

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTHONY DAUNT,

Plaintiff,

v

No. 1:20-cv-00522

HON. ROBERT J. JONKER

JOCELYN BENSON, JONATHAN BRATER,
SHERYL GUY, DAWN OLNEY, CHERYL
POTTER BROWE, KAREN BREWSTER, SUANNE
KANINE, BONNIE SCHEELE, NANCY HEUBEL,
DEBORAH HILL, JULIE A. CARLSON,
MICHELLE CROCKER, ELIZABETH HUNDLEY,
LORI JOHNSON, LISA BROWN, SUSAN I.
DEFEYTER, MICHELLE STEVENSON, and
LAWRENCE KESTENBAUM,

**DEFENDANTS SECRETARY OF
STATE JOCELYN BENSON AND
DIRECTOR OF ELECTIONS
JONATHAN BRATER'S MOTION
TO DISMISS**

Defendants.

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DEFENDANTS SECRETARY OF STATE JOCELYN BENSON AND DIRECTOR OF ELECTIONS JONATHAN BRATER'S MOTION TO DISMISS

Defendants Secretary of State Jocelyn Benson and Director of Elections Jonathan Brater, by counsel, move this Court to dismiss Plaintiff's 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 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 Court's jurisdiction. Having failed to provide sufficient factual allegations supporting this, Plaintiff's complaint must be dismissed.

Dismissal is also 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. And the requested preliminary injunctive relief is contrary to law. Specifically, the National Voter Registration Act, 52 U.S.C. § 20507, requires a state to complete any program for systematic removal of potentially ineligible voters more than ninety (90) days before the federal election. The date of the next federal election is November 3, 2020 – fewer than sixty (60) days away. Even if Plaintiff had, or could, demonstrate that Michigan's list-maintenance procedures are insufficient under the NVRA, his request for preliminary relief prior to the upcoming election is contrary to federal law.

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

Respectfully submitted,

DANA NESSEL
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s/Elizabeth R. Husa Briggs

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Dated: September 14, 2020

CERTIFICATE OF SERVICE

I hereby certify that on September 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

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