

DISTRICT COURT CIVIL COVER SHEET

Nye County, Nevada
 Case No. CV24-04161
 (Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

| | |
|--|--|
| Plaintiff(s) (name/address/phone): American Civil Liberties Union of Nevada Foundation, 702-366-1226, 4362 W. Cheyenne Ave, North Las Vegas, NV 89032 | Defendant(s) (name/address/phone): The County of Nye Interim County Clerk, Cori Freidhof, 1520 E. Basin Avenue, Pahrump, NV 89060 775-482-8127 |
| Jacob Smith, 4362 W. Cheyenne Ave, North Las Vegas, NV 89032 | |
| E-mail address: | E-mail address: |
| Attorney (name/address/phone): Sadmira Ramic, Christopher Peterson 4362 W. Cheyenne Ave, North Las Vegas, NV 89032 | Attorney (name/address/phone): Nye County District Attorney, Brian Kuzi, 1520 Basin Ave #105, Pahrump, Nv. 89060 |
| Law Firm/Bar # 15984, 13932 | Law Firm/Bar # |
| E-mail address: ramic@aclunv.org | E-mail address: |

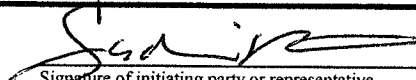
II. Nature of Controversy (Please Select the Primary Complaint or the One Most Applicable Case Type Below)

Civil Case Filing Types

| | | |
|---|---|--|
| <p>Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Foreclosure Mediation Assistance <input type="checkbox"/> Other Title to Property (e.g., Quiet Title) <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property | <p>Torts</p> <p>Negligence</p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p>Malpractice</p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice | <p>Other Torts</p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort |
| <p>Probate (select case type and estate value)</p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside () Surviving Spouse <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p>Estate Value</p> <input type="checkbox"/> \$300,000 or Greater <input type="checkbox"/> \$200,000-\$299,999 <input type="checkbox"/> \$100,001-\$199,999 <input type="checkbox"/> \$25,001-\$100,000 <input type="checkbox"/> \$20,001-\$25,000 <input type="checkbox"/> \$2,501-20,000 <input type="checkbox"/> \$2,500 or less | <p>Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p>Contract Case</p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract | <p>Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency (in Lower Court Proceedings) <p>Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p>Appeal Other</p> <input type="checkbox"/> Appeal from Justice/Municipal Court <input type="checkbox"/> Other Judicial Review/Appeal |
| <p>Civil Writ</p> <input type="checkbox"/> Writ of Habeas Corpus <input checked="" type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ | <p>Other Civil Filing</p> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters | |

Business Court filings should be filed using the Business Court civil coversheet.

9/10/2024
Date


Signature of initiating party or representative

See other side for family/juvenile-related case filings.

1 WMAN

2 SADMIRA RAMIC, ESQ.

Nevada Bar No.: 15984

3 CHRISTOPHER M. PETERSON, ESQ.

Nevada Bar No.: 13932

4 AMERICAN CIVIL LIBERTIES

UNION OF NEVADA

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7 Attorneys for Petitioners

FILED
FIFTH JUDICIAL DISTRICT

SEP 10 2024

Nye County Clerk
Brittani Smith Deputy

8 FIFTH JUDICIAL DISTRICT COURT

9 NYE COUNTY, NEVADA

10 AMERICAN CIVIL LIBERTIES UNION OF
11 NEVADA FOUNDATION, a domestic nonprofit
12 corporation, and JACOB SMITH, an individual,
Petitioners,

13 vs.

14 The COUNTY OF NYE, a governmental entity, and
15 CORI FREIDHOF, in her official capacity as
16 interim county clerk,
Respondents.

Case No.: CV24-0461

Department: 1

HEARING REQUESTED

ARBITRATION EXEMPTION
CLAIMED

IMMEDIATE ACTION
REQUESTED BY
OCTOBER 3, 2024

17 EMERGENCY PETITION FOR WRIT OF MANDAMUS TO COMPEL THE NYE
18 COUNTY CLERK'S OFFICE TO PERMIT OBSERVATION OF VOTING AND
19 PROCESSING OF BALLOTS DURING EARLY VOTING AND ELECTION DAY AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

20 The Petitioners, the American Civil Liberties Union of Nevada Foundation ("ACLU of
21 Nevada"), and Jacob Smith by and through counsel Sadmira Ramic, Esq., and Christopher M.
22 Peterson, Esq. of the American Civil Liberties Union of Nevada, hereby bring this Petition for
23 Writ of Mandamus (NRS Chapter 34) and Complaint for declaratory and injunctive relief (NRS
24 Chapter 33).

1 Petitioners are seeking an order declaring that Respondents violated NRS 293.274, NRS
2 293B.330, and Petitioners' right to access information pursuant to Article I, Section 9 of the
3 Nevada Constitution, when they prohibited the Petitioner Jacob Smith, in his capacity as an
4 observer for Petitioner ACLU of Nevada, from observing voting and the handling and processing
5 of ballots during the 2024 Presidential Preference Primary election due to Petitioner Smith's
6 categorization as a "nonpartisan" observer though space was available in the observation area.
7 Additionally, Petitioners seek a declaration that Nye County's policy limiting observer access
8 based upon whether an observer is observing on behalf of the Democratic Party, Republican Party,
9 or an organization Nye County classifies as "non-partisan" is viewpoint discrimination in violation
10 of Petitioners' free speech rights under the Nevada Constitution. Furthermore, Petitioners seek an
11 injunction enjoining Defendants from excluding Petitioners and other members of the general
12 public from observing the conduct of voting and the handling and processing of ballots during the
13 2024 General Election, and all elections going forward, when sufficient room exists in the
14 designated observation areas. Petitioners seek reasonable costs and attorneys' fees pursuant to
15 NRS 34.270, NRS 18.010, and 42 U.S.C § 1988(b). This Petition is supported by the pleadings
16 and papers filed with this Court, and any attached exhibits.

17 The Court should issue a writ of mandamus and order the requested relief as soon as
18 possible, but not later than October 3, 2024. If these violations are permitted to proceed, and if not
19 remedied before the start of early voting on October 19, 2024, individuals who intend on observing
20 the election process during the 2024 General Election face the imminent risk of having their
21 fundamental rights infringed upon. The time constraint, the inability to seek a remedy after the
22 election, and the importance of the upcoming election warrant a ruling on an emergency and
23 expedited basis.

1 INTRODUCTION

2 Transparency is essential in ensuring public trust in the administration of elections and has
3 been a hallmark of our democracy since our nation’s founding. Perhaps there is no greater example
4 of transparency than the opportunity for the public to observe the election process. By observing
5 our election procedures first-hand, people participate in our democracy, hold the government
6 accountable, and independently verify that our elections process is conducted accurately and fairly.

7 For Nevadans, NRS Chapters 293, 293B, and 293C protect the public’s right to access and
8 observe the administration of elections. These laws require county clerks to allow members of the
9 general public to observe the conduct of voting at a polling place and vote count centers, and
10 cannot prevent observers from communicating with individuals inside polling locations, including
11 election board officers, unless such action is explicitly limited or prohibited by Nevada law. No
12 law within the Nevada Revised Statutes authorizes a local government to limit these rights, let
13 alone impose limits based upon the political affiliation of the observer. Beyond statutory
14 protections, Article I, Section 9 of the Nevada Constitution protects the right to observe
15 governmental functions as a qualified right to access information fundamental to engaging in
16 traditional activities related to free speech and prohibits viewpoint discrimination based on
17 political affiliation in the absence of a compelling state interest served by a restriction narrowly
18 tailored to meet that interest.

19 Despite clear statutory and constitutional authority requiring election processes to be open
20 to observation by the public, the Nye County Clerk’s Office and then Clerk Mark Kampf blocked
21 Jacob Smith, an employee of the ACLU of Nevada carrying out the ACLU’s Voter Protection
22 Alliance Program, from observing election processes occurring at the Nye County Bob Ruud
23 Community Center during the February 2024 Presidential Preference Primary. According to Mr.
24 Kampf’s statements to Mr. Smith and later to the Nevada Secretary of State’s Office, the Nye
25 County Clerk’s Office maintains a policy admitting only one observer per political affiliation in

1 an observation area at a time. The County imposes this limitation, allowing only one “non-
2 partisan” observer at a time, even if there is space available for additional observers. In doing so,
3 Nye County violated Mr. Smith’s and the ACLU of Nevada’s right to observe the election process
4 pursuant to Nevada law, and unconstitutionally restricted their right to access information on
5 government activities.

