

NICOLE WINSTEAD, ET AL.

PLAINTIFFS

v.

NO. 4:07-CV-682-SWW

MARK STODOLA, ET AL.

DEFENDANTS

MOTION TO DISMISS PULASKI COUNTY DEFENDANTS

Come now Kent Walker, Martha McCaskill, Ozell Snider, and Susan Inman (hereinafter known collectively as "Pulaski County Defendants" unless otherwise specifically noted), Individually and in their Official Capacities, by and through their attorneys, and for their Motion to Dismiss Pulaski County Defendants, do state:

1. The Complaint fails to state a claim against the Pulaski County Defendants upon which relief can be granted, and, therefore, should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6).
2. The Pulaski County Defendants are only named because, according to the Plaintiffs, their service as Pulaski County Election Commissioners and the Director of Elections means "[t]hese defendants have oversight and are carrying out the execution of the special election relative to the complained of ordinance herein." *See Complaint, para. 6.*
3. The Complaint contains no other allegations pertaining to the Pulaski County Defendants.
4. At the hearing held on August 13, 2007, the Court declined to enjoin the August 14, 2007 election.

nominal parties were the election to be enjoined, the Court's decision not to issue an injunction has made their participation in this action moot.

WHEREFORE, the Pulaski County Defendants pray that they be dismissed from this action with prejudice and for all other just and proper relief to which they may be entitled.

RESPECTFULLY SUBMITTED,

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Pulaski County Attorney

and

Amanda M. Mitchell, ABN 97010

Assistant Pulaski County Attorney

CERTIFICATE OF SERVICE

I, Karla Burnett, do hereby certify on this 13th day of August, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which shall send notification of such filing to:

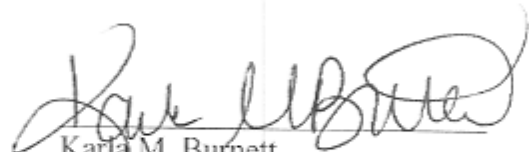
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In addition, I certify that on this 13th day of August, 2007, I mailed the foregoing and a copy of the Notice of Electronic Filing ("NEF") by United States Postal Service to the non-CM/ECF participants:

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Karla M. Burnett