APPENDIX

EXHIBIT 1: Dismissal Order, *Heghmann v. Democratic National Committee*, U.S. District Court, Eastern District of Virginia

EXHIBIT 2 *Per Curiam* Order, *Heghmann v. Democratic Committee*, U.S. Court of Appeals for the Fourth Circuit

Exhibit 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

ROBERT A. HEGHMANN,

Plaintiff,

v.

ACTION NO. 2:18cv605

THE DEMOCRATIC
NATIONAL COMMITTEE, *et al.*,

Defendants.

DISMISSAL ORDER

This matter is before the Court on: (i) a Motion to Dismiss filed by the Democratic National Committee ("DNC"), DNC Chair Tom Perez, DNC Members Frank Leone and Doris Crouse-Mays, the Democratic Congressional Campaign Committee ("DCCC"), DCCC Chair United States Representative Ben Rey Lujan, and United States Representative Elaine Luria (collectively "Democratic Defendants"); (ii) a Motion to Dismiss filed by Cheryl L. Johnson, Clerk of the United States House of Representatives ("Clerk Johnson");[1] and (iii) a Motion for Declaratory Judgment and Injunctive Relief filed by *pro se* Plaintiff Robert A. Heghmann ("Plaintiff"). Democratic Defs.' Mot. Dismiss, ECF No. 18; Clerk Johnson's Mot. Dismiss, ECF No. 36; Pl.'s Mot. Declaratory J. & Injunctive Relief, ECF No. 21. The Court concludes

[1] Clerk Johnson is the current Clerk of the United States House of Representatives. Clerk Johnson's Mot. Dismiss at 1 n.1, ECF No. 36. The Amended Complaint in this action, filed before Clerk Johnson was sworn in to her position, identified the *former* Clerk of the United States House of Representatives, Karen Haas, as one of the named Defendants. Am. Compl., ECF No. 10. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Clerk Johnson has been substituted for Karen Haas as a Defendant in this action. *See* Fed. R. Civ. P. 25(d) (explaining that "when a public officer who is a party in an official capacity . . . ceases to hold office while the action is pending," "[t]he officer's successor is automatically substituted as a party").

that oral argument is unnecessary because the facts and legal arguments are adequately presented in the parties' briefs. For the reasons set forth below, the Democratic Defendants' Motion to Dismiss, ECF No. 18, is **GRANTED**; Clerk Johnson's Motion to Dismiss, ECF No. 36, is **GRANTED**; and Plaintiff's Motion for Declaratory Judgment and Injunctive Relief, ECF No. 21, is **DENIED**.

I. Factual and Procedural Background

In his Amended Complaint, Plaintiff identifies himself as a "[c]onservative" "supporter of Donald [T]rump," who "usually associates with Republican voters and candidates." Am. Compl. at 2, ECF No. 10. Plaintiff claims that "the leaders of the Democratic Party" "[r]efus[ed] to accept the result of the 2016 Presidential Campaign and the election of Donald J. Trump as President," and "were bound and determined to remove President Trump by [i]mpeachment." *Id.* at 4. Plaintiff claims that the DNC used the DCCC "to hijack the Primary Election System" in 2018 to ensure that the Democratic Party "gain[ed] control of the House of Representatives[,] where the process of [i]mpeachment begins."[2] *Id.*

Specifically, Plaintiff claims that the DCCC "studied the Cook Political Report and the 55 Districts in which Republicans were currently in office and where demographics might determine the outcome of the 2018 election." *Id.* Plaintiff claims that the DCCC "decided that their best chance to 'flip' those districts and others was to nominate white candidates, preferably women." *Id.* Plaintiff claims that the DCCC "selected 88 white candidates to the exclusion of candidates of color for its Red to Blue Program." *Id.* After receiving complaints from "civil rights groups" about the "'lily white' complexion of the Red to Blue Candidate List,"

[2] Although Plaintiff states that he "usually associates with Republican voters and candidates," Plaintiff later alleges that he "has been disillusioned with the Republican National Committee and Republicans in general," and that he "was shopping for a candidate closer to his views" "[d]uring the Primary Season in 2018." Am. Compl. at 2, ECF No. 10.

Plaintiff claims that the DCCC added "8 minority candidates to the Red to Blue Program to balance the ledger." *Id.* at 4–5. Plaintiff claims that this "Pre-Primary Selection Process" of the DCCC violated the Fourteenth and Fifteenth Amendments to the United States Constitution. *Id.* at 5.

