

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

THE INDEPENDENT PARTY OF
FLORIDA and THE PARTY FOR
SOCIALISM AND LIBERATION,
Plaintiffs,

CASE NO: 4:20-cv-00110-MW-CAS

v.

LAUREL M. LEE, Florida
Secretary of State, in her official capacity,
Defendant.

SECRETARY’S SUPPLEMENTAL BRIEF ON STANDING

Defendant, Florida Secretary of State Laurel M. Lee, responds to this Court’s Order Requiring Supplemental Briefing (DE 21). This Court’s Order required supplemental briefing “that addresses the issue of whether, in light of *Jacobson*, [Plaintiffs] have standing” and “specifically address[es] the issue of whether their injury is traceable and redressable by Defendant [Secretary].” (DE 21).

Plaintiffs are minor political parties in Florida seeking access to its 2020 General Election Ballot for president. Minor political parties can access Florida’s General Election Ballot and consequently have their presidential candidate’s names printed thereon by *either*: 1) affiliation with a national party; or, 2) by petitions signed by one percent (1%) of the state’s electors (132,781). *See* Fla. Stat. §

103.021(4)(a) (affiliation) and (b) (petition). Plaintiffs challenge each of these alternative ballot access methods. (DE 1, ¶¶ 28-31 (Count I) and ¶¶ 32-35 (Count II)). The Secretary is the head of the Department of State, which is specifically tasked by the challenged statutory provisions as minor parties' qualifying officer for election to the Office of President and Vice President. Fla. Stat. § 103.021(4); Fla. Stat. § 20.10.

As to the national affiliation method, a minor party that is so affiliated “fil[es] with the Department of State a certificate naming [its] candidates for President and Vice President and listing the required number of persons to serve as electors” by September 1 of the election year. Fla. Stat. § 103.021(4)(a). The “Department of State” then “shall order the names of the candidates [so] nominated” and “shall permit the ... persons to be certified as electors...” *Id.*

As to the petition method, a minor party that is not affiliated with a national party submits petitions “signed by 1 percent of the registered electors of this state, as shown by” the Department’s compilation, to the respective supervisors of elections no later than July 15 of the election year. Fla. Stat. § 103.021(4)(b). The supervisors certify the number of signatories shown to be registered electors and then “shall forward the certificate to the Department of State, which shall determine whether or not the percentage ... has been met.” *Id.* If it has been met,

“the Department of State shall order the names of the candidates ... to be included on the ballot” and “shall permit the ... persons to be certified as electors...” *Id.*

The Secretary is therefore the proper party to defend the constitutionality of these access methods from attack. This is unlike *Jacobson* where the voters dictated the ballot order in partisan races based on the proceeding gubernatorial election and the supervisors of elections had a duty wholly independent of the Secretary to comply with the relevant statute in printing their respective ballots, and the relief sought would have necessarily enjoined the supervisors of election (not parties to the case) from ordering ballots consistent with the statute. *See Jacobson v. Lee*, Case No. 19-14552, Slip Op. at 24-30 (11th Cir. Apr. 29, 2020).

Respectfully submitted,

/s/ Ashley E. Davis

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(F), the undersigned certifies that this filing contains 567 words according to the word-processing system used to prepare it, excluding portions that do not count toward the limit. This filing also conforms to the format requirements of Local Rule 5.1(C).

/s/ Ashley E. Davis
ATTORNEY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to all counsel of record through the Court's CM/ECF system on this 21st day of May 2020.

/s/ Ashley E. Davis
ATTORNEY