

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT CLARKSBURG**

**SUSAN MAUDE BUCHSER, also known  
as Susan Buchser-Lochocki for congress,**

**Plaintiff,**

**v.**

**Civil Action No. 1:22-cv-00110**

**MAC WARNER, West Virginia Secretary  
of State, and the ELECTION DIVISION,**

**Defendants.**

**MEMORANDUM OF LAW IN SUPPORT OF  
MOTION TO DISMISS AMENDED COMPLAINT**

In support of his Motion to Dismiss, Defendant, Mac Warner, in his official capacity as Secretary of State for the State of West Virginia,<sup>1</sup> states the following.

Plaintiff, Susan Maude Buchser, who is proceeding *pro se*, originally filed this action on October 28, 2022, and filed an amended complaint on January 12, 2023. *See* Compl., ECF No. 1; Amd. Compl., ECF No. 20. Ms. Buchser states that she “was deprived of [her] CONSTITUTIONAL ‘RIGHT TO VOTE’,” pointing to the need to register to vote as the basis for this claim. *Id.* at 2 (emphasis in original). Ms. Buchser then discusses various aspects of West Virginia’s voting registration and related laws and processes that she contends render the state’s elections fraudulent and unconstitutional. *See id.* at 2–3.

Ms. Buchser seeks a permanent injunction requiring the removal of registering to vote from West Virginia’s election process. *Id.* at 4. She also seeks a “State of Emergency” declaration and that all election results be declared null and void until such time that an election that she deems

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<sup>1</sup> The Election Division of the Office of the West Virginia Secretary of State is an administrative subdivision within the Secretary’s Office and not a separate agency; thus, it is not a proper party.

constitutional take place. *Id.* As it is presented within her claim for relief, there are several other elements to Ms. Buchser's requested relief here. First, it appears that Ms. Buchser also asks the court to grant relief in the form of only State employees "essential to day to day running of the state" being allowed to continue their employment with the State, requiring all other State employees "to leave their positions effective immediately." *Id.* Second, Ms. Buchser seeks relief in the form of the West Virginia National Guard being directed to enter state government buildings and "REMOVE ALL ELECTED OFFICIALS FROM THEIR OFFICES and get them out of the buildings," at which time she would work with the "HEAD of the NATIONAL GUARD" to organize a new voting system. *Id.* (emphasis in original).

Ms. Buchser has failed to identify any fact or legal theory that could support her claim that West Virginia's—and seemingly the nation's—election laws are unconstitutional or fraudulent. Voter registration is not unconstitutional; it is one of many reasonable and proper processes put in place by states for an orderly election process by which voters can exercise their rights. *See, gen'ly Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997) ("...it is also clear that States may, and inevitably must, enact reasonable regulations of parties, elections, and ballots to reduce election- and campaign-related disorder.") (citing *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) ("[A]s a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic process")). Additionally, the court lacks the authority to award Ms. Buchser her requested relief. There is no rule in law or equity or any other authority that allows a court to empower a lone citizen—unilaterally or in conjunction with an official, especially a military official—to rewrite the nation's or an individual state's election laws. Moreover, several of her requests present separation of powers problems as they are the province of the executive, including emergency declarations and

directives to military forces. West Virginia's elections, and most of the nation's, have already passed, making Ms. Buchser's complaint moot.

Accordingly, the Secretary respectfully requests that the court grant their motion and dismiss Ms. Buchser's claims with prejudice.

Respectfully submitted,

PATRICK MORRISEY  
ATTORNEY GENERAL



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**CERTIFICATE OF SERVICE**

I, Curtis R. A. Capehart, do hereby certify that a true and exact copy of the foregoing *Memorandum of Law in Support of Motion to Dismiss Amended Complaint* has been served on Plaintiff via the Electronic Court Filing system and by depositing true and exact copies thereof, via United States Mail, with first-class postage prepaid and properly addressed on this 23<sup>rd</sup> day of January, 2023.

Susan Maude Buchser  
547 Henderson Hollow  
Core, WV 26541



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Curtis R. A. Capehart  
*Deputy Attorney General*