Plaintiff further claims that the DCCC "corrupted the state primaries" by: (i) announcing its pre-primary "selection for the nomination to the exclusion of all other candidates;" (ii) "put[ting] enormous resources behind the Red to Blue Candidate[s];" and (iii) using "political muscle to force [other candidates] out of the race." *Id.*

Plaintiff's Amended Complaint contains three separate counts. *Id.* at 6–7. In Count 1, Plaintiff states: "The involvement of the DNC through the [DCCC] and its Red to Blue Candidates in the Primary Process violated Federal Law and the Constitution of the United States." *Id.* at 6. In Count 2, Plaintiff states: "The Pre-Primary Selection Process which systematically excluded Men and Women of Color violated Federal Law and the Constitution of the United States." *Id.* In Count 3, Plaintiff states: (i) the "Qualification Clause of the Constitution provides that the House of [R]epresentatives 'shall be composed of Members chosen . . . *by the People* of the several states;'" (ii) the Qualification Clause "appl[ies] to primaries as well as to the general election;" and (iii) "[b]y corrupting the primary process by using money and power to force candidates upon the people, the [DCCC] and its candidates violated the Qualification Clause." *Id.* at 7 (emphasis in original). As a result, Plaintiff claims that "the [DCCC] candidates[,] even where successful in the general election[,] are barred from Membership in the House of Representatives." *Id.*

As relief in this action, Plaintiff seeks:

> 1. A Declaratory Judgment declaring that the activities of the DNC and the [DCCC] in both the Pre-Primary and the State Primaries to be in violation of Federal Law and the Constitution of the United States;
>
> 2. A Declaratory Judgment that the nomination of the Red to Blue Candidates be declared Null and Void as obtained in violation of Federal Law and the Constitution of the United States;
>
> 3. A Preliminary and Permanent Injunction directing the Clerk of the House not to include the Red to Blue Candidates who allegedly received the most votes in the Roll of Members-Elect or Members;
>
> 4. An Order that the Candidates in the states where the Red to Blue Candidates were successful and who received the most votes without violating Federal Law and the Constitution of the United States be included in the Roll of Members-Elect and Members for the 116th Congress;
>
> 5. Such other relief that the Court deems appropriate; [and]
>
> 6. [An] [a]ward of court costs and expenses to the Plaintiff.

Id. at 7–8.

On January 22, 2019, the Democratic Defendants filed a Motion to Dismiss, and provided Plaintiff with a proper *Roseboro* Notice pursuant to Rule 7(K) of the Local Civil Rules of the United States District Court for the Eastern District of Virginia.[3] Democratic Defs.' Mot. Dismiss, ECF No. 18; E.D. Va. Loc. Civ. R. 7(K). Plaintiff filed a timely opposition to the Democratic Defendants' Motion to Dismiss ("Opposition"), and the Democratic Defendants filed a timely reply ("Reply"). Opp'n, ECF No. 22; Reply, ECF No. 24.

[3] The Democratic Defendants noted that Plaintiff is a "formerly licensed attorney," but provided Plaintiff with a *Roseboro* Notice "to the extent that Plaintiff is deemed a *pro se* party" under the Local Civil Rules. Democratic Defs.' Mot. Dismiss at 2 n.1, ECF No. 18. For purposes of this action, the Court will treat Plaintiff as a *pro se* litigant.

Along with Plaintiff's Opposition, Plaintiff filed a Motion for Declaratory Judgment and Injunctive Relief.[4] Pl.'s Mot. Declaratory J. & Injunctive Relief, ECF No. 21. The Democratic Defendants filed an opposition to Plaintiff's motion ("Opposition"), and Plaintiff filed a timely reply ("Reply").[5] Opp'n, ECF No. 26; Reply, ECF No. 28.

On June 5, 2019, Clerk Johnson filed a Motion to Dismiss, and provided Plaintiff with a proper *Roseboro* Notice pursuant to Local Civil Rule 7(K). Clerk Johnson's Mot. Dismiss at 1–2, ECF No. 36; E.D. Va. Loc. Civ. R. 7(K). Plaintiff filed a timely opposition to Clerk Johnson's Motion to Dismiss ("Opposition"), and Clerk Johnson chose not to file a reply. Opp'n, ECF No. 38. All pending motions are ripe for decision.

