

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTHONY DAUNT,

Plaintiff,

v

No. 1:20-cv-00522

JOCELYN BENSON, in her official capacity as Michigan Secretary of State, JONATHAN BRATER, in his official capacity as Director of the Michigan Bureau of Elections,

Defendants,

A. PHILIP RANDOLPH INSTITUTE – DETROIT/DOWNRIVER; RISE, INC.,

Intervenor-Defendants,

LEAGUE OF WOMEN VOTERS OF MICHIGAN; LEAGUE OF WOMEN VOTERS OF GRAND TRAVERSE AREA; LEAGUE OF WOMEN VOTERS OF ANN ARBOR AREA; LEAGUE OF WOMEN VOTERS OF LEELANAU COUNTY; LEAGUE OF WOMEN VOTERS OF COPPER COUNTY and LEAGUE OF WOMEN VOTERS OF OAKLAND AREA,

Intervenor-Defendants.

HON. ROBERT J. JONKER

DEFENDANTS SECRETARY OF STATE JOCELYN BENSON AND DIRECTOR OF ELECTIONS JONATHAN BRATER’S MOTION TO DISMISS PLAINTIFF’S AMENDED COMPLAINT (DOC. 31)

William S. Consovoy
Cameron T. Norris
Tiffany H. Bates
Attorneys for Plaintiff
1600 Wilson Blvd, Suite 700
Arlington, VA 22209

Jason Torchinsky
Attorney for Plaintiff
45 North Hill Drive, Ste 100
Warrenton, VA 20186
540.341.8800

Elizabeth Husa Briggs (P73907)
Heather S. Meingast (P55439)
Erik A. Grill (P64713)
Attorneys for Defendants Benson & Brater
PO Box 30736
Lansing, Michigan 48909
517.335.7659

DEFENDANTS SECRETARY OF STATE JOCELYN BENSON AND DIRECTOR OF ELECTIONS JONATHAN BRATER'S MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT (DOC. 31)

Defendants Secretary of State Jocelyn Benson and Director of Elections Jonathan Brater, by counsel, move this Court to dismiss Plaintiff's amended complaint under Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)(6), for the reasons identified below and explained in detail in their supporting brief.

Dismissal is warranted under Rule 12(b)(6) because the factual allegations in the complaint, even if true, are insufficient to allege a claim of vote dilution. Perhaps even more importantly, dismissal is necessary under Rule 12(b)(1) because the factual allegations in the complaint, even if true, do not demonstrate standing with respect to the claims asserted. Standing is a threshold issue, indispensable to availing oneself of a court's jurisdiction. Having failed to provide sufficient factual allegations supporting this, Plaintiff's complaint, even as amended, must be dismissed.

Accordingly, for the reasons explained above and in their supporting brief, Defendants Secretary Benson and Director Brater respectfully request this Court dismiss Plaintiff's amended complaint in its entirety and grant such other relief as it deems just and proper.

Respectfully submitted,

DANA NESSEL
Attorney General

s/Elizabeth R. Husa Briggs

Elizabeth R. Husa Briggs (P73907)

Heather S. Meingast (P55439)

Erik A. Grill (P64713)

Assistant Attorneys General

Attorneys for Defendant

P.O. Box 30736

Lansing, Michigan 48909

517.335.7659

Email: briggse1@michigan.gov
(P73907)

Dated: October 14, 2020

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2020, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing of the foregoing document as well as via US Mail to all non-ECF participants.

s/Elizabeth Husa Briggs

Elizabeth R. Husa Briggs (P73907)

P.O. Box 30736

Lansing, Michigan 48909

517.335.7659

Email: briggse1@michigan.gov

P73907