

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

Jonathan Cole, Katie Sullivan, and )  
Nathaniel Faflick, )  
 )  
Plaintiffs, )

vs. )

Case No. 5:19-cv-04028

Duane Goossen, in his official capacity )  
as Secretary of Administration; Tom )  
Day, in his official capacity as )  
Legislative Administrative Services )  
Director; and )  
Sherman Jones, Superintendent )  
of Kansas Highway Patrol, )  
 )  
Defendants. )

**PLAINTIFFS’ MOTION FOR TEMPORARY RESTRAINING ORDER**

For the reasons stated in Plaintiffs’ accompanying Memorandum of Law, Plaintiffs seek emergency relief that will allow them to exercise their simple First Amendment right to assemble in the Kansas Statehouse and engage in a non-disruptive protest by silently displaying handheld signs. Plaintiffs also respectfully request an immediate hearing at the court’s earliest convenience.

In particular, Plaintiffs move to enjoin enforcement of Defendants’ policies and practices that prohibit them from silently protesting Senators to debate and vote on HB 2066 during the legislative veto session which is scheduled to begin on May 1, 2019. Defendants’ policies codified in the Kansas Department of Administration Regulations and “Policy for Usage of

Statehouse and Capitol Complex” require: (1) individual and small groups to obtain prior approval in order to assemble or meet at the Statehouse and its grounds (K.A.R. 1-49-10) (“No person shall conduct *any* meeting, demonstration or solicitation...without prior permission of the secretary of administration of the secretary’s designee”); (2) permit applications to be submitted ten businesses days in advance of a Statehouse event (Rule 2(a)(i)); and (3) a legislative sponsor to endorse any event at the Statehouse (Rule 3(i)(ii)). The policies also grant the Secretary of Administration ultimate and standardless authority to approve or deny a permit application and empower Capitol Police to impose categorical bans on individuals from the Statehouse. Rule 2(e)(i); K.A.R. 1-49-9. Finally, Defendants categorically ban all signs inside the Capitol Complex. Rule 3(h)(xxii)(“no person will be allowed to bring personal signage to any building in the Capitol Complex. Security is authorized to confiscate signs.”).

By requiring Plaintiffs to obtain a prior approval for meetings and demonstrations involving only three people inside the Statehouse and anywhere on the grounds, Defendants impose an unnecessary and impermissible prior restraint on political expression at the core of First Amendment protection. Moreover, Defendants’ blanket prohibition on signs is not narrowly tailored to serve any significant government interest and prevents Plaintiffs from engaging in the exercise “of basic constitutional rights in their most pristine and classic form.” *Carey v. Brown*, 447 U.S. 455, 466-67 (1980). Finally, the standardless policy permitting Capitol Police to impose indefinite premises bans on members of the public for Statehouse policy violations, regardless of the severity of the violation, is vague, overbroad, and unconstitutionally suppresses core petitioning activities protected under the First Amendment without due process of law. Each of these infirmities render the Statehouse regulations and policies facially invalid.

Plaintiffs Jonathan Cole, Katie Sullivan, and Nathaniel Faflick are student activists who wish to engage in small, non-disruptive protests at the Kansas Statehouse. However, Defendants' rules prohibit them from exercising their First Amendment rights to assemble and protest. Plaintiffs had already moved for a preliminary injunction on April 4, 2019. Since their motion for a preliminary injunction, Plaintiffs' request for relief has become more urgent now that Senators are expected to debate HB 2066 on May 1, 2019. Plaintiffs notified Defendants of their intention to move for expedited proceedings on Wednesday April 10, 2019 when they gained certainty that the bill would be on the agenda during the veto session. Defendants' counsel offered to suspend enforcement of the constitutionally infirm policies during the veto session but was unable to secure the commitment of one their clients. Consequently, Plaintiffs now seek emergency relief.

Plaintiffs have demonstrated in their memorandum of law that they are substantially likely to prevail on the merits; Plaintiffs will suffer irreparable harm absent an injunction; the harm to Plaintiffs and members of the public wishing to assemble at the Statehouse outweighs any conceivable harm to the state; and the public interest supports the issuance of a preliminary injunction.

Accordingly, this Court should grant Plaintiffs' motion for a temporary restraining order prohibiting Defendants from enforcing the Act with respect to all individuals seeking to assemble at the Kansas Statehouse. Additionally, Plaintiffs respectfully request this Court to schedule an emergency hearing at its earliest convenience.

Respectfully submitted,

/s/ Lauren Bonds

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ATTORNEYS FOR PLAINTIFFS

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, on this 17th day of April, 2019, which will send a notice of electronic filing to all attorneys of record.

/s/ Lauren Bonds  
Lauren Bonds