II. Motions to Dismiss

The Democratic Defendants and Clerk Johnson (collectively "Defendants")[6] argue that the Court lacks subject matter jurisdiction over this action because: (i) Plaintiff lacks standing to pursue this action; and (ii) Plaintiff's claims have been rendered moot. Mem. Supp. Democratic Defs.' Mot. Dismiss at 7–13, ECF No. 19. Additionally, they argue that Plaintiff's Amended

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[4] Plaintiff filed one combined document to serve as: (i) his opposition to the Democratic Defendants' Motion to Dismiss, and (ii) his Memorandum in Support of Motion for Declaratory Judgment and Injunctive Relief. To avoid confusion, the Clerk docketed this document twice. For purposes of this Dismissal Order, the Court will refer to ECF No. 22 as Plaintiff's Opposition to the Democratic Defendants' Motion to Dismiss, and will refer to ECF No. 23 as Plaintiff's Memorandum in Support of Motion for Declaratory Judgment and Injunctive Relief.

[5] On April 4, 2019, Plaintiff filed a document ("Request") in which he asks the Court to take judicial notice of an article from Politico.com that "concerns the plans by the [DCCC] to further restrict the choices available to voters in the 2020 Congressional elections." Req. at 1, ECF No. 29. The Court declines to take judicial notice of the article; however, the Court has considered the article in its analysis of the pending motions.

[6] Clerk Johnson incorporates the arguments raised by the Democratic Defendants into her Motion to Dismiss by reference. Mem. Supp. Clerk Johnson's Mot. Dismiss at 3, ECF No. 37. For ease of reference in this section of the Dismissal Order, the Court will refer to the Democratic Defendants and Clerk Johnson collectively as "Defendants," and will cite to the supporting briefs filed by the Democratic Defendants.

Complaint fails to state a claim on which relief may be granted. *Id.* at 14–17. For the reasons set forth in detail below, the Court finds that Plaintiff lacks standing to pursue this action. As a result, the Court lacks subject matter jurisdiction over this matter.

A. Standard of Review Under Federal Rule 12(b)(1)[7]

Dismissal is warranted under Rule 12(b)(1) of the Federal Rules of Civil Procedure for any claims over which the Court lacks subject matter jurisdiction. Fed. R. Civ. P. 12(b)(1). As the United States Court of Appeals for the Fourth Circuit has explained, standing "is generally associated with Civil Procedure Rule 12(b)(1)" because federal courts only have jurisdiction over "cases and controversies," and "standing is 'an integral component of the case or controversy requirement.'" *CGM, LLC v. BellSouth Telcoms., Inc.*, 664 F.3d 46, 52 (4th Cir. 2011) (citing *White Tail Park, Inc. v. Stroube*, 413 F.3d 451, 459 (4th Cir. 2005); *Miller v. Brown*, 462 F.3d 312, 316 (4th Cir. 2006)).

Plaintiff bears the burden of proving that subject matter jurisdiction exists by a preponderance of the evidence. *United States ex rel. Vuyyuru v. Jadhav*, 555 F.3d 337, 347–48 (4th Cir. 2009). A Rule 12(b)(1) motion to dismiss should be granted "only if the material jurisdictional facts are not in dispute and the moving party is entitled to prevail as a matter of law." *Evans v. B.F. Perkins Co.*, 166 F.3d 642, 647 (4th Cir. 1999) (quoting *Richmond, Fredericksburg & Potomac R.R. Co. v. United States*, 945 F.2d 765, 768 (4th Cir. 1991)).

[7] Because the Court grants the Motions to Dismiss pursuant to Federal Rule 12(b)(1), as explained herein, the Court need not address the standards for dismissal under the other Federal Rules identified in Defendants' motions.

B. Standing

A federal court does not have jurisdiction over an action unless the plaintiff establishes that he or she has standing under Article III of the United States Constitution. As courts have explained, there are three "irreducible minimum requirements" for Article III standing:

> (1) an injury in fact (*i.e.*, a "concrete and particularized" invasion of a "legally protected interest");
>
> (2) causation (*i.e.*, a "fairly . . . trace[able]" connection between the alleged injury in fact and the alleged conduct of the defendant); and
>
> (3) redressability (*i.e.*, it is "likely" and not merely "speculative" that the plaintiff's injury will be remedied by the relief plaintiff seeks in bringing suit).