6 Additionally, the Nye County Clerk’s Office has expressed that it will restrict access to
7 observe election procedures in future elections based upon whether the person is designated as a
8 Republican, Democrat, or non-partisan observer. In light of this admission, Petitioners reasonably
9 believe they will face similar unlawful restrictions on their rights during the upcoming 2024
10 General Election. Accordingly, Petitioners seek mandamus to affirm their statutory and
11 constitutional rights to observe voting and the processing of ballots at polling locations, and to
12 enjoin Defendants from continuing to commit clear violations of the law.

13 PARTIES

14 1. Petitioner, AMERICAN CIVIL LIBERTIES UNION OF NEVADA
15 FOUNDATION, is a domestic nonprofit, non-partisan organization that works to defend and
16 advance the civil liberties and civil rights, including the fundamental right to vote, of all Nevadans
17 operating in the State of Nevada.

18 2. Petitioner, JACOB SMITH, is a staff attorney employed by the ACLU of Nevada
19 who has routinely engaged and will continue to engage in observing elections in Nevada on behalf
20 of the affiliate through the ACLU of Nevada’s Voter Protection Alliance Program.

21 3. Respondent, COUNTY OF NYE, is a governmental entity organized and existing
22 under the laws of the State of Nevada.

23 4. Respondent, CORI FREIDHOF, is the interim clerk of Nye County and is the
24 primary election administrator for Nye County.

1 JURISDICTION & VENUE

2 5. The transactions and occurrences that give rise to the Petitioner's claims against
3 Respondent occurred in the City of Pahrump, Nye County, Nevada.

4 6. This Court has the authority to grant the writ relief requested herein pursuant to
5 NRS 34.160.

6 7. This Court has original subject matter jurisdiction over this request for declaratory
7 and injunctive relief under Article 6, Section 6, of the Constitution of the State of Nevada.¹

8 8. Venue is proper in this Court pursuant to NRS 13.020 and 13.040 because the
9 cause, or some part thereof, arose in the City of Pahrump, Nye County, Nevada.

10 STANDING

11 9. To have standing in Nevada courts, a plaintiff typically must show some injury,
12 that the injury is caused by the activity of which the plaintiff complains, and that the requested
13 relief will redress that injury. *See Nat'l Ass'n of Mut. Ins. Cos. v. Dep't of Bus. & Indus., Div. of*
14 *Ins.*, 139 Nev. Adv. Op. 3, 524 P.3d 470, 476 (2023).

15 **I. ACLU of Nevada Standing**

16 10. ACLU of Nevada has standing to bring this mandamus proceeding because it has a
17 beneficial interest in obtaining writ relief. *Id.*

18 11. Additionally, the ACLU of Nevada has standing under the traditional Article III
19 federal standing principle.

20 12. An organization has standing to sue on its own behalf for injuries the organization
21 has sustained, *Havens Realty Corp. v. Coleman*, 455 U. S. 363, 379, n. 19, 102 S. Ct. 1114, 71 L.
22 Ed. 2d 214 (1982), and on behalf of its members as an association. *Hunt v. Washington State Apple*
23 *Advertising Comm'n*, 432 U.S. 333, 343, 97 S.Ct. 2434, 53 L.Ed.2d 383 (1977); *Nat'l Ass'n of*
24 *Mut. Ins. Cos.*, 139 Nev. Adv. Op. 3, 524 P.3d at 476.

25 _____
¹ See also NRS 30.030 (Uniform Declaratory Judgments Act).

1 13. The ACLU of Nevada suffered a direct concrete injury when the Nye County clerk
2 denied the ACLU of Nevada’s employee, in his role as an election observer on behalf of the ACLU
3 of Nevada, access to the polling location.

4 14. The ACLU of Nevada will continue to suffer a direct concrete injury as long as Nye
5 County classifies the organization’s observers as “nonpartisan” and denies those observers access
6 to designated observation areas due to that classification when there is otherwise space in those
7 areas for additional observers.

8 15. ACLU of Nevada is a non-profit organization that works to defend and preserve the
9 individual rights and liberties that the Constitution and the laws of the United States guarantee
10 everyone in Nevada.

11 16. Protecting the fundamental right to vote is a core tenet of ACLU of Nevada’s work,
12 and the organization has frequently engaged in systemic work in furtherance of this mission.

13 17. For several years the ACLU of Nevada has run one of the largest non-partisan
14 election protection programs within the state, deploying observers across the state to monitor
15 polling locations and vote centers during elections.

16 18. The ACLU of Nevada will continue to carry out this program during the 2024
17 General Election and for all statewide elections for the foreseeable future.

18 19. Through its observers, the ACLU of Nevada receives actionable information on
19 issues that arise at the polling locations, gains an understanding of the election process in each
20 county, and can assist voters who are prevented from casting their ballot.

21 20. For example, in 2022, the ACLU of Nevada successfully litigated against Nye
22 County in *ACLU of Nev. v. Cnty. of Nye*, 519 P.3d 36 (Nev. 2022) which stemmed from an
23 unlawful hand count process observed by ACLU of Nevada observers at a Nye County central
24 counting place.

1 21. Mr. Smith played a vital role in carrying out this mission when he was sent to Nye
2 County to observe the election process as an ACLU of Nevada election observer.

3 22. Mr. Smith will carry out the same role during the 2024 General Election taking
4 place this November.

5 23. When the Nye County clerk denied Mr. Smith access to the observation area and
6 prevented him from fulfilling his role as an election observer, it directly affected and interfered
7 with the ACLU of Nevada’s core business activities and its right to access information and ideas.

8 24. Courts have found that the ACLU of Nevada has standing to challenge restrictions
9 on its expressive activities by government actors that violate constitutional free speech and
10 associational activities. *See ACLU v. City of Las Vegas*, No. CV-S-97, 2009 U.S. Dist. LEXIS
11 52131 (D. Nev. Mar. 17, 2009).

12 25. The ACLU of Nevada also has associational standing because a) its members would
13 otherwise have standing to sue in their own right; b) the interests the ACLU of Nevada seeks to
14 protect are germane to the organization’s purpose; and c) neither the claim asserted nor the relief
15 requested requires the participation of individual members in the lawsuit.²

16 26. “In First Amendment cases, ‘it is sufficient for standing purposes that the plaintiff
17 intends to engage in a course of conduct arguably affected with a constitutional interest and that
18 there is a credible threat that the challenged provision will be invoked against the plaintiff.’” *Am.*

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² “[W]e have recognized that an association has standing to bring suit on behalf of its members when: (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333, 343, 97 S.Ct. 2434, 53 L.Ed.2d 383 (1977); *Greater Birmingham Ministries v. Sec’y of State for State of Alabama*, 992 F.3d 1299, 1316 (11th Cir. 2021).

1 *C.L. Union of Nevada v. Heller*, 378 F.3d 979, 984 (9th Cir. 2004), citing *LSO, Ltd. v. Stroh*, 205
2 F.3d 1146, 1154–55 (9th Cir.2000).³

3 27. ACLU of Nevada’s members, and specifically those that volunteer as poll observers
4 through its non-partisan election protection program and intend on doing so during the upcoming
5 2024 General Election, face the imminent risk of being denied access to observe the voting process
6 in Nye County, in violation of their constitutional and statutory rights.

7 **II. Individual Plaintiff Standing**

8 28. Petitioner Jacob Smith has standing as an observer who was denied access to the
9 designated observation areas at Nye County’s designated polling location when he sought to
10 observe the voting process being administered by the Nye County Clerk’s Office during the 2024
11 February Presidential Preference Primary.

12 29. Mr. Smith will be present in Nye County to observe the election process during the
13 2024 General Election and faces the imminent risk of being unlawfully denied access again in
14 violation of his constitutional and statutory rights.

