

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
TENNESSEE, EASTERN DIVISION

Kirk D. Carter v. Tre Hargett, in his official capacity as Tennessee
Secretary of State, and Gibson County Election Commission

Carter v. Hargett · No. 1:26-01057-STA-jay · Decided April 28, 2026

SUMMARY

This Report and Recommendation addresses pro se plaintiff Kirk D. Carter’s motion for a preliminary injunction seeking to require Tennessee election officials to identify him on election ballots as an “Independent Conservative” candidate. The magistrate judge recommends denying relief because Carter did not properly serve the defendants, failed to show a likelihood of success or irreparable harm, and did not satisfy the remaining preliminary-injunction factors. The recommendation also advises ordering Carter to properly serve the defendants under Federal Rule of Civil Procedure 4(j).

CASE DETAILS

COURT	United States District Court for the Western District of Tennessee, Eastern Division
WRITING FOR THE COURT	Jon A. York, United States Magistrate Judge
JURISDICTION	United States District Court for the Western District of Tennessee
DECIDED	April 28, 2026
DOCKET	1:26-01057-STA-jay
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on Plaintiff's motion for preliminary injunction in an action challenging Tennessee ballot-labeling statutes under the First and Fourteenth Amendments.
STANDARD OF REVIEW	A preliminary injunction requires consideration of the movant's likelihood of success on the merits, irreparable injury, harm to others, and the public interest. Election restrictions are evaluated under the Anderson-Burdick framework, with the level of scrutiny determined by the severity of the burden. Personal jurisdiction requires proper service of process.
PRECEDENTIAL VALUE	nonprecedential_report_and_recommendation

PARTIES

Kirk D. Carter v. Tre Hargett, in his official capacity as Tennessee Secretary of State, Gibson County Election Commission

TOPICS

election law ballot access first amendment injunctions service of process

PRACTICE AREAS

election law constitutional law civil procedure remedies civil rights

QUESTIONS PRESENTED

1. Whether Carter's reply should be considered when it was filed without leave in violation of Local Rule 7.2(c).
2. Whether Defendants were properly served so that the court could exercise personal jurisdiction and grant preliminary injunctive relief.
3. Whether Tennessee Code Annotated §§ 2-5-203 and 2-5-208 violate Carter's First and Fourteenth Amendment rights by requiring his ballot designation to be "Independent" rather than "Independent Conservative."
4. Whether Carter established the requirements for a preliminary injunction.

HOLDINGS

1. A reply memorandum filed without the leave required by Local Rule 7.2(c) should be stricken and not considered.
2. Service by FedEx did not satisfy the applicable service requirements for the state defendants; until Carter properly serves Defendants, the court should not exercise personal jurisdiction over them or grant injunctive relief.
3. The statutes requiring an unaffiliated candidate to be identified as an "independent" candidate and prescribing the placement of the independent-candidate column do not impose a severe burden on Carter's constitutional rights and are justified by the State's important interests in ballot integrity, political stability, and preventing voter confusion.
4. Carter did not establish a likelihood of success on the merits or a sufficiently certain and immediate irreparable injury, and the remaining factors also weighed against a preliminary injunction.

KEY QUOTATIONS

"Before a federal court may exercise personal jurisdiction over a defendant, the procedural requirement of service of summons must be satisfied." (Section II)

"Ballots serve primarily to elect candidates, not as forums for political expression." (Section III.A)

"For these reasons, Plaintiff Kirk Carter's Motion for Preliminary Injunction (D.E. 7) should be DENIED." (Section IV)

FACTUAL BACKGROUND

Kirk D. Carter was a candidate for the Tennessee State House of Representatives, District 79, and sought to appear on the ballot with the political descriptor "Independent Conservative." Tennessee statutes require candidates who are not nominees of a political party to be identified as "independent" candidates and prescribe the placement of the independent-candidate column. Carter alleged that these provisions violated his First and Fourteenth Amendment rights and sought to prevent the printing of ballots that used only the statutory "Independent" designation. He attempted service on Defendants through FedEx rather than by a method authorized for service on state entities.