Pender v. Bank of Am. Corp., 788 F.3d 354, 365 (4th Cir. 2015) (citing *Sprint Commc'ns Co., L.P. v. APCC Serv., Inc.*, 554 U.S. 269, 273–74 (2008)); *see also Wilmington Shipping Co. v. New England Life Ins.*, 496 F.3d 326, 334 (4th Cir. 2007).

Defendants argue that Plaintiff's alleged facts are insufficient to establish any of the three "irreducible minimum requirements" for Article III standing. Mem. Supp. Democratic Defs.' Mot. Dismiss at 7–8, 10–13. With respect to the injury requirement, Defendants state that it appears that Plaintiff is attempting to allege a "personalized injury" by claiming that: (i) "he 'has . . . aligned with Democrats' in the past" and was "shopping for a candidate closer to his views" "[d]uring the Primary Season in 2018;" and (ii) "he was injured by the Democratic Defendants' alleged activities with regard to the Red-to-Blue Program because it somehow denied him the chance to vote for a Democrat 'closer to his views.'" *Id.* at 10–11. Defendants further state:

> At the same time, [Plaintiff] appears to allege that he was injured by the Democratic Defendants because of their purported nefarious aim to "gain control of the House of Representatives," so that they might initiate impeachment of President Trump, whom [Plaintiff] supports. In other words, [Plaintiff] claims *both* to be injured because he was not able to vote for an (unidentified) Democrat who better aligns with his (self-described "Conservative") views, a fantasy candidacy that, if effective, would have

> had the *same effect* of putting another Democrat in the House of Representatives, and *also* to be injured because Democrats sought to – and were incredibly successfully in – reclaiming control of the House of Representatives.

Id. at 11 (citations omitted) (emphasis in original).

Defendants argue that Plaintiff's injury-related allegations are "contradictory," "non-sensical," and insufficient for standing purposes. *Id.* Defendants further argue that:

> several courts have recognized that, as a general rule, voters do not suffer a cognizable injury based on claims that their preferred candidate was put at a disadvantage, for the very reason that such theories necessarily "rest[] on gross speculation and [are] far too fanciful to merit treatment as an 'injury in fact.'"

Id. (alterations in original) (citing *Gottlieb v. Fed. Election Comm'n*, 143 F.3d 618, 620–21 (D.D.C. 1998); *Kelly v. Harris*, 331 F.3d 817, 820 (11th Cir. 2003); *Crist v. Comm'n on Presidential Debates*, 262 F.3d 193, 195 (2d Cir. 2001); *Colo. Taxpayers Union, Inc. v. Romer*, 963 F.2d 1394, 1395, 1397 (10th Cir. 1992)). Additionally, Defendants suggest that Plaintiff's alleged injury lacks the required particularization because Plaintiff has not identified:

> a single individual who, but for the Democratic Defendants' alleged actions, would have run for and been competitive for a congressional office that [Plaintiff] was eligible to vote for, would have met [Plaintiff's] narrow criteria for the type of Democrat with whom he would affiliate, [Plaintiff] would have voted for in the Democratic primary, and would have protected [Plaintiff] against the risk that impeachment proceedings against the President whom he supports might be initiated.

Id. at 11–12.

The Court finds that two of the cases cited by Defendants, *Crist* and *Gottlieb*, although not precedential, are particularly instructive. In *Crist*, a *pro se* plaintiff filed suit against the Commission on Presidential Debates ("CPD") and its director. *Crist*, 262 F.3d at 194. The plaintiff alleged that the CPD sponsored certain presidential debates, and limited participation in such debates to "candidates who ha[d] demonstrated a particular measure of popularity." *Id.*

The plaintiff claimed that the CPD's policy of limiting candidate participation violated his "right as a voter" because it prevented him from hearing "the third party candidates who may have much to contribute to an otherwise banal discussion." *Id.* The district court determined that the plaintiff's "asserted injury as a voter . . . [was] too abstract and attenuated to meet the standing requirements." *Id.* In affirming the decision on appeal, the United States Court of Appeals for the Second Circuit stated that "[s]everal other Circuit Courts have also concluded that a voter fails to present an injury-in-fact when the alleged harm is abstract and widely shared or is only derivative of a harm experienced by a candidate." *Id.* at 195.