15 **STANDARD OF REVIEW – MANDAMUS**

16 30. A writ of mandamus may be issued by the court “to compel the performance of an
17 act which the law especially enjoins as a duty resulting from an office, trust or station; or to compel
18 the admission of a party to the use and enjoyment of a right or office to which the party is entitled
19 and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or
20 person,” when there is no plain, speedy, and adequate remedy in the ordinary course. NRS 34.160;
21 NRS 34.170.

22 31. It is within the court’s sound discretion whether to grant such relief. *Segovia v.*
23 *Eighth Judicial Dist. Court*, 133 Nev. 910, 911, 407 P.3d 783, 785 (2017). “Extraordinary writ

24 ³ The protections offered by Article 1, Section 9, of the Nevada Constitution are “co-extensive to”
25 those offered by the First Amendment of the United States Constitution. *S.O.C., Inc. v. Mirage
Casino-Hotel*, 117 Nev. 403, 415, 23 P.3d 243, 251 (2001).

1 relief may be available where there is no ‘plain, speedy and adequate remedy in the ordinary course
2 of law.’” *Id.* (quoting NRS 34.170 and NRS 34.330).

3 32. However, even when a legal remedy is available, the court can “still entertain a
4 petition for writ ‘relief where the circumstances reveal urgency and strong necessity.’” *Id.* (quoting
5 *Barngrover v. Fourth Judicial Dist. Court*, 115 Nev. 104, 111, 979 P.2d 216, 220 (1999)).

6 33. The court must examine each request for writ relief individually. *Jeep Corp. v.*
7 *Second Judicial Dist. Court*, 98 Nev. 440, 443, 652 P.2d 1183, 1185 (1982).

8 34. The court will generally exercise its discretion to consider an extraordinary writ
9 where an important legal issue that needs clarification is raised or to promote judicial economy
10 and administration. *State Office of the Attorney General v. Justice Court of Las Vegas Township*,
11 133 Nev. 78, 80, 392 P.3d 170, 172 (2017).

12 35. When a petition for extraordinary relief involves a question of first impression that
13 arises with some frequency, the interests of sound judicial economy and administration favor
14 consideration of the petition. *A.J. v. Eighth Judicial District Court in and for County of Clark*,
15 2017, 394 P.3d 1209, 133 Nev. 202, quoting *Cote H. v. Eighth Jud. Dist. Ct. ex rel. Cty. of Clark*,
16 124 Nev. 36, 175 P.3d 906 (2008).

17 STATEMENT OF FACTS

18 36. Jacob Smith is an employee of the ACLU of Nevada.

19 37. In his capacity as an employee of the ACLU of Nevada, he serves as a non-partisan
20 observer during elections.

21 38. The ACLU of Nevada’s observers observe the election process at polling locations
22 and ballot counting centers in the state of Nevada to ensure that the elections held in this state
23 comply with state and federal law.

24 39. These observations involve monitoring activity occurring during in-person voting
25 at polling locations include, but are not limited to, interactions between voters and poll workers,

1 the casting of a ballots by voters using electronic voting machines or paper ballots, and voters
2 returning completed ballots.

3 40. During the 2024 Presidential Preference Primary, Mr. Smith was assigned to
4 observe the election process at the Bob Ruud Community Center located at 150 NV-160 Pahrump,
5 NV 89060.

6 41. The Bob Ruud Community Center was a location designated as a polling site during
7 the 2024 Presidential Preference Primary Election.

8 42. In Nevada, all polling locations must have a designated area for observations close
9 enough for “meaningful observation” by the public. NAC 293.245.⁴

10 43. Nevada law does not require election officials to allocate space for observers based
11 on those observers’ political affiliation. In other words, no party is guaranteed space in the
12 observation areas and observation areas are not limited to partisan observers.

13 44. During the Presidential Primary, Nye County officials had arranged two designated
14 areas for observation at the Bob Ruud Community Center.

15 45. The first area, labeled the “check-in area,” was located in an open area inside of the
16 building where voters approached poll workers, provided them with the required information
17 needed to vote, and received their ballot.

18 46. This area had three seats available for observers.

19 47. The area had sufficient room for additional chairs to be added.

20 48. Observers seated in this area cannot see voters casting their ballots and returning
21 them upon completion. The second area, located in a separate and closed off room, included a
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24 ⁴ “Meaningful observation” means a person may observe the identification of voters who appear
25 at a polling place to vote, the distribution of a ballot or voting machine card to a voter, the
movement of a voter to a voting booth, the return of a ballot or voting machine card by a voter
and the exiting of a polling place by a voter. NAC 293.245 (9)(b).

1 mechanical voting device for disabled voters to cast their ballot and provided a space for voters to
2 fill out their paper ballot.

3 49. This area also had three seats available for observers.

4 50. This area also had sufficient room for additional chairs to be added.

5 51. When an observer shows up at a polling location and before entering into an
6 observation area, the observer must first check in with an election worker and sign an
7 acknowledgement form prescribed by the Nevada Secretary of State Office indicating they will
8 abide by the prescribed laws governing observations.

9 52. Mr. Smith visited the Bob Ruud Community Center on January 27, 2024, with the
10 intent to observe the voting proceedings occurring at that location.

11 53. Upon arriving at the facility, Mr. Smith, in accordance with the procedures set for
12 election observers, spoke first with a poll worker about observing the conduct of voting.

13 54. Mark Kampf, the Nye County clerk at the time, told Mr. Smith that Mr. Smith
14 would not be able to observe either the “check-in area” or the “voting area” because only one non-
15 partisan observer would be admitted into either area at a time and non-partisan observers had
16 already checked in to observe both areas prior to Mr. Smith’s arrival.

17 55. However, Mr. Smith observed that several chairs in the observation areas were
18 unoccupied at the time: two in the “check-in area” and two in the “voting area”.

19 56. Mr. Smith remained at the polling location and continued to request the opportunity
20 to observe.

21 57. He was eventually permitted to observe the “check-in area” but only because the
22 other non-partisan observer forfeited their seat after realizing that Mr. Smith would not have the
23 chance to observe.

24 58. Mr. Smith was not able to see voters filling out their ballots and returning them to
25 election officials from this area.

1 59. After stepping out briefly and returning, Mr. Smith was told he could not observe
2 either area because there were non-partisan observers already present.

3 60. Again, multiple chairs in both observation areas were unoccupied at the time.

4 61. Mr. Kampf continued to insist that he was permitted to restrict access in this
5 manner.

6 62. These restrictions were not isolated to the Presidential Preference Primary, and the
7 Nye County Clerk's Office intends to continue to implement these restrictions on observing in
8 future elections, including the 2024 General Election that will commence on October 19, 2024.⁵

9 63. On February 6, 2024, the ACLU of Nevada filed an election violation complaint
10 with the Nevada Secretary of State Office about a similar but separate incident after an observer
11 was not able to observe the election process at a Nye County polling location due to her political
12 affiliation even though there was available space in the observation area.⁶

13 64. The Nevada Secretary of State Office requested that the Nye County Clerk, Mark
14 Kampf, file a response to the Complaint.

15 65. Mr. Kampf issued a response and indicated that he can limit the number of
16 observers despite having available seats in the observation area because they "anticipated [having]
17 observers from the Major Political Parties [and he] did not want to ask them to leave later."⁷

18 66. On March 18, 2024, the Nevada Secretary of State Office closed the investigation
19 without taking action on Nye County's policy.⁸

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22 ⁵ On August 27, 2024, before commencing litigation, the ACLU of Nevada reached out to the
23 Interim Nye County Clerk, Cori Freidhof, via email and requested confirmation that the policy
24 will be implemented during the 2024 General Election. No response has been received. See
25 Exhibit 4.

⁶ See ACLU of Nevada Election Administration Violations in Nye County Complaint (No. C24-
22 SOS) attached here to as Exhibit 1.

⁷ See Nye County Clerk Response (No. C24-22 SOS) attached here to as Exhibit 2.

⁸ See Alleged Violation of Title 24 of NRS File C24-22 SOS attached here to as Exhibit 3.

1 67. On August 27, 2024, before commencing litigation, the ACLU of Nevada reached
2 out to the Interim Nye County Clerk, Cori Freidhof, via email and inquired whether the policy will
3 be implemented during the 2024 General Election. See Ex. 4.

