

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

DEMOCRATIC EXECUTIVE
COMMITTEE OF FLORIDA and
BILL NELSON FOR U.S. SENATE,

Plaintiffs,

v.

CASE NO. 4:18cv520-MW/MJF

KEN DETZNER, in is official capacity
as Florida Secretary of State, et al.,

Defendants.

**ORDER SETTING PROCEDURES
FOR HEARING AND ORAL ARGUMENT**

This Court has set a hearing regarding Plaintiffs' complaint for injunctive and declaratory relief for Wednesday, November 14, 2018, at 1:00 PM. This order elaborates on the procedures and substance of the hearing.

This Court has been advised that Ms. Maria Matthews, Florida's Division Director for Elections in the Office of the Secretary of State, will testify. Ms. Matthews shall be prepared to discuss and/or provide this Court with pertinent information including but not limited to:

1. Figures regarding the number of provisional and vote-by-mail ballots that have been rejected in the 2018 General Election for having a mismatched signature, by county.
2. Any guidance the Division of Elections provides to county supervisors of elections and county canvassing boards to use to determine whether a provisional or vote-by-mail ballot should be rejected for a signature mismatch.
3. Whether provisional or vote-by-mail ballots that have been rejected in the 2018 General Election for a signature mismatch have been segregated and thus are easily accessible.

Further, under Federal Rule of Evidence 614, this Court will issue a subpoena to Mr. Mark Earley, the Leon County Supervisor of Elections. This Court will elicit testimony from Mr. Earley to provide an example of one process a county supervisor of elections and county canvassing board uses to determine whether a provisional or vote-by-mail ballot should be rejected for a signature mismatch. This Court has done the same in the past and anticipates covering similar ground with Mr. Earley as it did in 2016 with the prior Leon County Supervisor of Elections, Mr. Ion Sancho. *See Fla. Democratic Party v. Detzner*, No. 4:16-cv-607, ECF No. 32 (N.D. Fla. Oct. 16, 2016). The parties are invited to call other, similar witnesses to provide further examples of the same.

Finally, this Court directs the parties' attention to Section 101.68(2)(c)4, Florida Statutes. The provision provides any elector or candidate an opportunity to protest the canvass of an allegedly illegal ballot. The parties will be expected to provide argument on the following question: whether Section 101.68(2)(c)4, which provides electors and candidates a mechanism to challenge ballots as allegedly illegal—but does not provide electors and candidates an opportunity to challenge rejected ballots as legal—violates the First and/or Fourteenth Amendments. This order expresses no view on the ultimate issues to be decided, instead simply provides notice so that each side may be heard and prepared.

SO ORDERED on November 11, 2018.

s/Mark E. Walker
Chief United States District Judge