

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

RICHARD E. SUYDAM,)
)
 Plaintiff)
)
 v.) Civil No. 98-208-B
)
 SECRETARY OF STATE OF MAINE)
)
 Defendant)

ORDER DENYING PRELIMINARY INJUNCTION

BRODY, District Judge

Plaintiff Richard E. Suydam (“Plaintiff”), proceeding pro se, brought a Motion for Preliminary Injunction against the Secretary of the State of Maine, Dan A. Gwadowsky (“Defendant”), requesting that the Court enjoin the holding of a November 3, 1998 election for the office of sheriff in Washington County to permit review of the validity of Me. Rev. Stat. Ann. tit. 30-A, § 371-B.

For the reasons that follow, Plaintiff’s Motion for Preliminary Injunction is DENIED.

I. BACKGROUND

Plaintiff intended to run for the office of sheriff of Washington County, Maine, in the fall of 1998. Me. Rev. Stat. Ann. tit. 30-A, § 371-B sets forth the minimum qualifications required of a candidate for the office of sheriff in the state of Maine:

(3) Minimum qualifications for officers. A person may not . . . be a candidate for the office of sheriff . . . unless the candidate meets the following qualifications:

- A. The candidate swears to or affirms the Law Enforcement Code of Ethics.
- B. The candidate has never been convicted of a Class C or higher crime.
- C. The candidate applies to the Secretary of State for a criminal background investigation.

D. The candidate submits written certification from the Maine Criminal Justice Academy that the candidate has acquired the minimum college credits in required courses, training hours, and years of experience, or combination thereof, to qualify for an executive certificate under academy standards.

(4) Exception. Any person who is serving or who has previously served in the office of sheriff on the effective date of this section is deemed to meet the minimum qualifications

Me. Rev. Stat. Ann. tit. 30-A, § 371-B (West 1992 & Supp. 1997). Plaintiff received a letter from Defendant's office dated June 3, 1998, denying his petition to be placed on the November 3, 1998 ballot because he did not submit the required certification from the Maine Criminal Justice Academy. Plaintiff asserts that he was qualified to run for the office of sheriff prior to the passage of Section 371-B in 1997.

On October 16, 1998, Plaintiff filed a Complaint alleging that Section 371-B violated his rights under the Constitution and under the 1965 Voting Rights Act. Plaintiff appears to challenge the disparate treatment resulting from the exemption of incumbent candidates or persons who have previously served as sheriff from the requirements described above. Plaintiff's Complaint specifies relief in the form of placement on the November 3, 1998 general election ballot in Washington County as a candidate for the office of sheriff, and also appears to assert a claim for declaratory relief.

On October 27, 1998, one week before the election, Plaintiff submitted a Motion for Preliminary Injunction seeking a "temporary suspension" of the November 3, 1998 election pending the outcome of this suit. The general election was held on November 3, 1998. Plaintiff's name did not appear on the ballot and he received two write-in votes. Defendant filed an Opposition to Plaintiff's Motion for Preliminary Injunction on November 13, 1998, within the

time period specified under the Local Rules. Plaintiff did not file a Reply.

The term of office for county sheriff in Maine is four years. The next election for sheriff in Washington County will not occur until November, 2002, absent a resignation, removal, or other vacancy.

II. INJUNCTIVE RELIEF

To merit a preliminary injunction, a movant must demonstrate: (i) that irreparable harm will result to the movant if the injunction is not granted; (ii) that the harm to the movant from a denial of an injunction outweighs the harm to the defendant caused by a grant of injunction; (iii) that the movant is likely to succeed on the merits; and (iv) that a grant of an injunction would not adversely affect the public interest. See AFL-CIO Laundry & Dry Cleaning Int'l Union v. AFL-CIO Laundry, 70 F.3d 717, 718 (1st Cir. 1995).

III. DISCUSSION

The Court need not evaluate the above criteria because Plaintiff's Motion for a "postponement" of the election is moot. The election targeted by Plaintiff's Motion took place on November 3, 1998. The irreparable harm alleged by Plaintiff "is moot in the sense that a preliminary injunction would not prevent or remedy it." Numrich v. Gleason, 700 F. Supp. 512, 515 (D. Or. 1988). The Court is not in a position to grant Plaintiff the relief he seeks because the occurrence of the election eliminated the possibility of such relief.¹ See Freedom Party of New York v. New York State Bd. of Elections, 77 F.3d 660, 662 (2d Cir. 1996) (declining to review

¹ While the Court does not prefer to dispose of a Motion for Preliminary Injunction after the occurrence of the event which is the subject of that Motion, such a result was inevitable in this case, given that Plaintiff filed his Motion only a week before the election and Local Rule 7(b) accorded Defendant ten working days to file an Objection.

district court's grant, on the merits, of preliminary injunction because occurrence of election rendered appeal moot); Thournir v. Buchanan, 710 F.2d 1461, 1462-63 (10th Cir. 1983) (declining to review district court's denial, on the merits, of preliminary injunction because occurrence of election rendered appeal moot). Although the posture of this case differs from Freedom Party of New York and Thournir, preliminary injunction motions may be deemed moot for the same reason that appeals from rulings on preliminary injunction motions may be so characterized. See McDonough v. Widnall, 891 F. Supp. 1439, 1445 (D. Colo. 1995) (declining to find plaintiff's request for injunctive relief moot under factual circumstances presented); Medical Graphics Corp. v. SensorMedics Corp., 872 F. Supp. 643, 648-49 (D. Minn. 1994) (analyzing claim that preliminary injunction motion was moot); Numrich v. Gleason, 700 F. Supp. 512, 514-16 (D. Or. 1988) (holding that occurrence of action sought to be enjoined by plaintiffs rendered plaintiffs' preliminary injunction motion moot); United States v. Texas, 422 F. Supp. 917, 922 (S.D. Tex. 1976) ("the relief sought in the Motion for a Preliminary Injunction cannot now be granted and . . . the Motion is therefore moot").

The Court observes that Plaintiff's Complaint, which appears to assert an additional claim for declaratory relief, is still before this Court. The Court's determination that Plaintiff's Motion for Preliminary Injunction is moot is not a disposition of this claim for declaratory relief.

IV. CONCLUSION

For the reasons discussed above, Plaintiff Motion for Preliminary Injunction is DENIED.

SO ORDERED.

MORTON A. BRODY
United States District Court

Dated this 30th day of December, 1998.