

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

ROQUE “ROCKY” DE LA
FUENTE GUERRA, *et al.*,

Plaintiffs,

v.

Case No. 4:16-cv-00026-RH-CAS

FLORIDA DEMOCRATIC PARTY and
the FLORIDA SECRETARY
OF STATE,

Defendants.

FLORIDA SECRETARY OF STATE’S SUGGESTION OF MOOTNESS

The Florida Secretary of State respectfully suggests to the Court that this action has become moot as to him. The only relief sought against the Secretary is an order directing the Secretary to include Mr. de la Fuente Guerra on the Florida Democratic Party’s 2016 presidential preference primary ballot. DE 1 at 8. Florida’s presidential preference primary occurred on March 15, 2016. *See* § 103.101(1), Fla. Stat.

“A case is moot when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1335-36 (11th Cir. 2001) (internal quotation, brackets, and citation omitted).

“Put another way, a case is moot when it no longer presents a live controversy with

respect to which the court can give meaningful relief.” *Id.* at 1336 (internal quotations, brackets, and citation omitted). A case can become moot due to a change in factual circumstances, and Article III of the U.S. Constitution requires that a federal case “be viable at all stages of the litigation; it is not sufficient that the controversy was live only at its inception.” *BankWest, Inc. v. Baker*, 446 F.3d 1358, 1364 (11th Cir. 2006) (internal quotations and citation omitted). “If events that occur subsequent to the filing of a lawsuit . . . deprive the court of the ability to give the plaintiff . . . meaningful relief, then the case is moot and must be dismissed.” *Al Najjar*, 273 F.3d at 1336. Mootness is jurisdictional and must be resolved by a federal court before it assumes jurisdiction. *See id.*; *see also North Carolina v. Rice*, 404 U.S. 244, 246 (1971).

Respectfully submitted,

/s/ David A. Fugett

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, pursuant to N.D. Fla. Loc. R. 5.1(F), each party on whom this motion is to be served is represented by an attorney who will be served through this Court's CM/ECF system upon filing on this 17th day of March, 2016.

/s/ David A. Fugett _____

ATTORNEY