4 68. No response to the email has been received by the ACLU of Nevada.

5 **LEGAL STANDARD AND AUTHORITY**

6 **I. Violation of NRS 293.274 and NRS 293B.330**

7 69. Petitioner re-alleges and incorporates by reference each and every allegation
8 contained in the paragraphs above as if fully set forth herein.

9 70. Here, there is no plain, speedy and adequate remedy in the ordinary course of law
10 as there is no other method to challenge the clerk's refusal to provide access to polling locations
11 for observation of the conduct of voting and processing of ballots.

12 71. There is also no speedy remedy because the early voting at polling locations in Nye
13 County, including the Bob Ruud Community Center, will begin October 19, 2024, only 40 days
14 from the filing of this petition.

15 72. Nevada laws governing elections mandate that the public be permitted access to
16 observe early voting, election day, and post-election procedures.

17 73. NRS 293.274 requires county clerks to allow members of the general public to
18 observe the conduct of voting at a polling place.

19 74. NRS 293B.330 mandates that "the county clerk allow members of the general
20 public to observe the handling of the ballots [...] if those members do not interfere with the
21 handling of the ballots."

22 75. No statutes within the Nevada Revised Statutes grant authority to county clerks, or
23 other election officials, to limit the rights of members of the public to observe the election process.

24 76. The Nevada Administrative Code does grant county clerks some discretion "to limit
25 the number of persons in the polling place who are observing the conduct of voting," but only "for

1 reasons of public safety, to protect voter privacy, or to maintain order.” NAC 293.245 (3)(a).
2 Neither Mr. Kampf nor anyone else in Nye County Clerk’s Office conveyed any such reasons to
3 Mr. Smith, nor did any such reasons exist when Mr. Smith was attempting to observe the conduct
4 of voting during the 2024 Presidential Preference Primary.

5 77. The Nye County Clerk’s Office violated NRS 293.274 and NRS 293B.330 when
6 it refused to allow Mr. Smith to observe the conduct of voting and handling of ballots by election
7 officials.

8 78. The sole reason given for refusing to allow Mr. Smith to observe the conduct of
9 voting was because another non-partisan observer was already present in the observer box.

10 79. When asked to explain why he was denying Mr. Smith access to the observation
11 area, the Nye County Clerk stated that he had the authority to limit the number of observers to only
12 one per political affiliation at a time.

13 80. The fact that multiple chairs remained unoccupied in the observation areas made
14 no difference to Mr. Kampf when he decided to deny Mr. Smith access to the observation areas as
15 Kampf insisted that the Office’s policy is not based on whether ample room exists for observations
16 but rather whether observers with the same political affiliation (or lack thereof) are observing at
17 the same time.

18 81. There is no legal authority under Nevada law that authorizes Nye County’s to limit
19 observer access based upon an observer’s political affiliation or ideology, and Mr. Smith’s rights
20 were violated when he was prohibited from observing solely on such grounds.

21 **II. Article 1, Section 9, of the Nevada Constitution**

22 **a. Right of Access to Observe Government Activities.**

23 82. Article 1, Section 9, of the Nevada Constitution states that “[e]very citizen may
24 freely speak, write and publish his sentiments on all subjects being responsible for the abuse of
25

1 that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press.”

2 Nev. Const. art. 1, § 9.

3 83. The protections offered by Article 1, Section 9, are “co-extensive to” those offered
4 by the First Amendment of the United States Constitution. *S.O.C., Inc.*, 117 Nev. at 415, 23 P.3d
5 at 251.

6 84. The First Amendment guarantees a qualified right of access for the public
7 to observe government activities. *See Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 100
8 S. Ct. 2814, 65 L. Ed. 2d 973 (1980) (holding that the First Amendment provides the public with
9 a right to attend a trial); *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 102 S. Ct. 2613
10 (1982) (recognizing “the common understanding that a major purpose of [the First]
11 Amendment was to protect the free discussion of governmental affairs when striking down a state
12 law that excluded the public from the trial testimony.”); *California First Amendment Coalition v.*
13 *Woodford*, 299 F.3d 868 (9th Cir. 2002) (affirming the district court’s conclusion prohibiting a
14 state prison “from preventing uninterrupted viewing of executions from the moment the
15 condemned enters the execution chamber through, to and including, the time the condemned is
16 declared dead.”); *Leigh v. Salazar*, 677 F.3d 892 (9th Cir. 2012) (“affirming that the Supreme
17 Court has long recognized a qualified right of access for the press and public
18 to observe government activities when analyzing whether restrictions at a horse roundup violated
19 a photojournalist’s First Amendment right of access.”).

20 85. A two-part test has been established for right of access claims. First, the court
21 must determine whether a right of access attaches to the government proceeding or activity by
22 considering 1) whether the place and process have historically been open to the press and general
23 public and 2) whether public access plays a significant positive role in the functioning of the
24 particular process in question. Second, if the court determines that a qualified right applies, the
25 government may overcome that right only by demonstrating an overriding interest based on

1 findings that closure is essential to preserve higher values and is narrowly tailored to serve that
2 interest. *Salazar*, 677 F.3d at 898.

3 86. This test has been applied to observations in various contexts- criminal and civil
4 proceedings, court documents, administrative proceedings, executions, and even wild horse
5 roundups conducted by the Bureau of Land Management in Nevada. *Press-Enterprise Co. v.*
6 *Superior Court of California (Press-Enterprise II)* 478 U.S. 1, 3–4 (1986) (criminal preliminary
7 hearings); *Courthouse News Serv. v. Planet*, 750 F.3d 776 (9th Cir. 2014) (public records and civil
8 proceedings); *First Amendment Coalition v. Ryan*, 938 F.3d 1069, 1075 (9th Cir. 2019), *citing*
9 *Woodford*, 299 F.3d at 875–77 (executions); *Leigh v. Salazar*, 677 F.3d 892 (9th Cir. 2012) (horse
10 roundups).

11 87. The administration of elections, including facilitating voting and processing
12 ballots, is a government activity to which the First Amendment right of access applies.

13 88. Polling locations are inherently open to the public, and the public has historically
14 been given the right to access information regarding the election process.

15 89. The voting process in early U.S. elections consisted of casting votes by speaking
16 the name of the preferred candidate out loud, a process known as *viva voce* voting. Green,
17 Rebecca, “Rethinking Transparency in U.S. Elections”, 75 Ohio St. L.J. 779, 784 (2014).

18 90. This process was a public act involving onlookers who observed the live voting. *Id.*
19 at 785.

20 91. While voting eventually shifted across the county to secret balloting, and it has
21 remained this way to date, *id.*, simply moving an government activity inside to a more restricted
22 area does not terminate the public’s right to access and observe that proceeding. *See First*
23 *Amendment Coal. of Ariz., Inc. v. Ryan*, 938 F.3d 1069 (9th Cir. 2019) (recognizing that public
24 observe executions remained intact even after the state moved executions from the public square
25 to the heavily restricted prison environment).

1 92. On the contrary, transparency in the election process did not fade, and poll
2 observers began to play a critical role in ensuring that it was preserved.⁹ *Id* at 789-792.

3 93. The goals of preserving election transparency are similar to those of criminal and
4 civil proceedings, court documents, administrative proceedings, executions, and government horse
5 roundups-ensuring public confidence in the government process and protecting the free discussion
6 of governmental affairs.

7 94. While maintaining order may be a sufficient government interest, the fact that other
8 individuals may come later requesting to observe the process is purely hypothetical.

9 95. Further, the Nevada Administrative Code already accounts for this interest,
10 providing clerks with some discretion to preserve public order. This administrative rule cannot be
11 read to invalidate Nevada's express statutory protection for the general public to engage in election
12 observation.

13 96. Regardless, the fact that someone else of a different political affiliation may show
14 up to engage in observation is not a compelling interest that warrants overriding the right of access
15 to the election process for observers who are present.

16 97. Indeed, it directly contradicts the process established by the Nevada Secretary of
17 State Office requiring observers to be rotated on an equitable basis.

