

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

JOHN JAY HOOKER,)	
)	
Plaintiff,)	Civil Action No. 3-99-0794
)	Judge Thomas A. Higgins
v.)	
)	
FEDERAL ELECTION)	
COMMISSION, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**MOTION TO DISMISS OF DEFENDANTS
HOWARD PHILLIPS AND THE CONSTITUTION PARTY**

Defendants Howard Phillips and The Constitution Party, through their undersigned counsel, hereby move to dismiss this case against them pursuant to Rules 12(b)(1), 12(b)(2), and 12(b)(6), Federal Rules of Civil Procedure.

With respect to the specific grounds underlying their motion, these defendants state that the plaintiff's Amended Complaint herein against them should be dismissed for the following reasons:

(1) This Court lacks subject matter jurisdiction over the claims set forth in the Amended Complaint in that the plaintiff's claims are non-justiciable, generalized grievances, and plaintiff lacks standing to litigate such claims. Accordingly, the Amended Complaint should be dismissed. F.R.Civ.P. 12(b)(1). The plaintiff's attempt to re-litigate matters that have already been decided against them would also be barred under the doctrine of collateral estoppel.

(2) This Court has no personal jurisdiction over these defendants, in that the Amended

Complaint is devoid of any allegation of conduct undertaken by them within this Court's jurisdiction. Accordingly, the Amended Complaint should be dismissed against these defendants. F.R.Civ.P. 12(b)(2).

(3) The Amended Complaint fails to allege or complain of any act committed or engaged in by these defendants, and *a fortiori* fails to allege any act or to state any claim against them upon which relief can be granted. Furthermore, the plaintiff's claims are based upon the unconstitutionality of federal statutes that the United States Supreme Court has determined are constitutional. Accordingly, the Amended Complaint should be dismissed against these defendants. F.R.Civ.P. 12(b)(6).

WHEREFORE, defendants Howard Phillips and The Constitution Party pray that the Amended Complaint against them be dismissed, with prejudice, that all costs be assessed against plaintiff, and that these defendants be awarded their costs and such other relief as this Court deems just and lawful.

Respectfully submitted,

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