

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND

SERENA BRYSON
6413 Cabin Branch Court
Capitol Heights, MD 20743

and

KIMBERLE D. FIELDS
41600 Shadrick Street, Apt. 600
Leonardtown, MD 20650

and

AMBER IVEY
1613 East 33rd Street
Baltimore, MD 21218

and

ROBERT SARTWELL
7258 214th Street
Pasadena, MD 21122

and

DONA J. SAUERBURGER
1606 Huntcliff Way
Gambrills, MD 21054

Plaintiffs,

v.

GOVERNOR WESTLEY W. MOORE
in his Official Capacity as
Chief Executive Officer,
STATE OF MARYLAND,
100 State Circle
Annapolis, MD 21401

and

MARYLAND STATE BOARD OF
ELECTIONS,
151 West Street

Case No.:

Suite 200
Annapolis, MD 21401

and

JARED DEMARINIS,
in his Official Capacity as Maryland State
Administrator of Elections,
Maryland State Board of Elections,
151 West Street
Suite 200
Annapolis, MD 21401

and

MICHAEL G. SUMMERS,
in his Official Capacity as Chairman,
Maryland State Board of Elections,
151 West Street
Suite 200
Annapolis, MD 21401

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, by and through their undersigned attorneys, bring this civil action against the Defendants, and state:

INTRODUCTION

1. This action challenges the “closed primary elections” in this State which are sponsored and held by the State Board of Elections on the grounds that these closed primary elections violate the Plaintiffs’ rights, as unaffiliated voters, to vote and participate in all elections held in the State as provided for in Article 1, Section 1 of the Maryland Constitution of 1867 and secured by Article 7 (the “Free Elections Clause”) and Article 24 (the “Equal Protection Clause”) of the Maryland Declaration of Rights.

2. Plaintiffs are five individual qualified voters who are registered as “unaffiliated” as

to any of the State-recognized political parties.

3. Plaintiffs, as unaffiliated voters, are not permitted to vote in the Statewide and most primary elections, according to the rules of the State-recognized political parties regarding eligibility to vote in the primary elections for local, state, and federal offices, which rules are endorsed and implemented by the Defendants. By excluding unaffiliated voters from participating in the primary elections, these elections are considered “closed primary elections.”

4. Plaintiffs seek a declaratory judgment that, as duly registered unaffiliated voters, these “closed primary elections” violate their constitutional right to vote as guaranteed by the State’s constitution, and seek permanent injunctive relief preventing Defendants from conducting, organizing or funding such “closed” primary elections.

JURISDICTION

5. Jurisdiction is conferred upon this Court pursuant to Md. Code Ann., Cts & Jud. Proc. § 1-501.

6. Venue is proper in this Court pursuant to Md. Code Ann., Cts & Jud. Proc. § 6-201.

FACTS

The Parties

7. Plaintiff Serena Bryson is a United States citizen and a resident of Prince George’s County, Maryland, and in all other respects is a qualified voter under the laws of the State of Maryland. She is and has been registered to vote as an unaffiliated voter in Maryland since 2018.

8. Plaintiff Kimberle D. Fields is a United States citizen and a resident of St. Mary’s County, Maryland, and in all other respects is a qualified voter under the laws of the State of Maryland. She is and has been registered to vote as an unaffiliated voter in Maryland since 2020.

9. Plaintiff Amber Ivey is a United States citizen and a resident of Baltimore City, Maryland, and in all other respects is a qualified voter under the laws of the State of Maryland. She is and has been registered to vote as an unaffiliated voter in Maryland since 2019.

10. Plaintiff Robert Sartwell is a United States citizen and a resident of Anne Arundel County, Maryland, and in all other respects is a qualified voter under the laws of the State of Maryland. He is and has been registered to vote as an unaffiliated voter in Maryland since 1997.

11. Plaintiff Dona J. Sauerburger is a United States citizen and a resident of Anne Arundel County, Maryland, and in all other respects is a qualified voter under the laws of the State of Maryland. She is and has been registered to vote as an unaffiliated voter in Maryland since 2008.

12. Defendant Governor Westley W. Moore, is the Chief Executive Officer of the State of Maryland and has a sworn responsibility for the execution of the laws and the Constitution of the State of Maryland.

