

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VOTING RIGHTS DEFENSE PROJECT,
AMERICAN INDEPENDENT PARTY,
CLARA DAIMS, and SUZANNE
BUSHNELL,

No. C 16-02739 WHA

Plaintiffs,

v.

ALEX PADILLA, in his official capacity
as Secretary of State and an indispensable
party, TIM DUPUIS, in his official
capacity as chief of the Alameda County
Registrar of Voters, JOHN ARNTZ, in his
official capacity as Director of the San
Francisco Board of Elections, and DOES
I-X,

ORDER DISMISSING ACTION

Defendants.

Plaintiffs commenced this action seeking injunctive relief pertaining to the California presidential primary, which has come and gone as of June 7. The specific relief sought pertained to the dissemination of information regarding the availability of so-called “crossover ballots” to voters that had declined to affiliate with a political party upon registering to vote (or who had later withdrawn such an affiliation). Crossover ballots allowed these no-party-preference voters to vote in the presidential primaries of the Democratic Party, the American Independent Party, or the Libertarian Party, each of which had elected to accept crossover ballots. (The Republican Party did not.) Plaintiffs contend the information disseminated by certain election officials, including our defendants, inadequately informed no-party-preference voters of the availability of crossover ballots and other related procedures.

1 At a hearing on June 1, the Court denied plaintiffs' motion for a preliminary injunction.
2 A memorandum opinion followed the next day (Dkt. No. 46).


3 Defendants now move to dismiss the action because (i) the relief sought is now moot,
4 (ii) plaintiffs lack standing, and (iii) plaintiffs fail to state a claim. Plaintiffs do not respond to
5 any of the arguments raised in the motions to dismiss, but instead seek to amend their
6 complaint.

7 This action is plainly moot — the primary has already occurred. To the extent plaintiffs
8 seek to amend their complaint to address the 2020 presidential primaries, any claim based
9 thereon is far from ripe. We do not yet know if *any* political party will allow crossover ballots,
10 nor do we know if our defendants will reinstate the practices complained of herein.

11 Thus, because the action is moot and any proposed amendment would be futile,
12 defendants' motions to dismiss are **GRANTED**.

13
14 **IT IS SO ORDERED.**

15
16 Dated: August 26, 2016.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE