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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BILL WALKER,

Plaintiff,

vs.

MEMBERS OF CONGRESS OF THE
UNITED STATES, et al.

Defendants

CASE NO. C04-1977RSM

MOTION K:

MOTION TO ENJOIN DEFENDANTS FROM
VIOLATION OF 42 U.S.C. 1985 AND
OTHER ENJOINMENTS

NOTE ON MOTION CALENDAR: NOVEM-
BER 5, 2004

ORAL ARGUMENTS REQUESTED

Motion is respectfully made to this court for order to enjoin defendants from interfering with a federal officer performing his duties under 42 U.S.C. 1985. The statute states (in part):

“(1) Preventing officer from performing duties—

If two or more person in any State or Territory conspire to prevent, by force, intimidate, or threat, any persons from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof;... (3)whereby another [citizen] is...deprive[d] of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more the conspirators.”

It is clear a convention is entirely federal in nature. The convention exists entirely within the Constitution. Its single function, that is the proposal of amendments to the United States Constitution, is entirely federal in nature. As such, it follows the officers of such a convention,

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1 that is the delegates elected by the people to represent them at such a convention, must be viewed
2 as federal officers performing the duties of their office which is to draft, consider and propose
3 amendments to the Constitution which then shall be submitted to the states by one of two meth-
4 ods which shall be chosen by Congress for possible ratification. It is also clear that once these
5 officers have completed such drafts, considerations and proposals, their office shall terminate as
6 the convention shall have no more business and therefore no constitutional basis for continued
7 existence.

8 However temporary the office, it nevertheless is a federal office subject to the same laws
9 as the defendants, i.e., 5 U.S.C. 7311. These delegates would, under 5 U.S.C. 3333, be required
10 to swear an oath of allegiance to the Constitution and be subject to the same penalties civil and
11 criminal as defendants.¹ As such, these delegates also are protected by the same laws which pro-
12 tect all federal officers in executing their official duties. One such law is 42 U.S.C. 1985.

13 Defendants have refused to call a convention as required by Article V of the Constitution.
14 This act of refusal prevents the election of delegates to a convention by the people. As these
15 delegates are federal officials and the law specifically refers to a conspiracy “to prevent, by
16 force, intimidation, or threat, any person from *accepting or holding any office...*” it is clear that
17 this act violates 42 U.S.C. 1985 in that no person can accept or hold the office of delegate be-
18 cause no election can be held to place the person in the office. Certainly they cannot “discharg[e]
19 any duties thereof” i.e., propose amendments to the Constitution for the same reason. In this
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23 ¹ This fact of federal statute goes far to explain why a convention will never be able to assume powers outside of
24 proposal amendments to the Constitution. Much of the fear expressed by many regarding a convention is that it
25 would somehow be able to “write” an new Constitution or remove, at its own discretion, rights guaranteed in the
Constitution, such as the Bill of Rights. The defendants have already established the government can do this by
claiming the right to ignore Constitution. But as has been shown in this suit, any person doing so faces several
criminal penalties. The same applies to any convention delegate who would attempt by any means, to overthrow our
constitutional form of government by unconstitutional means. Thus, any action to remove any language or right,
privilege or immunity by the convention other than by proposal of formal amendment would result in their arrest.
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1 manner, defendants exercise a subtle but nevertheless real form of political intimidation by con-
2 trolling all political change in this country, entirely contrary to the intent of the Founders.²

3 Defendants have engaged in a conspiracy to prevent the calling of a convention.³ and thus
4 satisfied 42 U.S.C. 1985 as to proof of violation. Plaintiff intends to seek the office of delegate to
5 a convention and thus he is a victim of this intimidation and illegal violation of civil rights by the
6 defendants.

7 For these reasons motion is made by Plaintiff for the court to enjoin defendants from in-
8 terfering in any manner with the election of delegates to a convention or preventing them in any
9 manner from discharging the duties of federal office. Further motion is made to enjoin delegates
10 from engaging in illegal acts such as defendants have done. Proposed order attached.

11 Dated this 4th day of November, 2004

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² See Brief, p.14.

³ See Motion C.

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1 PROPOSED ORDER TO ENJOIN DEFENDANTS FROM VIOLATION OF 42 U.S.C. 1985
2 AND OTHER ENJOINMENTS

3 This court finds defendants have violated the Constitution by their refusal to call a con-
4 vention as required by Article V of the Constitution. Among their other violations of federal stat-
5 ute, this court determines defendants have violated 42 U.S.C. 1985 in that their actions have pre-
6 vented by intimidation any person from accepting or holding the federal office of delegate to a
7 convention to propose amendments or discharging the duties thereof.

8 This court finds such acts to be illegal and hereby enjoins defendants from further such
9 actions. Defendants are ordered immediately to call a convention as specified in VOURT'S Writ
10 of Mandamus. Defendants are enjoined from interfering in any manner with the election of dele-
11 gates to a convention and enjoined with interfering in any manner with the discharge of duties by
12 those delegates.

13 This court orders that the duties of office of delegate to a convention shall be strictly to
14 propose amendments to the Constitution of the United States. Upon completion of such amenda-
15 tory proposals, the delegates shall no longer be considered federal officers as the convention
16 shall and must terminate having no other constitutional duties. A convention may not be re-
17 formed until new applications by the state legislatures which shall satisfy the two-thirds require-
18 ment specified in Article V of the Constitution shall be submitted by the legislatures.

19 Delegates to a convention are hereby ordered to take the oath of allegiance before assum-
20 ing the office of delegate under 5 U.S.C. 3333. It is further ordered that should any delegate or
21 delegates attempt by any unconstitutional means the overthrow of our constitutional form of
22 government which shall include but not be limited to declaring any portion of the Constitution
23 void, or asserting the creation of a new Constitution, they shall be liable under 5 U.S.C. 7311 for
24 removal from office and such criminal penalties as are prescribed by that statute.

25 It is so ordered.

1 Presented by:
2 Bill Walker, pro se
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4 Auburn, WA 98071-0698

5 Dated this day of , 2004

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8 UNITED STATES DISTRICT JUDGE
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