13. Defendant Maryland State Board of Elections (“Board of Elections”) is responsible for conducting, overseeing, and funding elections within the State of Maryland.

14. Defendant Michael G. Summers is Chairman of the Maryland State Board of Elections, and is responsible for supervising and overseeing the conduct of elections within the State of Maryland.

15. Defendant Jared DeMarinis is the Maryland State Administrator of Elections, and is Maryland’s chief election official responsible for the conduct of elections in the State.

Voter Registration in Maryland and Registering as an Unaffiliated Voter

16. In Maryland, any person who is a United States citizen, a Maryland resident, and is at least 16 years old and will be at least 18 years old by the next general election, is eligible to register to vote. *See* EL § 3-102(a).

17. When a person registers to vote in Maryland, they have the option to register as being affiliated with any one of Maryland’s recognized political parties or to register as “unaffiliated.”

18. As of the 2024 statewide and local elections, Maryland recognized three political parties: the Democratic Party, the Republican Party, and the Green Party.

19. Over the past decade or so, there has been an increasing number of voters registering as “unaffiliated,” particularly true among the younger voter population. According to the Maryland Board of Elections Voter Registration Activity Reports, in 2012, 558,562 Maryland citizens were registered as unaffiliated as of February of that year, representing 16% of all registered voters;¹ as of February 2022 that number increased to 824,969 citizens registered as unaffiliated voters, representing 20% of all registered voters;² and, as of February 2025, that number increased further to 944,876 citizens registered as unaffiliated, representing 22% of all registered voters.³

Closed Primary Elections in Maryland

20. In Maryland, each recognized political party is required to hold primary elections for the purpose of selecting that party’s candidate to run in a general election. *See* EL § 8-202(a).

¹ [See https://elections.maryland.gov/pdf/vrar/2012_02.pdf](https://elections.maryland.gov/pdf/vrar/2012_02.pdf)

² [See https://elections.maryland.gov/pdf/vrar/2022_02.pdf](https://elections.maryland.gov/pdf/vrar/2022_02.pdf)

³ [See https://elections.maryland.gov/pdf/vrar/2025_02.pdf](https://elections.maryland.gov/pdf/vrar/2025_02.pdf)

21. The Maryland State Board of Elections, with the support of State-funds, organizes and holds these statewide and local primary elections in every even-numbered year. *See* EL § 8-201(a)(1).

22. Primary elections in Maryland are State elections. They are conducted by State officials, on ballots provided by the State, at times designated by the State, and are paid for with State funds.

23. Defendant Jared DeMarinis was reported in a 2024 Baltimore Sun article as saying the cost of the 2025 special election in Prince George’s County—just one County election—was likely to be four (4) million dollars, with two (2) million of that for the primary and two (2) million for the general election.⁴

24. More and more primary elections are becoming determinative of the outcome of the general election. Examples include:

(a) Eleven (11) of the fifteen (15) Baltimore City Councilmembers ran unopposed in the 2024 City Council General Election.⁵

(b) In St. Mary’s County, the candidate for State Senate ran unopposed in the 2022 General Election. Four (4) of the five (5) County Commissioners won their General Election by over 60% points, while the fifth ran unopposed as did the County’s State’s Attorney, Sheriff, Clerk of the Circuit Court, Clerk of the Orphan’s Court, Register of Wills, and the Treasurer in the same General Election.⁶

⁴ See Maryland's unaffiliated voters are left out of primary elections, but they still pay for them, Baltimore Sun (2024)

⁵ See Official 2024 Presidential General Election Results for Baltimore City, Maryland Board of Elections (https://elections.maryland.gov/elections/2024/general_results/gen_results_2024_by_county_3.html).

