunction.

AND IT IS SO ORDERED.

Columbia, South Carolina
August 3, 2026

Daniel M. Coble, Chief Administrative Judge
Court of Common Pleas for Richland County
Fifth Judicial Circuit of South Carolina