

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT

CAUSE NO: 53C06-2608-MI-002289

JOSEPH BRADLEY DAVIS,
 Petitioner,

v.

MONROE COUNTY ELECTION BOARD,
MONROE COUNTY VOTER REGISTRATION AND
ELECTION CENTRAL, INDIANA ELECTION
DIVISION AND
DIEGO MORALES, INDIANA SECRETARY OF
STATE,
 Respondents.

ORDER ON AMENDED PETITION FOR JUDICIAL REVIEW

On September 21, 2026, the Court held a hearing on the Petitioner Joseph Davis's Amended Petition for Judicial Review, which asks the Court to review a decision of Respondent, Monroe County Election Board, dated August 12, 2026 (the "Decision"). Petitioner, Joseph Bradley Davis appeared in person and self-represented. The Monroe County Election Board, Monroe County Voter Registration and Election Central appeared by counsel, Pamela Schneeman. Indiana Election Division and Diego Morales were represented by John Oberdorf. The Court having considered Monroe County Election Board's record, and the argument of the parties now finds, concludes, and orders as follows:

FINDINGS OF FACT

1. Petitioner asks for Judicial Review of the Monroe County Election Board's Decision dated August 12, 2026, which voted to remove his name from the general election ballot.
2. Petitioner is entitled to judicial review under Indiana Code 3-6-5-34.
3. Petitioner filed for an expedited hearing due to his desire to be on the ballot for the

November 3, 2026 election and the compressed timelines to have ballots printed.

4. Defendants Monroe County Voter Registration and Election Central, Indiana Election Division and Secretary of State Diego Morales filed Motions to Dismiss. Due to the compressed schedule and the need to have an Order issued today, the Court deems these Motions to Dismiss moot since the Court is denying Petitioner's Amended Petition for Judicial Review.
5. The action being reviewed is the Monroe County Election Board's decision to remove Joseph Bradley Davis from the ballot as an independent candidate for the office of Monroe County Clerk for the November 3, 2026, Election.
6. Joseph Bradley Davis was on the primary ballot for the May 2026 election; he ran on the Democratic ticket for the office of Monroe County Clerk and lost that primary election.
7. On July 6, 2026, Petitioner filed a CAN-3 Declaration of Intent to Be a Write-In Candidate in 2026 for the Office of County Clerk of the Circuit Court. B.R. 120-121. In his Declaration, Petitioner certified that he is "an independent candidate (*not affiliated with any party*)" and declared that he intended to be a write-in candidate for the office of County Clerk for the Circuit Court. *Id.* (emphasis in original)
8. The Monroe County Election Board received five (5) candidate challenges to Petitioner's independent candidacy for Monroe County Clerk *Id.* at 110-119. These were filed by John Willard Tilford, Regina Moore, Roberta Robinson, Nancy Goswami and Dee Owens. The challenges stated that he was violating Indiana Code 3-8-1-5.5 by running for the same office in the general election that he had already lost in the primary.
9. Petitioner admits that he was a Democratic candidate for the office of the Monroe County Clerk and that he lost that primary on May 5, 2026. He came in third, with 21.04% of

total votes cast, behind Tree Martin Lucas (47.68%) and Tanner Dale Branham (31.28 %). B.R.5.

10. Petitioner does not seek recognition as the Democratic nominee and does not seek to overturn or invalidate the May 2026 Democratic primary. He is challenging the application of Indiana Code 3-8-1-5.5 and alleges that the law as applied to him is unconstitutional.
11. A hearing was held on the challenges on August 12, 2026, in the Nat U. Hill Courtroom. Challengers John William Tilford, Regina Moore, Roberta Robinson and Dee Owens appeared. Petitioner was present. The challengers John William Tilford, Regina Moore, Roberta Robinson and Dee Owens were sworn in. John William and Dee Owens presented testimony. They challenged the Petitioner's right to be on the ballot since he had already lost in the primary. They alleged that he was not following the law of Indiana. After the conclusion of evidence, the Monroe County Election Board voted 3-0 to remove his name from the ballot because his candidacy was violative of the sore loser law I.C. 3-8-1-5.5. The election board advised Petitioner that they could only apply the law before it and he could ask for injunctive relief from the courts as to the Constitutional questions.
12. Petitioner testified that he agrees that the state law prohibits him from running for this position. He recognized that the State of Indiana has legitimate interests in the integrity and finality of primary elections, in protecting political parties' ability to choose their nominees, in avoiding voter confusion, and in orderly elections. Video at 1:31:30 through 1:32:10.
13. Petitioner challenges the constitutionality of the "sore-loser" law, I.C. 3-8-1-5.5 which