⁶ See Official 2022 Gubernatorial General Election Results for St. Mary’s County, Maryland Board of Elections (https://elections.maryland.gov/elections/2022/general_results/gen_results_2022_by_county_19.html)

(c) In Prince George’s County in 2022, every candidate for county-wide offices ran unopposed in the General Election, including the County Executive. Six (6) of the eight (8) State Senators won with over 90% of the vote with one candidate running unopposed and one winning with 87% of the vote. Every State Delegate ran unopposed while ten (10) of the eleven (11) County Council candidates ran unopposed while the one member with a challenger, won with 95% of the vote.⁷

25. As the above examples demonstrate, several Maryland jurisdictions have non-competitive General Elections. Accordingly, elected officials and candidates in these jurisdictions only need to appeal to an increasingly smaller group of hardcore party voters in their respective primary elections and so are not compelled to craft a message for a wider more diverse electorate. By broadening candidates’ appeal to a wider electorate—to include the 944,876 Maryland unaffiliated voters—voter participation in Primary Elections will likely increase.⁸

26. However, unaffiliated voters are prohibited from voting in State and local primary elections, thereby denying the rights of over a fifth of registered voters the ability to exercise their elective franchise to select their State and local leaders. As Judge Battaglia recognized (while seated in this Court) in reference to the Court’s duty, in *Szeliga, et al. v. Lamone, et al.*, Nos. C-02-CV-21-001816, C-02-CV-21-001773, 2022 Md. Cir. Ct. LEXIS 9, 53 (Mar. 25, 2022), quoting from *Kemp v. Owens*, 76 Md. 235, 241 (1892), “[t]he elective franchise is the highest right of the

⁷ See Official 2022 Gubernatorial General Election Results for Prince George’s County, Maryland Board of Elections (https://elections.maryland.gov/elections/2022/general_results/gen_results_2022_by_county_17.html)

⁸ See *Effects of Open Primaries on Turnout and Representation*, Bipartisan Policy Center (2024) https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2024/10/BPC_Ferrer-Unite-America-Grant_R04.pdf and See *Journal of Political Institutions and Political Economy*, https://commons.clarku.edu/faculty_political_science/19/

citizen and the spirit of our institution requires that every opportunity should be afforded to its fair and free exercise.”

27. State funding and sponsorship of elections of officers to private entities that exclude twenty-two (22) percent of registered voters are neither fair nor free.

28. The recognized political parties in the State are private entities that operate according to their own bylaws and internal governing rules and policies. According to the rules of each party, unaffiliated voters are prohibited from voting in that party’s primary elections. See Democratic Central Committee of Maryland – Maryland Democratic Party ByLaws, Art. II Membership (“The right to vote in the Party’s primary elections shall be extended to all individuals who shall have registered to vote as Democrats, and will be eligible to vote in the general election for which that primary will select the Party’s nominees.”);⁹ Rules of the National Republican Party, Rule 15(d) (“Only persons eligible to vote who are deemed as a matter of public record to be Republicans ... shall participate in any primary election ...”);¹⁰ Constitution and Bylaws of the Maryland Green Party, Art. 1, Sec. 3.2 Rights of Members (Members of the Maryland Green Party are entitled to...[v]ote in any party run primary.”)¹¹

29. The Board of Elections, through its website and printed materials, also advises registered voters in the State that “unaffiliated” voters are not able to vote in the Statewide and local primary elections.¹²

⁹ <https://mddems.org/wp-content/uploads/2022/01/Copy-of-Current-MDP-By-Laws-as-amended-12-11-2021.docx.pdf>

¹⁰ https://prod-static.gop.com/media/Rules_Of_The_Republican_Party.pdf

¹¹ <https://www.mdgreens.org/bylaws>

¹² https://elections.maryland.gov/voter_registration/index.html

30. These restrictions which exclude unaffiliated voters from voting in each party's primary elections were in effect for the primary elections held in previous election cycles, including, but not limited to, the 2022 and 2024 election cycles.

31. In addition, the State endorses and implements these rules which exclude unaffiliated voters from voting in primary elections – rules created by these private corporate entities – by conducting, organizing, holding, and funding Statewide and local primary elections in which unaffiliated voters are prohibited from voting.

32. As a result of the State-endorsed exclusion of unaffiliated voters from voting in primary elections, the Board of Elections conducts and holds Statewide and local primary elections that are “closed” to registered, unaffiliated voters.

33. This results in a situation where a segment of voters is not able to vote in a State election, but also in a situation where citizens' tax dollars are being used to fund and conduct an election in which they are prohibited from participating.

34. This process can be likened to taxpayers funding the selection of officers to private clubs or in this case to private entities.

Plaintiffs Were Prohibited from Voting In 2022 and 2024 Primary Elections

35. In 2022 and 2024, the Defendants conducted and held Statewide and local primary elections that were “closed” to registered, unaffiliated voters.