18 98. A blanket denial of access to an observer is not narrowly tailored to serve the clerk's
19 interest in maintaining order. The county clerk at the time, Mark Kampf, indicated that he could
20 ask an observer to switch out if observers with a different political affiliation arrived and did not
21 have a chance to observe. See Ex 1.

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⁹ Congress recognized the importance poll observers serve and passed legislation authorizing the Civil Rights Division of the Department of Justice to send federal election observers to oversee elections by order of a federal court. *About Federal Observers and Election Monitoring*, DEPT OF JUST., <https://www.justice.gov/crt/about-federal-observers-and-election-monitoring> (last visited Aug. 20, 2024).

1 99. Whether a county clerk, or other officials who administer elections in Nevada, can
2 deny access to observers requesting to view the process of voting or handling of ballots when there
3 is available space to observe presents a question of first impression that arises with some
4 frequency, and thus favors consideration of the petition.

5 100. Whether Article 1, Section 9, of the Nevada Constitution guarantees a qualified
6 right to access election procedures is a question of first impression in Nevada, and thus favors
7 consideration of the petition.

8
9 **b. Viewpoint Discrimination in Violation of Article 1, Section 9, of the Nevada
10 Constitution.**

11 101. The First Amendment, applicable to the States through the Fourteenth
12 Amendment, prohibits the enactment of laws “abridging the freedom of speech.” U.S. Const.,
13 Amdt. 1.

14 102. Similarly, Article 1, Section 9 of the Nevada Constitution protects the general right
15 of the people to engage in expressive activities in this state.

16 103. Therefore, under the Nevada Constitution, the appropriate analysis for determining
17 whether restrictions on free speech constitute a violation is identical to that under the First
18 Amendment. *S.O.C., Inc.*, 117 Nev. at 415, 23 P.3d at 251.

19 104. The government “has no power to restrict expression because of its message, its
20 ideas, its subject matter, or its content.” *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015) citing
21 *Police Dep't of Chicago v. Mosley*, 408 U. S. 92, 95, 92 S. Ct. 2286, 33 L. Ed. 2d 212 (1972).

22 105. “Government discrimination among viewpoints – or the regulation of speech based
23 on the *specific motivating ideology* or the opinion or the perspective of the speaker – is a more
24 blatant and egregious form of content discrimination.” *Id.*, at 168 (quotation omitted) (emphasis
25 added).

1 106. Viewpoint-based regulations “are presumptively unconstitutional and may be
2 justified only if the government proves that they are narrowly tailored to serve compelling state
3 interests.” *Id.*, at 163 citing *R. A. V. v. St. Paul*, 505 U. S. 377, 395, 112 S. Ct. 2538, 120 L. Ed. 2d
4 305 (1992); *Simon & Schuster, Inc. v. Members of N. Y. State Crime Victims Bd.*, 502 U. S. 105,
5 115, 118, 112 S. Ct. 501, 116 L. Ed. 2d 476 (1991).

6 107. The Nye County Clerk’s Office grants access to observe its election process based
7 on the political affiliation of the individual, i.e. their ideology.

8 108. The policy explicitly targets certain speech for regulation based on the topic of that
9 speech, i.e. whether an individual is granted access is based on the individual’s political viewpoint
10 for engaging in observation, and therefore strict scrutiny applies.

11 109. Political belief and association constitute core free speech activities protected by
12 the First Amendment. *Elrod v. Burns*, 427 U.S., 347, 356 (1976).

13 110. No compelling interest exists in restricting access based on political affiliation, and
14 the policy of the Nye County Clerk’s Office is not narrowly tailored.

15 111. To the extent there is a compelling state interest in assuring observers representing
16 political parties and candidates or groups favoring or opposing a ballot proposition can equally
17 observe elections, and this may require clerks to provide accommodations based on political
18 affiliation, this is not at issue here because Nye County had ample room for observation at the time
19 Mr. Smith requested to observe.

20 112. The existence of adequate viewpoint-neutral alternatives “undercuts significantly”
21 any defense of a viewpoint-based regulation of speech. *See Sanders Cnty. Republican Cent.*
22 *Comm. v. Bullock*, 698 F.3d 741, 747 (9th Cir. 2012) (explaining that suitable neutral alternatives
23 generally undercut content-based discrimination) (quoting *R.A.V. v. City of St. Paul*, 505 U.S. 377,
24 395 (1992)).

1 113. Here, a viewpoint-neutral alternative, one acknowledged by Mr. Kampf, exists-
2 individuals may be given access to observe on a first-come-first-serve basis, and can be rotated
3 based on availability of seats in the observation area. *See Ex. 1.*

4 114. This is precisely the procedure outlined in the 2024 Election Manual drafted by the
5 Nevada Secretary of State Office to provide meaningful observations on an equitable basis. Nev.
6 Sec’y of State Off., 2024 Elections Procedure Manual (May 13, 2024).

7 115. Because the Respondents are engaging in viewpoint-based restriction of speech,
8 and alternative viewpoint-neutral channels exist, Petitioners are being denied their right of free
9 speech guaranteed by Article 1, Section 9 of the Nevada Constitution.

10 **REQUEST FOR RELIEF**

11 WHEREFORE, Petitioners, the ACLU of Nevada and Jacob Smith, ask for the following relief:

12 A. A declaration that Article 1, Section 9 of the Nevada Constitution guarantees a qualified
13 right of access for the public to observe the election process, including the handling, counting, and
14 casting of ballots;

15 B. A declaration that Respondents violated NRS 293.274 and NRS 293B.330 when they
16 prohibited Petitioner Smith from observing the conduct of voting during the 2024 Presidential
17 Preference Primary election;

18 C. A declaration that Respondents violated Petitioners’ right to access information under the
19 Nevada Constitution when they prohibited Mr. Smith, in his capacity as an ACLU of Nevada
20 employee, from observing the conduct of voting during the 2024 Presidential Preference Primary
21 election when there was space available in the observation areas located at the Bob Ruud
22 Community Center;

23 D. A declaration that denying an individual the opportunity to observe the election process at
24 polling locations and count centers based solely upon their political affiliation or lack thereof is
25

1 viewpoint-based discrimination that violates Petitioners' right of speech under the Nevada
2 Constitution;

3 E. An injunction enjoining Defendants from excluding Petitioners and other members of the
4 general public from observing the conduct of voting and the counting of votes during the 2024
5 General Election and all future elections if space exists in the designated observation areas for
6 observation;

7 F. An injunction enjoining Defendants from excluding Petitioners and other members of the
8 general public from observing the conduct of voting and the counting of votes during the 2024
9 General Election and all future elections based solely upon the individual's political affiliation or
10 lack thereof when room is otherwise available in the designated observation areas.

11 G. Award Petitioners their reasonable attorney's fees and costs incurred in this action as
12 provided by NRS 34.270, NRS 18.010, and 42 U.S.C § 1988(b); and

13 H. Such other and further relief as the court deems just and appropriate.

14 Dated this 10th day of September 2024.

15 This document does **not** contain the
16 Social Security number of any
17 person.

18 Pursuant to NRS 53.045, I declare
19 under penalty of perjury that the
20 foregoing is true and correct.

21 **AMERICAN CIVIL LIBERTIES
22 UNION OF NEVADA**

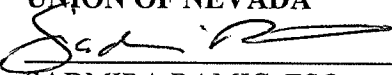
23 
24 SADMIRA RAMIC, ESQ.
25 Nevada Bar No. 15984
CHRISTOPHER PETERSON, ESQ.
Nevada Bar No. 13932
4362 W. Cheyenne Ave.
North Las Vegas, NV 89032
Telephone: (702) 366-1226
Facsimile: (702) 366-1331
Email: ramic@aclunv.org
Attorneys for Petitioners

EXHIBIT 1



STATE OF NEVADA
SECRETARY OF STATE
FRANCISCO V. AGUILAR

101 N. Carson St. Phone: 775-684-5705
 Carson City, NV 89701 Fax: 775-684-5718

nvelect@sos.nv.gov
 www.nvsos.gov

For official use only:

Received by: _____
 Date Received: _____
 Complaint Type: _____
 (Stamp here)

ELECTION INTEGRITY VIOLATION REPORT

The information you report on this form may be used to help us investigate violations of Nevada election laws. When completed, mail, email, or fax your form and supporting documents to the office listed above. Upon receipt, your complaint will be reviewed by a member of our staff. The length of this process can vary depending on the circumstances and information you provide with your complaint. The Office of the Secretary of State may contact you if additional information is needed.