Similarly, in *Gottlieb*, individual voters and organizations claimed that a rival political candidate's campaign violated certain campaign contribution laws. *Gottlieb*, 143 F.3d at 619. The district court dismissed the action for lack of standing. *Id.* at 620. On appeal, the United States Court of Appeals for the District of Columbia Circuit explained that, with respect to the voters, the alleged injuries consisted of (i) "a diminution in their ability to influence the political process;" and (ii) "a disadvantage" placed on "the candidates they supported." *Id.* The District of Columbia Circuit stated that the voters' "supposed injury" "rest[ed] on gross speculation and [wa]s far too fanciful to merit treatment as an 'injury in fact.'" *Id.* at 621. The District of Columbia Circuit further stated that the voters' claim that "their support for rival candidates was rendered less effective because the [other] campaign had greater funds with which to sway voters" rested on "a series of hypothetical occurrences, none of which [the voters] can demonstrate came to pass." *Id.*

In his Opposition, Plaintiff states that "the decision in this case will come down to [the Court's] interpretation of the facts in light of the Supreme Court [d]ecisions in *Smith v. Allwright*,

321 U.S. [64]9 (1944) and *Terry v. Adams*, 345 U.S. 461 (1945)."[8] Opp'n at 1, ECF No. 22. *Smith* and *Terry* involved challenges to discriminatory voting practices in the context of primary elections; however, the plaintiffs in *Smith* and *Terry* – unlike Plaintiff in this action – clearly established that they had standing to pursue the claims asserted therein.

In *Smith*, an African American citizen of Texas filed suit against "election and associate election judges" from his Texas precinct, claiming that the rules of the Democratic Party of Texas excluded him, based solely on his race and color, from participating in the primary election in July 1940 "for the nomination of Democratic candidates for the United States Senate and House of Representatives, and Governor and other state officers."[9] *Smith*, 321 U.S. at 651. The United States Supreme Court ultimately decided that such exclusion, based on race and color, violated the plaintiff's rights under the Fifteenth Amendment. *Id.* at 657–66. Similarly, in *Terry*, a group of qualified African American voters in Texas "sued to determine the legality of their being excluded, because of their race and color, from voting in elections held by an Association consisting of all qualified white voters in the County."[10] *Terry*, 345 U.S. at 461. As in *Smith*, the United States

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[8] In Plaintiff's Opposition to Clerk Johnson's Motion to Dismiss, Plaintiff argues that Clerk Johnson "[l]acks [s]tanding to [m]ove to [d]ismiss [the Amended Complaint] on the merits." Opp'n at 1, ECF No. 38. To support his argument, Plaintiff states that "[t]he Clerk has no dog in this fight," "has nothing at stake," "has no discretion," and was only "joined . . . as a defendant . . . so that if this Court finds in favor of the Plaintiff, this Court can impose a remedy" (*i.e.*, direct the Clerk "not to include the Red to Blue Candidates" in the "Roll of . . . Members"). *Id.* at 2–3; Am. Compl. at 8, ECF No. 10. Contrary to Plaintiff's argument, a defendant is clearly entitled to move for the dismissal of an action in which the defendant is a named party.

[9] The Democratic Party of Texas, which was required by law to hold primaries, had adopted a resolution that stated that only "white citizens of the State of Texas who are qualified to vote . . . shall be eligible [for] membership in the Democratic party and, as such, entitled to participate in its deliberations." *Smith v. Allwright*, 321 U.S. 649, 657–58 (1944).

[10] "The Association held an election in each election year to select candidates for county offices to run for nomination in the official Democratic primary," and "for more than 60 years, the Association's county-wide candidates had invariably been nominated in the Democratic primaries and elected to office." *Terry v. Adams*, 345 U.S. 461, 461 (1953).

Supreme Court determined in *Terry* that the exclusion of the African American voters violated the Fifteenth Amendment. *Id.*

Smith and *Terry* were brought by plaintiffs who alleged a clear, concrete, and particularized injury in fact – the denial of their individual voting rights based on their race and color. In this action, Plaintiff does not claim that he was denied the right to vote. Instead, Plaintiff appears to claim that the DCCC's decision to select and support its preferred candidates in advance of the primaries forced other candidates out of various races, and limited or altered Plaintiff's candidate options. Am. Compl. at 5. Such alleged injuries are akin to the injuries alleged in *Crist* and *Gottlieb*, which were determined to be insufficient injuries for standing purposes because they were too "abstract," "widely shared," "only derivative of a harm experienced by a candidate," based on "gross speculation," and/or "hypothetical." *Crist*, 262 F.3d at 195; *Gottlieb*, 143 F.3d at 621.