says that a person defeated in a primary is not eligible to become a candidate for the same office in the next general election. Petitioner alleges that the application of I.C. 3-8-1-5.5 under the First Amendment and Fourteenth Amendment to the United States Constitution and Article 2, Section of 1 of the Indiana Constitution as applied to his candidacy is unconstitutional. Petitioner alleged that the application of this statute to his independent write-in candidacy burdens his own political association and expression and, the rights of Monroe County voters who may wish to support his candidacy. He alleges that not having the write-in spot on the ballot violates his rights and voters rights. Petitioner presented no evidence that proved that this law was applied to him in an unfair manner, his argument was that it was unfair that he couldn't run for the same position again, but the Court will evaluate the Constitutionality of his claims, nonetheless.

CONCLUSIONS OF LAW

14. Indiana Code 3-6-5-34 governs judicial review of an election board decision.
15. Indiana Code 3-8-1-5.5 establishes that the burden of demonstrating the invalidity of a zoning decision is on the party to the judicial review proceeding asserting invalidity.
16. The Administrative Orders and Procedures Act does not apply to IC 3-6-5-34 petition for judicial review of election board decisions. *Clay v. Marreno*, 774 N.E.2d 520, 521 n.3 (Ind.Ct.App. 2002.).
17. Petitioner timely filed his petition for judicial review within thirty (30) days of the Order.
18. The Court may determine if the Board's decision is incorrect as a matter of law but does not conduct a trial de novo or substitute its judgment for that of the Board concerning factual matters.

19. An election board decision must be upheld unless it is illegal. *Price v. Lake County Bd. Of Elections & Reg.*, 952 N.E.2d 807, 809 (Ind.Ct.App. 2011). An abuse of discretion occurs when the “decision is clearly against the logic and effect of the facts and circumstances before the court or if the court has misinterpreted the law.” *Bruder v. Seneca Mortg. Serv., LLC*, 188 N.E.3d 469, 471 (Ind. 2022).
20. Indiana’s “sore loser” law is an appropriate method of promoting Indiana’s compelling interest in promoting order and stability in its election process as the United States Supreme Court has recognized. In *Storer v. Brown*, 415 U.S. 724, 726-27 (1974), the Supreme Court adjudged the constitutionality of certain California laws that, inter alia, prohibited someone from running for office as an independent if they had voted in the primary immediately preceding, or had been affiliated with a political party at any time within the year preceding the primary election-much broader prohibitions than the one that is at issue in this case. The *Storer* plaintiffs claimed that these restrictions violated the First and Fourteenth Amendments. *Id.* at 728.
21. The Court held that these prohibitions did not violate the Constitution. *Id.* The Court described the independent route to candidacy as “but a part of the candidate-nominating process, an alternative to being nominated in one of the direct party primaries.” *Id.* at 733. The Court reasoned,

The direct primary in California is not merely an exercise or warm-up for the general election but an integral part of the entire election process, the initial stage in a two-stage process by which the people choose their public candidates. The State’s general policy is to have contending forces with the party employ the primary campaign and primary election to finally settle their differences. The general election ballot is reserved for major struggles; it is not a forum for continuing intraparty feuds. The provision against defeated primary candidates running as independents effectuates this aim, the visible result being to prevent the losers from continuing the struggle and to limit the names on the ballots

to those who have won the primaries and those independents who have property qualified. The people, it is hoped, are presented with understandable choices and the winner in the general election with sufficient support to govern effectively.

Id. at 735 (footnote omitted: emphasis added). The Court approvingly described the purpose of the party-disaffiliation requirement as “maintaining the integrity of the various routes to the ballot,” and likened the party-disaffiliation requirement to California’s own sore loser law. *Id.* at 733. By requiring an independent candidate to “make early plans to leave a party and take the alternative course to the ballot,” the law appropriately prevented “candidacies prompted by short-range political goals, pique, or personal quarrel[,]” and fraudulent candidacies put forward for the purpose of redirecting votes away from another party’s candidate. *Id.* at 735. It is also a check on “unrestrained factionalism,” which the Founders believed “may do significant damage to the fabric of government.” *Id.* at 736. The party-disaffiliation requirement therefore “further[ed] the State’s interest in the stability of its political system,” an interest that the Court described as “compelling” and “outweighing the interest the candidate and his supports may have” *Id.*

22. The Court’s reasoning applies equally to Indiana’s sore loser law. Indiana’s sore loser law is a much less restrictive prohibition than the one that was at issue in *Storer*, where not only primary candidates were barred from candidacy as independents in the general election, but every member of the party was prohibited from being independent candidates in the general election, as well, even if they had not been primary candidates.