36. The Plaintiffs, all of whom were registered voters in Maryland and were otherwise qualified to vote in Statewide and local elections, were prohibited from voting in the 2022 and 2024 primary elections which were conducted and held by the Board of Elections, with the supervision and oversight of Defendant DeMarinis, Defendant Summers and, ultimately, Defendant Moore.

COUNT I
Violation of Maryland’s Free Elections Clause
(Maryland Declaration of Rights, Article 7)

37. Plaintiffs repeat and incorporate herein by reference each of the allegations set forth in each of the preceding paragraphs.

38. A Marylander’s right to vote is guaranteed and protected by the Maryland Declaration of Rights. Article 7 of the Maryland Declaration of Rights states:

That the right of the People to participate in the Legislature is the best security of liberty and the foundation of all free Government; for this purpose, elections ought to be free and frequent; and every citizen having the qualifications prescribed by the Constitution, ought to have the right of suffrage.

39. This constitutional provision not only guarantees that every citizen who is qualified to vote shall have the right to suffrage, but it also expressly states that this right is guaranteed because the right of the citizenry to participate in the legislative branch of the government “is the best security of liberty and the foundation of all free Government.” Md. Decl. R. Art. 7.

40. The Defendants, however, violated each Plaintiff’s right to vote under Article 7 by conducting, organizing, and funding, or allocating State funds to support, Statewide and local primary elections in 2022 and 2024 in which the Plaintiffs, as “unaffiliated” voters, were prohibited from voting.

41. The State of Maryland’s endorsed exclusion of “unaffiliated” voters from voting in the 2022 and 2024 primary elections violated the Plaintiffs’ Article 7 fundamental right of suffrage.

42. Plaintiffs seek both declaratory and injunctive relief to enjoin Defendants from conducting, organizing or funding State primary elections in which “unaffiliated” voters are prohibited from voting.¹³

WHEREFORE, Plaintiffs respectfully request this Honorable Court:

- A. Declare Defendants’ act of conducting, organizing, and funding State primary elections in which “unaffiliated” voters are prohibited from voting is unconstitutional in that it violates the Plaintiffs’ rights to vote as guaranteed by Article 7 of the Maryland Declaration of Rights;
- B. Enforce this declaratory judgment by enjoining Defendants from conducting, organizing or funding State primary elections in which “unaffiliated” voters are prohibited from voting.
- C. Award Plaintiffs such other and further relief as the nature of this cause and the claims asserted may require.

COUNT II
Violation of Maryland Voting Rights
(Maryland Constitution. Art. I § 1)

43. Plaintiffs repeat and incorporate herein by reference each of the allegations set forth in each of the preceding paragraphs.

44. In addition to the guarantees regarding the right of suffrage set forth in Article 7 of the Maryland Declaration of Rights, a Marylander’s right to vote in all State elections is guaranteed in Article I, Section 1 of the Maryland Constitution.

¹³ To be clear, Plaintiffs are not seeking to enjoin any of the State-recognized political parties from conducting primary elections or issuing rules that limit who can vote in their primary election. Rather, Plaintiffs seek to enjoin Defendants from using State funds to conduct primary elections as long as unaffiliated voters are prohibited from voting in those elections.

45. Article 1, Section 1 of the Maryland Constitution states:

All elections shall be by ballot. Except as provided in Section 2A or Section 3 of this article, every citizen of the United States, of the age of 18 years or upwards, who is a resident of the State as of the time for the closing of registration next preceding the election, shall be entitled to vote in the ward or election district in which the citizen resides at all elections to be held in this State. A person once entitled to vote in any election district, shall be entitled to vote there until the person shall have acquired a residence in another election district or ward in this State.

46. This constitutional provision guarantees that every citizen who is a resident of the State and at least 18 years of age is entitled to vote “at all elections to be held in this State.”

47. Statewide and local primary elections, like the ones held in 2022 and 2024, were “elections to be held in this State,” within the meaning of Article 1, Section 1 of the Maryland Constitution.

48. Thus, Plaintiffs, who were qualified under Article 1, Section 1 to vote as of the 2022 and 2024 primary elections, were entitled to vote in the 2022 and 2024 primary elections per Article 1, Section 1 of the Maryland Constitution.