INSTRUCTIONS: Please TYPE/PRINT your complaint in dark ink. You must write LEGIBLY. All fields MUST be completed.

SECTION 1.

COMPLAINANT INFORMATION

Salutation: Mr. Mrs. Ms. Miss

Your Name: Ramic Sadmira
 Last First MI

Your Organization, if any: ACLU of Nevada

Your Address: 4362 W. Cheyenne Ave. North Las Vegas NV 89032
 Address City State Zip

Your Phone Number: _____ (775) 828-2210
 Home Cell Work Fax

Email: ramic@aclunv.org Call me between 8am-5pm at: Home Cell Work

SECTION 2.

TYPE OF COMPLAINT

- | | |
|---|---|
| <input type="checkbox"/> Campaign Practices | <input type="checkbox"/> Voter Fraud |
| <input type="checkbox"/> Contributions / Expenses | <input type="checkbox"/> Initiative / Referendum Petition |
| <input type="checkbox"/> Voter Registration | <input type="checkbox"/> Financial Disclosure Statement |
| <input checked="" type="checkbox"/> Other | |

The administration of the 2024 Preference Primary Election in Nye County, Nevada.

SECTION 3.

COMPLAINT IS AGAINST

Please detail the nature of your complaint. Include the name and contact information (if known) of the individual, candidate, campaign, or group that is the subject of your complaint. Your complaint must also include a clear and concise statement of facts sufficient to establish that the alleged violation occurred. Any relevant documents or other evidence that support your complaint should be listed and attached. You may attach additional sheets if necessary.


Please see the attached letter.

SECTION 4.

Sign and date this form. The Secretary of State's Office cannot process any unsigned, incomplete, or illegible complaints. In order to resolve your complaint, we may send a copy of this form to the person or group about whom you are complaining.

I am filing this complaint to notify the Office of the Secretary of State of the activities of a particular candidate, campaign, individual or group. I understand that the information contained in this complaint may be used to establish violations of Nevada law in both private and public enforcement actions. I authorize the Office of the Secretary of State to send my complaint and supporting documents to the individual or group identified in this complaint.

By signing my name below, I certify under penalty of perjury that the information provided in this complaint is true and correct to the best of my knowledge.



Signature

Sadmira Ramic

Print Name

02/06/2024

Date (mm/dd/yyyy)

February 6, 2024

Nevada Secretary of State
c/o Mark Wlaschin
Office of the Secretary of State, Elections Division
101 North Carson Street, Suite 3 Carson City, Nevada 89701

Re: Election Administration Violations in Nye County

Dear Mr. Wlaschin:

I am the Voting Rights Attorney of the ACLU of Nevada, and I oversee the affiliate's non-partisan democracy program. The primary objective of the democracy program is to lead and support legal efforts throughout the state to ensure that every eligible voter in Nevada can cast a ballot and that elections are conducted fairly. This includes observing the administration of our elections at polling locations throughout the state. The purpose of this complaint is to seek a formal investigation into several violations of state election laws by Nye County Interim Clerk Mark Kampf while administering the 2024 Presidential Primary Preference Election.

On Saturday, January 27, 2024, one volunteer with our democracy program, and two with a partner organization, arrived at the Bob Ruud Community Center in Nye County to observe the election process. Almost immediately, they were met with antagonistic reactions from Mr. Kampf who would not permit more than two observers at a time, even though three empty chairs were visible in the observation box and no other people were there to observe. He incorrectly claimed that Nevada law permits him to turn away an observer if one from the same party is already observing the process. Per NRS 293.274, the county clerk must allow members of the general public to observe the conduct of voting at a polling place. This includes the ability to engage in written recordation of notes and communicating with voters and election boards officers. See SB 406, 2023 Reg. Sess. (Nev. 2023). NAC 293.245 further outlines the requirements for persons to conduct such observations and permits the county clerk to "limit the number of persons in the polling place who are observing the conduct of voting pursuant to this section for reasons of public safety or to protect voter privacy or maintain order." There was no indication that Mr. Kampf's refusal to permit observations had anything to do with public safety or voter privacy, especially given that approximately eleven voters voted within that hour.

The volunteers that were permitted to observe continued to perceive issues as the day went on. One very concerning matter involved a poll worker greeting voters as they entered the building. She was overheard telling voters that "if [they] are a Republican, [they] vote later in the caucus." Such misstatements would lead Republican voters to refrain from voting in the state run Presidential Primary Preference, and instead wait for the party run caucus.

Additional violations include:

- 1) Mr. Kampf engaged in several inappropriate conversations with voters in the vicinity of others, some of which included him criticizing the state's use of mail-in



4362 W. Cheyenne Ave.
North Las Vegas, NV 89032
702-366-1226
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ballots, the fact that he had to administer the Presidential Primary Preference instead of having a caucus “all because of the Democrats,” and that “by law, [he] only needs one polling location for early voting so [he] could really piss people off and put it in Beaty”;

- 2) Mr. Kampf continuously permitted voters to cast their ballots in candidate t-shirts, specifically Trump t-shirts, in violations of NRS 293.361; and
- 3) A car displaying Trump stickers remained parked directly next to the entrance of the polling location for the entire voting period and within the 100 ft electioneering sign. We later learned that the car belongs to a poll worker.



Nevada

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Such blatant disregard for election laws designed to preserve the integrity of our elections and allow voters to cast their vote freely and without coercion is increasingly concerning due to previous election administration violations by the county and the importance of the upcoming primary and general election.

We urge the Secretary to launch an investigation into these matters, and while hopeful that the necessary steps will be taken to remedy these deficiencies, we reserve the right to seek other remedies afforded under the law.

Sincerely,
/s/ Sadmira Ramic, Esq.
ACLUNV Voting Rights Attorney

EXHIBIT 2

| Complaint | Nye County Clerk Response |
|---|--|
| <p>On Saturday, January 27, 2024, one volunteer with our democracy program, and two with a partner organization, arrived at the Bob Ruud Community Center in Nye County to observe the election process. Almost immediately, they were met with antagonistic reactions from Mr. Kampf who would not permit more than two observers at a time, even though three empty chairs were visible in the observation box and no other people were there to observe.</p> <p>He incorrectly claimed that Nevada law permits him to turn away an observer if one from the same party is already observing the process. Per NRS 293.274, the county clerk must allow members of the general public to observe the conduct of voting at a polling place.</p> <p>This includes the ability to engage in written recordation of notes and communicating with voters and election boards officers. See SB 406, 2023 Reg. Sess. (Nev. 2023). NAC 293.245 further outlines the requirements for persons to conduct such observations and permits the county clerk to "limit the number of persons in the polling place who are observing the conduct of voting pursuant to this section for reasons of public safety or to protect voter privacy or maintain order."</p> <p>There was no indication that Mr. Kampf's refusal to permit observations had anything to do with public safety or voter privacy, especially given that approximately eleven voters voted within that hour.</p> | <p>NAC 293.245 3 a</p> <p>3. The county or city clerk may, at his or her discretion:</p> <p>(a) Limit the number of persons in the polling place who are observing the conduct of voting pursuant to this section for reasons of public safety or to protect voter privacy or maintain order.</p> <p>Nye Clerk Comment:</p> <p><i>The observers arrived shortly after the polls opened on the first day of voting. I asked that only one person from each organization observe at a time since we anticipated that we would have observers from the Major Political Parties. I did not want to ask them to leave later, but felt this would help maintain order.</i></p> <p>NAC 293.245 2 a 4</p> <p>2. Before observing the conduct of voting at a polling place pursuant to subsection 1, a person must sign an acknowledgment in the form prescribed by the Secretary of State stating that the person, during the time the person observes the conduct of voting:</p> <p>(a) Acknowledges that he or she is prohibited from:</p> <p>(4) Arguing for or against or challenging any decisions of county or city election personnel; and</p> <p>Nye Clerk Comment:</p> <p><i>The observer did not like the above response from the Clerk and became argumentative with the Clerk in violation of NAC 293.245 2 a 4.</i></p> <p>NAC 293.245 2 a 5</p> <p>2. Before observing the conduct of voting at a polling place pursuant to subsection 1, a person must sign an acknowledgment in the</p> |

