

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

CARROLL BOSTON CORRELL, JR., on behalf  
of himself and others similarly situated,

Plaintiff,

v.

MARK R. HERRING, in his official capacity  
as Attorney General of the Commonwealth  
of Virginia,

MARC ABRAMS, in his official capacity as  
Commonwealth Attorney for the City of  
Winchester,

JAMES B. ALCORN, in his official capacity  
as Chairman of the Virginia State Board of  
Elections,

CLARA BELLE WHEELER, in her official  
capacity as Vice Chairman of the Virginia  
State Board of Elections,

SINGLETON MCALLISTER, in her official  
capacity as Secretary of the Virginia State  
Board of Elections, and

EDGARDO CORTEZ, in his official capacity  
as Commissioner of the Virginia  
Department of Elections,

Defendants.

Civil No. \_\_\_\_\_

**MOTION FOR TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 65(b), Plaintiff Carroll Boston Correll, Jr., hereby moves the Court to issue a Temporary Restraining Order and Preliminary Injunction enjoining Defendants, who are officials of the Commonwealth of Virginia, from enforcing a statutory provision, Code of Virginia § 24.2-545(D) (“Section 545(D)”), that imposes criminal penalties on a delegate to a national party convention who votes for a

candidate other than the one who received the most votes in the Virginia presidential primary.

Correll is a delegate to the Republican National Convention, which begins on July 18, 2016. Section 545(D) violates the First and Fourteenth Amendment rights of all Virginia delegates to the major parties' national conventions by barring them from voting in accord with their conscience, as well as party rules, for a party's nominee for President of the United States. Correll needs relief as soon as possible in advance of the Convention's July 18 start date. If Defendants are not enjoined before to that date, Correll and other Virginia delegates (who are members of a putative class Correll seeks to represent) will face the threat of criminal penalties for exercising their most fundamental rights at a time of enormous national political importance. The resulting injury constitutes *per se* irreparable injury. Defendants, by contrast, have no cognizable interest in enforcement of the challenged provision. Finally, the public interest strongly supports the right of party delegates, chosen by fellow party members, to vote their conscience when selecting the party's presidential nominee.

The Plaintiff is filing this motion concurrently with his complaint and has arranged for hand service of the complaint and motion on the Defendants, as well as courtesy copies of all pleadings via electronic mail, providing them notice of Plaintiff's motion. As "the potential incidental and consequential costs" of the requested injunction are zero, the Plaintiff respectfully requests that the Rule 65(c) bond amount be set at one dollar. *See Hoechst Diafoil Co. v. Nan Ya Plastics Corp.*, 174 F.3d 411, 421 n.3 (4th Cir. 1999). *See also International Controls Corp. v. Vesco*, 490 F.2d 1334 (2d Cir.1974) (approving district court's fixing bond amount at zero in the absence of evidence regarding likelihood of harm); *Hassay v. Mayor*, 955 F. Supp. 2d 505, 527 (D. Md. 2013) (in First Amendment case, setting security amount at one dollar).

In the event that the Court determines a hearing is necessary before ruling on Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction, the

Plaintiff requests that the Court schedule the hearing as promptly as possible and sufficiently in advance of the July 18 commencement of the Republican National Convention in order for the Plaintiff and class members to plan their participation in the Convention and, if necessary, to have the opportunity to see further judicial relief.

For the foregoing reasons, and as set forth in the accompanying Memorandum, this Motion for Temporary Restraining Order and Preliminary Injunction should be granted.

Dated: June 24, 2016

Respectfully submitted,

/s/ Mark W. DeLaquil  
DAVID B. RIVKIN, JR. (pro hac vice  
application forthcoming)  
ANDREW M. GROSSMAN (pro hac vice  
application forthcoming)  
MARK W. DELAQUIL (VA. BAR # 68088)  
RICHARD B. RAILE (VA. BAR # 84340)  
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*Attorneys for Plaintiff and the  
Proposed Class*

## CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2016, I am causing a copy of the foregoing motion and accompanying proposed order to be hand served on the following:

James B. Alcorn  
Singleton McCallister  
Clara Belle Wheeler  
Virginia Department of Elections  
Washington Building, First Floor  
1100 Bank Street  
Richmond, VA 23219

Mark R. Herring  
Attorney General of the Commonwealth of  
Virginia  
Attorney General's Office  
202 North Ninth Street  
Richmond, Virginia 23219

I hereby certify that on June 27, 2016, I am causing a copy of the foregoing motion and accompanying proposed order to be hand served on the following:

Marc Abrams  
Commonwealth Attorney for the City of Winchester  
24 Rouss Avenue, Suite 200  
Winchester, VA 22601

In addition, I hereby certify that on June 24, 2016, courtesy copies of the foregoing motion and accompanying proposed order will be served on all the above-listed Defendants by electronic mail.

/s/ Mark W. DeLaquil  
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