

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

ANDREW S. DODGE and
DANELLE L. DODGE,
Plaintiffs,

v.

CASE NO: 6:22-cv-00221-WWB-DCI

LAUREL M. LEE, in her official
capacity as Florida Secretary of State, *et al.*,
Defendants.

_____/

MOTION TO DISMISS

Defendant, Florida Secretary of State Laurel M. Lee, pursuant to Rule 12(b)(6), Federal Rules of Civil Procedure, moves to dismiss the Complaint (DE 1) for failure to state a claim. The Complaint challenges the constitutionality of Florida's 365-day affiliation/disaffiliation requirement for partisan and non-partisan candidates, respectively, solely as an added qualification for federal office in violation of Article I, section 2, clause 2, U.S. Constitution. DE 1 at III & V; *see id.* (raising no other constitutional basis). The Supreme Court, however, has rejected the argument that such requirements are invalid, additional qualifications for office as "wholly without merit." *Storer v. Brown*, 415 U.S. 724, n.16 (1974). This is even cited and explained in *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 828-29 (1995), the case relied upon by Plaintiffs to support their action, *see* DE 1 & 1-1 ("Exhibit 3"). An affiliation / disaffiliation requirement is not a qualification for office and therefore does not violate Article I, section 2, clause 2.

WHEREFORE, the Secretary respectfully requests that the Court grant this Motion and dismiss the Complaint.

LOCAL Rule 3.01(g) CERTIFICATION

I hereby certify that I conferred with *pro se* Plaintiffs by telephone on March 1, and Plaintiffs oppose this Motion.

/s/ Ashley E. Davis
Attorney

March 2, 2022

Respectfully submitted,

/s/ Ashley E. Davis
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Counsel for Secretary of State

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 2nd day of March 2022.

/s/ Ashley E. Davis
Attorney