| | |
|--|--|
| | <p>form prescribed by the Secretary of State stating that the person, during the time the person observes the conduct of voting:</p> <p>(a) Acknowledges that he or she is prohibited from:</p> <p>(5) Interfering with the conduct of voting; and</p> <p>Nye Clerk Comment:</p> <p><i>I had to ask the observer from the ACLU to stop disturbing, talking with and asking questions of one of my poll workers at check-in Kiosk 6.</i></p> |
| <p>The volunteers that were permitted to observe continued to perceive issues as the day went on. One very concerning matter involved a poll worker greeting voters as they entered the building. She was overheard telling voters that "if [they] are a Republican, [they] vote later in the caucus."</p> | <p>NAC 293.245 9 a 2</p> <p>9. As used in this section:</p> <p>(b) "Meaningful observation" means a person may observe the identification of voters who appear at a polling place to vote, the distribution of a ballot or voting machine card to a voter, the movement of a voter to a voting booth, the return of a ballot or voting machine card by a voter and the exiting of a polling place by a voter. The term does not include allowing a person to:</p> <p>(2) Listen to any conversation between election board officers or between a voter and an election board officer.</p> <p>Nye Clerk Comment:</p> <p><i>Voters were rightly confused about the Presidential Preference Primary slate of candidates and our election workers, like many throughout the state, had to deal with frustrated voters who did not understand the process.</i></p> <p><i>Again, this appears to be selective interpretation of the comments that they "listened to" when the deputized election worker was responding to a frustrated voter.</i></p> <p><i>All workers were instructed to tell voters to follow up with the GOP with any questions about the slate of candidates and where to resolve their concerns.</i></p> |

| | |
|---|---|
| <p>1) Mr. Kampf engaged in several inappropriate conversations with voters in the vicinity of others, some of which included him criticizing the state's use of mail-in ballots, the fact that he had to administer the Presidential Primary Preference instead of having a caucus "all because of the Democrats," and that "by law, [he] only needs one polling location for early voting so [he] could really piss people off and put it in Beaty";</p> | <p>NAC 293.245 9 a 2</p> <p>9. As used in this section: (b) "Meaningful observation" means a person may observe the identification of voters who appear at a polling place to vote, the distribution of a ballot or voting machine card to a voter, the movement of a voter to a voting booth, the return of a ballot or voting machine card by a voter and the exiting of a polling place by a voter. The term does not include allowing a person to: (2) Listen to any conversation between election board officers or between a voter and an election board officer.</p> <p>Nye Clerk Comment:</p> <p><i>I do not recall this conversation. However, I do not ignore direct questions from voters and respond in an honest manner.</i></p> <p><i>This appears to be selective hearsay that may have been taken out of context. If this is not hearsay, then the representative was in direct violation of (2) above.</i></p> |
| <p>2) Mr. Kampf continuously permitted voters to cast their ballots in candidate t-shirts, specifically Trump t-shirts, in violations of NRS 293.361; and</p> | <p>NRS 293.361 Electioneering prohibited near polling place;</p> <p>1. During the time a polling place for early voting is open for voting, a person may not electioneer for or against any candidate, measure or political party in or within 100 feet from the entrance to the voting area.</p> <p>Nye Clerk Comment:</p> <p><i>Trump was not a candidate on the ballot.</i></p> |
| <p>3) A car displaying Trump stickers remained parked directly next to the entrance of the polling location for the entire voting period and within the 100 ft electioneering sign. We later learned that the car belongs to a poll worker.</p> | <p>NRS 293.361 Electioneering prohibited near polling place;</p> <p>1. During the time a polling place for early voting is open for voting, a person may not electioneer for or against any candidate,</p> |

measure or political party in or within 100 feet from the entrance to the voting area.

Nye Clerk Comment:

Trump was not a candidate on the ballot.

EXHIBIT 3

FRANCISCO V. AGUILAR

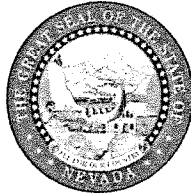
Secretary of State

MAGGIE SALAS CRESPO
Deputy Secretary for Southern Nevada

DEBBIE I. BOWMAN
Deputy Secretary for Operations

SHAUNA BAKKEDAHL
Deputy Secretary for Commercial Recordings

STATE OF NEVADA



OFFICE OF THE
SECRETARY OF STATE

GABRIEL DI CHIARA

Chief Deputy Secretary of State

ERIN M. HOUSTON
Deputy Secretary for Securities

MARK A. WLASCHIN
Deputy Secretary for Elections

March 18, 2024

Sadmira Ramic, Esq.
ACLU Nevada
4362 West Cheyenne Avenue
North Las Vegas, Nevada 89032
ramic@aclunv.org

Via Email Only

**Re: Alleged Violation of Title 24 of NRS
File C24-22 SOS**

Dear Ms. Ramic,

Thank you for contacting the Secretary of State's (SOS) office regarding your complaint of Voter Registration. The SOS office has finished its review of your Election Integrity Violation Report received February 6, 2024. This review included contacting Nye County Interim Clerk Mark Kampf for a response to your Report, a copy of the response is included with this letter.

Your complaint contains several allegations, which are addressed in turn.

First you claimed that on January 27, 2024, Interim Clerk Mark Kampf "would not permit more than two observers at a time, even though three empty chairs were visible in the observation box and no other people were there to observe." Pursuant to NAC 293.245(3)(a), a county clerk may, at his or her discretion, limit the number of observers to maintain order. Interim Clerk Kampf has explained that he limited representatives from organizations to one person to maintain order as he anticipated more observers from major political parties and did not want to have to ask an observer to leave if other observers arrived. The SOS does not find this to be a violation; asking observers to leave when they are in place can lead to confrontation and disruption, and imposing reasonable limits on the number of representatives from an organization can promote order, especially when observation areas may be limited.

Next, you claimed that observers overheard a poll worker discussing the Republican caucus with a voter, and Interim Clerk Kampf engaged in conversations with voters in the vicinity of others regarding election law requirements. As you may be aware, there has been voter confusion relating to the Republican candidate names on the presidential preference primary ballot; Republican candidates who participated in the caucus did not appear on the presidential preference primary ballot and vice versa. Without further context suggesting voter disenfranchisement, the SOS believes it is permissible for poll workers and county clerks to explain election processes and laws to voters. Interim Clerk Kampf has noted that all workers were instructed to tell voters to follow up with the Republican party with any questions about candidates and how to resolve their concerns.

NEVADA STATE CAPITOL
101 N. Carson Street, Suite 3
Carson City, Nevada 89701-3714

PAUL LAXALT BUILDING
COMMERCIAL RECORDINGS
401 N. Carson Street
Carson City, Nevada 89701

LAS VEGAS OFFICE
2250 Las Vegas Blvd North, Suite 400
North Las Vegas, Nevada 89030-5873

nvsos.gov

Finally, you claimed Interim Clerk Kampf violated NRS 293.361 by allowing voters to cast their ballots in Trump t-shirts and permitting a car with Trump stickers to be parked within the 100-foot electioneering sign. NRS 293.361(1) prohibits a person from electioneering "for or against any candidate, measure or political party in or within 100 feet from the entrance to the voting area." The Secretary of State interprets "candidate" in this context to mean a candidate on any ballot being voted on at that election. Mr. Trump was not a presidential preference primary candidate, and as a result, stickers, t-shirts, etc. with Mr. Trump's name were permitted.

The SOS, as Chief Election Officer for the State of Nevada, is responsible for enforcement of the election laws contained in Title 24 of the Nevada Revised Statutes (NRS 293.124). However, the allegations described in your complaint do not amount to a statutory violation under Title 24. As a result, no further action will be taken by this office and your file will be closed.

If you have questions regarding the determination in the matter, please contact the undersigned at (702) 486-0868 or at harrisd@sos.nv.gov.

