

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

BONNIE HEATHER MILLER;
ROBERT WILLIAM ALLEN;
ADELLA DOZIER GRAY; and
ARKANSAS VOTERS FIRST

PLAINTIFFS

v.

No. 5:20-CV-05070

JOHN THURSTON, in his official
capacity as Secretary of State of Arkansas

DEFENDANT

ORDER

On May 25, 2020, the Court entered a preliminary injunction (Doc. 41) against Arkansas Secretary of State John Thurston in his official capacity. The preliminary injunction issued following the Court's finding that Plaintiffs were likely to prevail on their First and Fourteenth Amendment claims that the Arkansas initiative petition requirements of in-person signatures and sworn affidavits substantially burden core political speech and are not narrowly tailored to achieve the State's compelling interest in preventing fraud and maintaining the integrity of the initiative petition process.

On May 28, 2020, the parties informed the Court that neither party intended to introduce additional evidence, and neither had an objection to the preliminary injunction being converted into a final order. The Court requested that the parties file a notice to that effect. On May 29, 2020, the parties filed a notice (Doc. 43) jointly requesting that the Court treat the May 19, 2020 preliminary injunction hearing as a trial on the merits and enter final judgment in this case.

“The standard for issuing a preliminary or permanent injunction is essentially the same, excepting one key difference. A permanent injunction requires the moving party to show actual success on the merits, rather than the [likelihood] of prevailing on the merits required for a standard

preliminary injunction.” *Oglala Sioux Tribe v. C & W Enters., Inc.*, 542 F.3d 224, 229 (8th Cir. 2008). In light of the parties’ communication and notice, this requirement is satisfied. The Court incorporates its analysis and findings from the opinion and order granting a preliminary injunction into this order. Plaintiffs have shown that Arkansas’s initiative petition requirements of in-person signatures and sworn affidavits violate the First Amendment, as incorporated against the State by the Fourteenth Amendment.

IT IS THEREFORE ORDERED that the preliminary injunction entered by this Court will be made permanent by judgment entered separately. *See Bethune Plaza, Inc. v. Lumpkin*, 863 F.2d 525, 527 (7th Cir. 1988) (noting final declaratory or injunctive relief must be clearly set out in a judgment, rather than an opinion and order).

IT IS FURTHER ORDERED that because the parties agree that the preliminary injunction should be made permanent, the pending motion to dismiss (Doc. 35) is DENIED AS MOOT.

IT IS SO ORDERED this 29th day of May, 2020.

P. K. Holmes, III

P.K. HOLMES, III
U.S. DISTRICT JUDGE