Plaintiff also attempts to establish standing by arguing that "[v]oters have an interest in candidate ballot access requirements because voting for their preferred candidate is one means through which voters exercise their constitutionally protected interest in associating with politically like-minded individuals."[11] Opp'n at 18. Plaintiff cites to a number of "ballot access" cases, including *Clements v. Fashing*, 457 U.S. 957 (1982), *Lubin v. Panish*, 415 U.S. 709 (1974), and *Bullock v. Carter*, 405 U.S. 134 (1972), and suggests that these cases support Plaintiff's position that he has standing to pursue this action. *Id.*

[11] In his Opposition, Plaintiff indicates that this particular language is quoted from a decision of the United States Supreme Court in *Clements v. Fashing*, 457 U.S. 957 (1982). Opp'n at 18, ECF No. 22. The Court notes that this quoted language does not appear in *Clements*, but appears to be quoted from Chapter 2 of an Election Law Manual available online at: http://www.electionlawissues.org/Resources/Election-Law-Manual.aspx.

In their Reply, Defendants argue that the principal cases relied upon by Plaintiff in his Opposition – *Clements*, *Lubin*, and *Bullock* – are inapposite because, among other things, they "involved challenges to state ballot access laws, whereby an aggrieved candidate who was denied access to the ballot, or an aggrieved voter who was unable to vote for a *particular* candidate, alleged they had been injured as a result." Reply at 3 (emphasis in original). Unlike the plaintiffs in the cases upon which Plaintiff relies, Defendants argue that Plaintiff: (i) "was not injured as a candidate who was denied access to the ballot," and (ii) "cannot bring a ballot access claim as a voter, because he has not identified a single candidate who was excluded from the ballot as a result of the discrimination he alleges" and for whom he intended to vote. *Id.* The Court agrees.

In *Lubin* and *Bullock*, individuals who sought to become candidates for office but could not afford to pay the statutorily required fees filed suit to challenge the constitutionality of the fee statutes. *Lubin*, 415 U.S. at 710–11; *Bullock*, 405 U.S. at 135–36. In *Clements*, a lawsuit was filed to challenge the constitutionality of two provisions of the Texas Constitution that placed a number of rules and restrictions on certain candidates for office. *Clements*, 457 U.S. at 960–61. The lawsuit was brought by: (i) four individuals who would have run for office but for the rules and restrictions; and (ii) twenty individual voters "who allege[d] that they would vote for the [four individuals] were they to become candidates." *Id.* at 961.

In analyzing the claims in *Clements*, *Lubin*, and *Bullock*, the United States Supreme Court recognized that ballot restrictions affect voters as well as candidates. *Clements*, 457 U.S. at 963 (recognizing the need to examine candidate restrictions in light of the "nature of their impact on voters"); *Lubin*, 415 U.S. at 716 (recognizing that the "right of a party or an individual to a place on a ballot . . . is intertwined with the rights of voters"); *Bullock*, 405 U.S. at 143 (recognizing the

impact of candidate restrictions on voters). However, if an affected voter wishes to file a lawsuit challenging the ballot restriction, the voter is nevertheless required to establish a clear, concrete, and particularized injury sufficient to establish standing. *Pender*, 788 F.3d at 365. The plaintiffs in *Clements*, *Lubin*, and *Bullock* consisted of either: (i) the "would be" candidates whose own candidacy was barred by a specific candidacy restriction, or (ii) voters who alleged that they were unable to vote for a specific candidate due to a specific candidacy restriction. *See Clements*, 457 U.S. at 961; *Lubin*, 415 U.S. at 710–11; *Bullock*, 405 U.S. at 135–36. In apparent recognition that the plaintiffs in *Clements*, *Lubin*, and *Bullock* alleged a clear, concrete, and particularized injury in fact, the respective defendants in these cases did not challenge the lawsuits on standing grounds.