23. As with the California laws at issue in *Storer*, Indiana’s primary and general elections are not separate contests, but are instead a two-stage process, in which the second stage is limited to the party candidates who prevailed in the first stage and persons who satisfy the qualifications for bona fide independent candidacy.

24. As thus properly understood, the sore loser law does not deprive Petitioner of access to the ballot. He had access to the ballot through his party primary. He was not chosen to be the party's candidate. By virtue of his unsuccessful candidacy for his party's nomination, Petitioner was "finally rejected," *Id.* at 735, for the office of Circuit Clerk. Put another way, because the party primary is the first stage of a two-stage election process, Petitioner has already lost the election for Circuit Court Clerk. He has therefore not been denied access to the ballot.

25. In *Anderson v. Celebrezze*, the Supreme Court held that, when a constitutional challenge is lodged against a specific provision of a state's election law,

A court must resolve such a challenge by an analytical process that parallels its work in ordinary litigation. It must first consider the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that plaintiff seeks to vindicate. It then must identify and evaluate the precise interests put forward by the State as justifications for the burden imposed by its rule. In passing judgment, the Court must not only determine the legitimacy and strength of each of those interests; it must also consider the extent to which those interests make it necessary to burden the plaintiff's rights. Only after weighing all these factors is the reviewing court in a position to decide whether the challenged provision is unconstitutional.

460 U.S. 780, 789 (1983). First, "there is no fundamental right to be a candidate" for office. *Citizens for John W. Moore Party v. Bd. of Election Com'rs of City of Chicago*, 845 F.2d 144, 148 (7th Cir. 1988). Petitioner's right to be candidate for office has not been burdened here, or the burden is minimal, because he has an opportunity to seek office through the party primary. The State, on the other hand, has a "compelling" interest in orderly and stable election processes, *Storer*, 415 U.S. at 736, which would be frustrated by forcing the State to allow defeated primary candidates to run as independent candidate in the general election. Indiana's sore loser law is therefore constitutional.

26. The election board's decision does not violate the Indiana Constitution. Petitioner

asserts that the “free and equal” elections clause of Article 2, §1 has been violated. But that clause does not prohibit the State from regulating who may not qualify as a candidate for public office. Our Supreme Court observed that “elections are free when voters are subject to no intimidation or improper influence, and when every voter is allowed to cast his ballot as his own judgment and conscience dictate. [T]hey are equal when the vote of every elector is equal in its influence upon the result to the vote of every other elector; when each ballot is as effective as every other ballot.” *Blue v. State ex rel. Brown*, 206 Ind. 98, 188 NE. 583, 589 (1934), overruled on other grounds, *Harrell v Sullivan*, 220 Ind. 108, 120, 40 N.E.2d 115, 119 (1942). The sore loser law violates neither of these principles.

27. The sore loser law does not violate the guarantee that elections shall be “free.” The sore loser law subjects no person to intimidation or improper influence and does not prohibit voters from casting their ballots as their own judgment and consciences dictate. A “free” election need not be a free-for-all. An election limited to candidates who prevailed at the party level and who satisfy the qualifications for bona fide independent candidacy is still a free election.

28. The sore loser law does not violate the guarantee that elections shall be “equal,” either. The sore loser law plainly does not give some ballots greater weight than others. It has no effect at all on the weight or influence of the ballots. It just restricts who may vie for the votes. The equal-elections provision is inapplicable.

29. The sore loser law does not violate the “free and equal” elections clause of the Indiana Constitution. The “free and equal” elections clause is intended to ensure that Indiana voters are able to vote their conscience, free from intimidation and improper influence, and to ensure that all ballots are equal. It is not intended to be a guarantee of candidacy to all who wish to appear on the ballot. The “free and equal” elections clause of the Indiana Constitution does

not prohibit the State from regulating who may or may not be a candidate for public office. The sore loser law therefore does not violate the Indiana Constitution, and the Court therefore enters judgment in favor of Respondents.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that this
Petition for Judicial Review is Denied and judgment is entered for the Respondents.

SO ORDERED, this 25th day of September, 2026.

A handwritten signature in black ink, consisting of a stylized 'K' and 'E' followed by a horizontal line.

KARA E. KROTKE, Judge
Monroe Circuit Court VI

Distribution:

Joseph Bradley Davis, self-represented;

Pamela Schneeman, Matthew Clark and Joseph Smith, attorneys for Monroe County
Election Board, Monroe County Voter Registration and Election Central

John Oberdorf, attorney for Indiana Secretary of State and Indiana Election Division