

STATE OF INDIANA)
) SS:
 MONTGOMERY COUNTY)

IN THE MONTGOMERY CIRCUIT COURT

2007 TERM

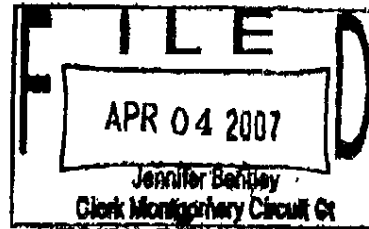
MARK W. PLASSMAN)
 Plaintiff)

vs.)

BOONE COUNTY ELECTION BOARD and)
 PENNY BOGAN, BILL BOYLAND and)
 THOMAS EASTERDAY, in their Official)
 Capacities as Members of the Boone County)
 Election Board)

Defendants.)

CAUSE NO. 54C01-0703-PL-98



**PRELIMINARY ORDER VACATING THE DETERMINATION
 OF THE BOONE COUNTY ELECTION BOARD THAT MARK PLASSMAN WAS
 INELIGIBLE TO BE A CANDIDATE FOR REPUBLICAN NOMINATION FOR
 ZIONSVILLE TOWN COUNCIL DISTRICT 2 IN THE MAY 8, 2007 PRIMARY
 ELECTION AND ORDERING THAT MARK PLASSMAN'S NAME
 BE PLACED ON THE BALLOT FOR THAT POSITION IN THAT ELECTION**

The parties have appeared in Court, in person and by counsel, evidence and argument has been submitted and heard on plaintiff's complaint. The Court has had the cause under advisement and has received briefs from the parties.

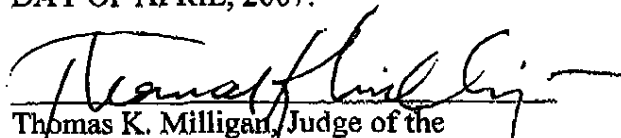
The issue in the case is whether plaintiff's name should appear on the ballot for the primary election for which plaintiff has filed his declaration of candidacy. Time is short because of the election time frames established by statute. The parties also took a change of venue from Boone County. The parties have also requested Special Findings of Fact and Conclusions of Law to support and explain the Court's decision in this matter.

Because of the additional time required for the Court to prepare and issue Special Findings and Conclusions and because of the necessity for the Election Board to mail absentee ballots, the parties have agreed to accept a ruling from the Court on the ultimate issue preliminarily with written Special Findings of Fact and Conclusions to follow at a later date. The understanding being that the Court's preliminary ruling will guide the Election Board concerning the issue at hand.

The issue for the Court to determine is whether plaintiff was "registered to vote in the election district" he sought "to represent not later than the deadline for filing the declaration of candidacy . . ." as required by I.C. 3-8-1-1(b). The Boone County Election Board determined that plaintiff was not a registered voter by the deadline for filing the declaration of candidacy as required by I.C. 3-8-1-1(b).

The Court finds the Boone County Election Board's determination to be in error and should be vacated and that, as a matter of law, Mark Plassman was a timely registered voter. Mark Plassman's name should be on the ballot for the May 8, 2007 primary election as a Republican candidate for the office of Zionsville Town Council District 2. The Court's reasoning and the basis for its decision will be set forth in the Special Findings of Fact and Conclusions of Law to be issued at a future date.

THE FOREGOING IS ORDERED THIS 4th DAY OF APRIL, 2007.


Thomas K. Milligan, Judge of the
Montgomery Circuit Court

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