PROCEDURAL HISTORY

Carter filed the action on March 17, 2026, seeking emergency and preliminary injunctive relief to require that his ballot designation appear as "Independent Conservative" rather than "Independent." The magistrate judge recommended denial of Carter's temporary restraining order, and District Judge S. Thomas Anderson adopted that recommendation and denied the TRO without prejudice. Carter then moved for a preliminary injunction; Defendants opposed the motion, and Carter filed a reply without obtaining leave. The magistrate judge recommended that the reply be stricken, that the preliminary injunction be denied because Defendants had not been properly served and because the merits and other preliminary-injunction factors weighed against relief, and that Carter be ordered to perfect service.

DISPOSITION

other

CASES CITED

- *Omni Capital International, Ltd. v. Rudolf Wolff & Co., Ltd.*, 484 U.S. 97, 104 (1987)
- *Canaday v. Anthem Companies, Inc.*, 9 F.4th 392, 395 (6th Cir. 2021)
- *Yang v. Shenzhen Hongfangrui Technology Co.*, 2023 WL 8370407, at *1 (E.D. Mich. Dec. 4, 2023)
- *Erard v. Johnson*, 905 F. Supp. 2d 782, 793 (E.D. Mich. 2012)
- *Shepard v. U.S. Department of Veterans Affairs*, 819 F. App'x 622, 623 (10th Cir. 2020)
- *Audio Enterprises, Inc. v. B & W Loudspeakers*, 957 F.2d 406, 409 (7th Cir. 1992)
- *Suleymanov v. Winston Premier Logistics, LLC*, 2023 WL 5767674, at *5 (D. Conn. Sept. 7, 2023)
- *Lietz v. DEA*, 2023 WL 4303853, at *2-3 (D. Idaho June 30, 2023)
- *Sample v. Dollar General*, 2022 WL 885770, at *4 (S.D. Ala. Feb. 7, 2022)
- *Hin v. U.S. Department of Justice, U.S. Marshals Service*, 2022 WL 705617, at *7-8 (E.D. Cal. Mar. 9, 2022)
- *McGee-Hudson v. United States*, 2017 WL 11708325, at *6-7 (M.D. La. July 10, 2017)
- *Zavala v. Jaddou*, 2023 WL 2731696, at *1 (C.D. Cal. 2023)
- *NxSystems, Inc. v. Monterey County Bank*, 2012 WL 4093932, at *2 (D. Or. 2012)
- *McNeilly v. Land*, 684 F.3d 611, 615 (6th Cir. 2012)
- *Overstreet v. Lexington-Fayette Urban County Government*, 305 F.3d 566, 573, 578 (6th Cir. 2002)

- *Memphis A. Phillip Randolph Institute v. Hargett*, 478 F. Supp. 3d 699, 703-04 (M.D. Tenn. 2020)
- *Gonzales v. National Board of Medical Examiners*, 225 F.3d 620, 625 (6th Cir. 2000)
- *D.T. v. Sumner County Schools*, 942 F.3d 324, 327 (6th Cir. 2019)
- *Anderson v. Celebrezze*, 460 U.S. 780 (1983)
- *Burdick v. Takushi*, 504 U.S. 428, 434 (1992)
- *Daunt v. Benson*, 956 F.3d 396, 407 (6th Cir. 2020)
- *Kowall v. Benson*, 18 F.4th 542, 546 (6th Cir. 2021)
- *Brown v. Yost*, 133 F.4th 725, 736 (6th Cir. 2025)
- *Storer v. Brown*, 415 U.S. 724, 730 (1974)
- *Libertarian Party of Ohio v. Blackwell*, 462 F.3d 579, 587 (6th Cir. 2006)
- *Walden v. Kosinski*, 153 F.4th 118, 137 (2d Cir. 2025)
- *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 354, 358, 362-67 (1997)
- *Tennessee v. U.S. Department of Education*, 104 F.4th 577, 591 (6th Cir. 2024)

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