Respectfully,

Francisco V. Aguilar
Secretary of State

By: *Darrell K. Harris*

Darrell K. Harris, Investigator: Elections

EXHIBIT 4

From: [Sadmira Ramic](#)
To: cafreidhof@nyecountynv.gov
Subject: RE: Nye County Observer Policy
Date: Tuesday, August 27, 2024 4:39:19 PM

Good afternoon,

My name is Sadmira Ramic, and I work at the ACLU of Nevada. The ACLU of Nevada runs a non-partisan election protection program which deploys observers across the state to monitor polling locations and vote centers during elections.

During the 2024 primary election, observers with the program arrived at the Bob Ruud Community Center in Nye County to observe the election process. The Nye County Clerk did not permit them to observe, stating that per the clerk's office policy, only one observer from each major party and one who identifies as non-partisan can observe at the same time. It is our understanding that this policy is being implemented even if a spot is not being occupied by the other party. For example, even if no Republican or Democratic party observers are occupying a seat in the "observer box," two non-partisan observers could not observe at the same time.

We intend on having observers in Nye County during the 2024 General Election. Can you please confirm whether this policy will be implemented during that time?

Please let me know if there is someone else within the office that I should reach out to with this concern.

Thank you,

Sadmira Ramic, Esq. (*she/her*)
Voting Rights Attorney
ACLU of Nevada
Phone: 702-366-1536
Direct: 702-830-9205
Fax: 702-366-1331
601 S. Rancho Drive, Suite B-11 | Las Vegas, Nevada 89106

EXHIBIT 5

**DECLARATION OF JACOB SMITH IN SUPPORT OF PETITION FOR WRIT OF
MANDAMUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE**

I, Jacob Smith, under penalty of perjury declare:

1. I am over the age of 18 and I am competent to testify.
2. I am a staff attorney of the American Civil Liberties Union (ACLU) of Nevada.
3. Part of my role as a staff attorney involves serving as a non-partisan observer during elections.
4. As an observer, I receive training each year on Nevada's election laws, the process for conducting observations, and how to report issues that may arise at polling location during my observations.
5. Observations consist of monitoring in-person voting at polling locations including, but not limited to, interactions between voters and poll workers, the casting of a ballots by voters using electronic voting machines or paper ballots, and voters returning completed ballots.
6. I am a paying member of the ACLU of Nevada.
7. I have personal knowledge of the facts set forth in this declaration.
8. I make this declaration in support of the Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief.
9. During the 2024 Presidential Preference Primary, I was assigned to observe the election process at the Bob Ruud Community Center located at 150 NV-160 Pahrump, NV 89060.
10. I visited the Bob Ruud Community Center located at 150 NV-160 Pahrump, NV 89060, on January 27, 2024.

11. The Bob Ruud Community Center is a location designated as a polling site during the early voting period and election day for the 2024 Nevada Primary Election.
12. The Bob Ruud Community Center had two designated areas for observation.
13. The first was labeled the “check-in area,” and was in an open area inside of the building where voters approached poll workers, provided them with the required information needed to vote, and received their ballot.
14. The second area, located in a separate and closed off room, included a mechanical voting device for disabled voters to cast their ballot and provided a space for voters to fill out their paper ballot and turn it in upon completion.
15. I approached the polling location and spoke with a poll worker about observing the conduct of voting.
16. Based on my observation, the check-in area was approximately 40 feet by 5 feet and ran along the entire south wall of the check-in room.
17. In previous years observing at the Bob Ruud Community Center, I have seen up to eight observers seated in chairs in the check-in area.
18. Based on my observation, the check-in area could have accommodated at least ten chairs for observation.
19. Based on my observation, the second area was around 20 feet by 3 feet and ran along east wall of the voting room.
20. Based on my observation, the second area could have accommodated at least six chairs for observation.
21. At the time I arrived to observe, three chairs for observing were available in each area.
22. Two chairs in each area were unoccupied.

23. Mark Kampf, the Nye County clerk at the time, stated that only one non-partisan observer can observe at a time.
24. Since I was classified as a non-partisan observer, Mr. Kampf did not allow me to observe the voting process because non-partisan observers had just checked in to observe those areas.
25. After waiting approximately five minutes, the non-partisan observer in the “check-in” area surrendered their seat so I could observe.
26. While observing, I had to step out briefly to make a phone call because the use of a mobile phone is prohibited in the observation area.
27. When I returned to continue observing, I was informed by the poll worker that I could not observe in either area because both areas had non-partisan individuals in the observation box.
28. There were two unoccupied chairs in the check in area.
29. There were also two unoccupied chairs in the voting area.
30. At no point did I see anyone sitting in the two unoccupied chairs.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 9th day of September 2024.



Jacob Smith

EXHIBIT 6

**DECLARATION OF ATHAR HASEEBULLAH, ESQ. IN SUPPORT OF PETITION
FOR WRIT OF MANDAMUS AND COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

I, Athar Haseebullah, Esq., under penalty of perjury declare:

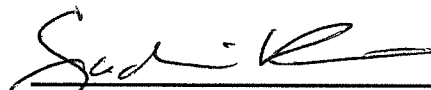
1. I am over the age of 18 and I am competent to testify.
2. I am the Executive Director of the American Civil Liberties Union (ACLU) of Nevada and an attorney licensed to practice before Nevada Courts.
3. I have personal knowledge of the facts set forth in this declaration.
4. I make this declaration in support of the Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief.
5. ACLU of Nevada is a non-partisan, non-profit organization with more than 4,000 members statewide that continually works to defend and advance the civil liberties and civil rights of all Nevadans.
6. The ACLU of Nevada has been at the forefront of numerous efforts surrounding voting rights, including as counsel for petitioners in *ACLU of Nev. v. Cnty. of Nye*, 519 P.3d 36 (Nev. 2022) and *Martin v. City of North Las Vegas*, No. A-21-845709-W (Eighth Jud. Dist. Ct. Clark Cnty., Nev. filed Feb. 4, 2022).
7. ACLU of Nevada's membership includes members who reside in Nye County.
8. Protecting the fundamental right to vote is a core tenet of ACLUNV's work, and ACLUNV has frequently engaged in *systemic* work in furtherance of this mission.
9. This includes running one of the largest non-partisan election protection programs within the state which deploys observers to monitor polling locations and vote centers during elections.

10. Through observations, the organization receives information on issues that appear at the polling locations, gains an understanding of the election process in each county, and can assist voters who are prevented from casting their ballot.
11. ACLU of Nevada has placed poll observers in Nye County to monitor the election process during primaries and general elections for several years including elections during the 2022 and the 2024 election cycles.
12. Poll observers working on behalf of the ACLU of Nevada include ACLU of Nevada employees, ACLU of Nevada members, and volunteers.
13. ACLU of Nevada deployed Jacob Smith, a staff attorney with the ACLU of Nevada, to the Bob Ruud Community Center located at 150 NV-160 Pahrump, NV 89060 during the 2024 Presidential Preference Primary.
14. Mr. Smith, in his capacity as an observer for the ACLU of Nevada, was sent to Nye County to monitor in-person voting at the Bob Ruud Community Center including, but not limited to, interactions between voters and poll workers, the casting of a ballots by voters using electronic voting machines or paper ballots, and voters returning completed ballots.
15. Mr. Smith visited the Bob Ruud Community Center located at 150 NV-160 Pahrump, NV 89060, on January 27, 2024.
16. Mark Kampf, the Nye County clerk at the time, denied Mr. Smith's request to observe the election process and stated that only one non-partisan observer can observe at a time.
17. Mr. Smith was denied access to observe even though unoccupied chairs remained in the observation area.

18. The denial of access to Mr. Smith constricted the ability of the ACLU of Nevada to carry out the intent of its election protection program including gathering information on Nye County's election procedures, assuring that the election is being administered in accordance with state and federal law, and that voters are not unlawfully denied the right to vote.
19. ACLU of Nevada will deploy observers through its election protection program to polling locations, including those located in Nye County, during the upcoming 2024 General Election.
20. ACLU of Nevada intends to send Mr. Smith to observe the election process in Nye County during the upcoming 2024 General Election.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 10th day of September, 2024.



On behalf of Athar Haseebullah, Esq.
Executive Director
American Civil Liberties Union of Nevada