49. The Defendants, however, violated each of the Plaintiffs’ right to vote in all elections held in the State as guaranteed by Article 1, Section 1 of the Constitution by conducting, organizing, and funding, or allocating State funds to support, Statewide and local primary elections in 2022 and 2024 in which the Plaintiffs, as “unaffiliated” voters, were prohibited from voting.

50. The State-endorsed exclusion of “unaffiliated” voters from voting in the 2022 and 2024 primary elections violated the Plaintiffs’ constitutionally protected right to vote in all elections held in the State.

WHEREFORE, Plaintiffs respectfully request this Honorable Court:

A. Declare that Defendants’ act of conducting, organizing, and funding State primary

elections in which “unaffiliated” voters are prohibited from voting is unconstitutional in that it violates the Plaintiffs’ rights to vote in all elections held in the State as guaranteed by Article 1, Section 1 of the Maryland Constitution;

- B. Enforce this declaratory judgment by enjoining Defendants from conducting, organizing or funding State primary elections in which “unaffiliated” voters are prohibited from voting.
- C. Award Plaintiffs such other and further relief as the nature of this cause and the claims asserted may require.

COUNT III
Violation of Equal Protection
(Maryland Declaration of Rights Art. 24)

51. Plaintiffs repeat and incorporate herein by reference each of the allegations set forth in each of the preceding paragraphs.

52. Article 24 of the Maryland Declaration of Rights guarantees “[t]hat no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.”

53. The protections afforded by Article 24 include and embody the principles of equal protection, as that term is defined and applied under Maryland law

54. Whereas Article 24 does not contain the phrase, “equal protection,” the Maryland Court of Appeals has held that “equal protection” is embodied in it and “deem[ed] it settled that this concept of equal treatment is embodied in the due process requirement of Article 24 of the Declaration of Rights.” *Att’y Gen. of Md. v. Waldron*, 289 Md. 683 (1981); *Bd. Of Supervisors of Elections of Prince George’s Cnty v. Goodsell*, 284 Md. 279, 293 n.7 (1979).

55. Defendants' endorsement, support, and funding of closed partisan primaries has had the effect of treating Plaintiffs, as a class, differently than voters who are registered with a State-sanctioned political party in violation of the Maryland Constitution and the guarantees secured by the Maryland Declaration of Rights.

56. The Defendants violated each of the Plaintiffs' equal protection rights by conducting, organizing, and funding, or allocating State funds to support, Statewide and local primary elections in 2022 and 2024 in which the Plaintiffs, as "unaffiliated" voters, were prohibited from voting.

57. The State of Maryland has no legitimate or compelling interest in supporting an unconstitutionally discriminatory primary election regime that infringes upon these Plaintiffs' (and over 944,000 other Marylanders') fundamental right to vote, simply based on their status as "unaffiliated" voters.

WHEREFORE, Plaintiffs respectfully request this Honorable Court:

- A. Declare that Defendants' act of conducting, organizing, and funding State primary elections in which "unaffiliated" voters are prohibited from voting is unconstitutional in that it violates the Plaintiffs' equal protection rights guaranteed by Article 24 of the Maryland Declaration of Rights;
- B. Enforce this declaratory judgment by enjoining Defendants from conducting, organizing or funding State primary elections in which "unaffiliated" voters are prohibited from voting.
- C. Award Plaintiffs such other and further relief as the nature of this cause and the claims asserted may require.

Respectfully Submitted,

DAVIS, AGNOR, RAPAPORT &
SKALNY, LLC

/s/ Michael W. Davis

Michael W. Davis (AIS No. 9806230131)
11000 Broken Land Parkway
Suite 600
Columbia, MD 21044
mdavis@darslaw.com

/s/ Boyd K. Rutherford

Boyd K. Rutherford (AIS No. 9707220001)
11000 Broken Land Parkway
Suite 600
Columbia, MD 21044
brutherford@darslaw.com

/s/ Eric W. Gunderson

Eric W. Gunderson (AIS No. 0012120262)
11000 Broken Land Parkway
Suite 600
Columbia, MD 21044
egunderson@darslaw.com

/s/ Hannah L. Martinson

Hannah L. Martinson (AIS No. 2412051168)
11000 Broken Land Parkway
Suite 600
Columbia, MD 21044
hmartinson@darslaw.com

Attorneys for Plaintiffs