Here, the Court recognizes that the alleged actions of Defendants could have *an effect* on Plaintiff as a voter. However, as noted above, an affected voter is nevertheless required to establish standing in order to proceed with a lawsuit, and the Court finds that Plaintiff's alleged injury in this case is too abstract and attenuated to constitute a clear, concrete, and particularized injury. Without a clear, concrete, and particularized injury, Plaintiff does not meet the standing requirements of Article III, and this Court lacks jurisdiction over this action.[12] Accordingly, the

[12] In his Opposition, Plaintiff also argues that he should be allowed to proceed with this case because "[t]he Supreme Court has . . . altered its traditional rule of standing in connection with statutes that are 'overly broad.'" Opp'n at 20, ECF No. 22 (quoting *Broadrick v. Oklahoma*, 413 U.S. 601, 612 (1973)). Plaintiff states: "The over[]breadth doctrine permits litigants 'to challenge a statute not because their own rights of free expression are violated, but because of a judicial prediction or assumption that the statute's very existence may cause others not before the court to refrain from constitutionally protected speech or expression.'" *Id.* (quoting *Broadrick*, 413 U.S. at 612). This action, however, does not involve a challenge to an allegedly overbroad statute. As such, Plaintiff has not established that the "traditional rule of standing" should be altered in this case.

Democratic Defendants' Motion to Dismiss, ECF No. 18, and Clerk Johnson's Motion to Dismiss, ECF No. 36, are **GRANTED**.[13]

III. Plaintiff's Motion for Declaratory Judgment and Injunctive Relief

As noted above, Plaintiff filed a Motion for Declaratory Judgment and Injunctive Relief, and supported his motion with the same document filed to oppose the Democratic Defendants' Motion to Dismiss. Pl.'s Mot. Declaratory J. & Injunctive Relief, ECF No. 21; Mem. Supp. Pl.'s Mot. Declaratory J. & Injunctive Relief, ECF No. 23. Because the Court has determined that Plaintiff lacks standing to pursue this action, Plaintiff's Motion for Declaratory Judgment and Injunctive Relief, ECF No. 21, is likewise **DENIED**.

IV. Conclusion

For the reasons set forth above, the Democratic Defendants' Motion to Dismiss, ECF No. 18, is **GRANTED**; Clerk Johnson's Motion to Dismiss, ECF No. 36, is **GRANTED**; and Plaintiff's Motion for Declaratory Judgment and Injunctive Relief, ECF No. 21, is **DENIED**.

Plaintiff may appeal from this Dismissal Order by forwarding a written notice of appeal to the Clerk of the United States District Court, Norfolk Division, 600 Granby Street, Norfolk, Virginia 23510. The written notice must be received by the Clerk within sixty days from the date of entry of this Dismissal Order. If Plaintiff wishes to proceed *in forma pauperis* on appeal, the application to proceed *in forma pauperis* shall be submitted to the Clerk of the United States District Court, Norfolk Division, 600 Granby Street, Norfolk, Virginia 23510.

[13] Because the Court finds that Plaintiff has not established the injury requirement for Article III standing, the Court need not address the other arguments for dismissal raised by Defendants.

The Clerk is **DIRECTED** to docket this Dismissal Order in the Court's electronic filing system.[14]

IT IS SO **ORDERED**.

/s/
Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia
Aug 27th, 2019

[14] On May 21, 2019, the Court granted Plaintiff's E-Noticing Request. Order at 3–4, ECF No. 34. Accordingly, when this Dismissal Order is docketed, Plaintiff and all counsel of record will receive an automatically generated e-mail message from the Court's electronic filing system containing a Notice of Electronic Filing, with a hyperlink to this Dismissal Order.

Exhibit 2

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-2211

ROBERT A. HEGHMANN,

Plaintiff - Appellant,

v.

DEMOCRATIC NATIONAL COMMITTEE; TOM PEREZ; FRANK LEONE; DORIS CROUSE-MAYS; DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE; REPRESENTATIVE BEN RAY LUJAN; ELAINE LURIA; CHERYL L. JOHNSON,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Arenda L. Wright Allen, District Judge. (2:18-cv-00605-AWA-LRL)

Submitted: March 25, 2020 Decided: May 18, 2020

Before MOTZ and THACKER, Circuit Judges, and SHEDD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Robert A. Heghmann, Appellant Pro Se. Sarah E. Clouse, Office of General Counsel, UNITED STATES HOUSE OF REPRESENTATIVES, Washington, D.C.; Marc Erik Elias, Elisabeth Carmel Frost, Alexi Machek Velez, PERKINS COIE LLP, Washington, D.C., for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert A. Heghmann appeals the district court's order dismissing his complaint. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Heghmann v. Democratic Nat'l Comm.*, No. 2:18-cv-00605-AWA-LRL (E.D. Va. Aug. 28, 2019). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED