

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DEAN FOX,

Plaintiff,

v.

REPRESENTATIVE JEREMY FAISON,
State Representative, representing the 11th
District of the Tennessee House of
Representatives, in his official capacity,

Defendant.

Case No.: 3:22-cv-00691

PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65(a), Plaintiff Dean Fox seeks a preliminary injunction ordering Defendant State Representative Jeremy Faison to unblock Mr. Fox from the “State Representative Jeremy Faison” official Facebook page and cease deleting protected comments on his official State Representative social media accounts when such blocking would violate the First Amendment’s prohibition on viewpoint discrimination. Representative Faison’s page is a public forum in which the Representative acts under color of state law. Therefore, deleting Mr. Fox’s comments and blocking Mr. Fox based on the viewpoints he expresses infringes on Mr. Fox’s First Amendment rights. In support of this motion, Plaintiff states as follows:

1. Defendant Jeremy Faison is the Representative for the 11th District in the Tennessee House of Representatives and operates a Facebook page entitled “State Representative Jeremy Faison” in his capacity as an elected official.
2. This page is “verified” by Facebook as belonging to a politician and includes Representative Faison’s government contact information, including his government-issued email address.
3. The “State Representative Jeremy Faison” official Facebook page is managed by three individuals, indicating that at least two people other than Representative Faison are involved in the page’s administration. At least one official on Representative Faison’s government staff list is specifically associated with media duties on her public LinkedIn profile.
4. Defendant, the House Majority Caucus Chairman and sponsor or co-sponsor of numerous House bills, uses the Facebook page to share policy positions, discuss legislation, promote businesses within his district, and examine other areas of public concern. Defendant also engages with constituents in need of assistance, offering help and encouraging them to contact his office.
5. On September 6, 2021, in response to a debate occurring between Representative Faison and another user on the page, Plaintiff posted a comment critical of Representative Faison, which was soon deleted by a page administrator. Plaintiff then posted another comment inquiring why his previous comment had been deleted. The second comment was also

deleted, and Plaintiff was thereafter immediately blocked from the “State Representative Jeremy Faison” official page.

6. Plaintiff’s comments were in compliance with Facebook’s Community Standards and contained no profanity, obscene references, or misrepresentations of fact.
7. Deleting Plaintiff’s comments and blocking Plaintiff from the official Facebook page constitutes impermissible viewpoint-based speech discrimination.
8. Plaintiff remains blocked from the page and is therefore unable to view or participate in public discourse and legislative discussions relevant to him as a Tennessee citizen and resident.
9. Plaintiff has been, and will continue to be, subjected to irreparable harm for which there is no adequate remedy at law unless and until this Court provides the injunctive relief requested.
10. The requested relief requires little time or effort and costs nothing to Defendant. Unblocking Plaintiff from the page can be achieved with a few simple clicks and an internet connection.
11. The vindication of constitutional rights is always in the public interest. Citizens have a strong interest in sharing viewpoints on matters of public interest, particularly in the weeks leading up to a general election.
12. All elements for the issuance of a preliminary injunction are present in this case: (1) a likelihood that Plaintiff will succeed on the merits; (2) Plaintiff will suffer irreparable harm

if the injunction is not granted; (3) granting the injunction will not cause substantial harm to others; and (4) granting the injunction advances the public interest.

Plaintiff respectfully requests that this Court enter a preliminary injunction enjoining Defendant from unconstitutionally deleting Plaintiff's comments and blocking Plaintiff from viewing and commenting on the "State Representative Jeremy Faison" Facebook page or other official State Representative social media accounts. A Memorandum of Law in Support of Plaintiff's Motion for Preliminary Injunction is filed herewith.

Respectfully submitted,

/s/ Susan L. Kay

Susan L. Kay

Susan.kay@vanderbilt.edu

Jennifer Safstrom*

Jennifer.safstrom@vanderbilt.edu

* *Tennessee admission and pro hac vice application pending*

Vanderbilt Law School Stanton Foundation First Amendment Clinic

131 21st Ave South

Nashville, TN 37203-1181

Telephone: (615) 322-4964

*William Anderson***

*Skylar Burton***

*Daniel Kopolovic***

*Jamie Michael***

*** These law students substantially assisted with the preparation of this filing. Application for limited admission is forthcoming pursuant to U.S. District Court Middle District of Tennessee Administrative Order No. 155-1.*