

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

JEFF GRUVER, et al.,

Plaintiffs,

v.

CONSOLIDATED

Case No.: 4:19-cv-00300-RH-MJF

KIM BARTON, et al.,

Defendants.

**DEFENDANT CRAIG LATIMER, HILLSBOROUGH COUNTY
SUPERVISOR OF ELECTIONS' ANSWERS AND AFFIRMATIVE
DEFENSES RESPONSIVE TO THE COMPLAINT (Doc. 1)**

Defendant Craig Latimer, the Hillsborough County Supervisor of Elections (herein, “the SOE”) files his Answers and Affirmative Defenses responsive to the Complaint (Doc. 1) and responds as follows to each allegation therein:

1. The SOE takes no position regarding the argument and characterizations presented in paragraph 1. The SOE admits that Amendment 4 passed as alleged.

2. The SOE agrees that “no right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live...” Otherwise the SOE takes no position regarding the argument and characterizations presented in paragraph 2.

3. The SOE takes no position regarding the argument and characterizations presented in paragraph 3.

4. The SOE takes no position regarding the argument and characterizations presented in paragraph 4.

5. The SOE takes no position regarding the argument and characterizations presented in paragraph 5.

6. The SOE takes no position regarding the argument and characterizations presented in paragraph 6.

7. The SOE takes no position regarding the argument and characterizations presented in paragraph 7.

8. The SOE takes no position regarding the argument and characterizations presented in paragraph 8.

9. The SOE takes no position regarding the argument and characterizations presented in paragraph 9.

10. Without knowledge, therefore denied.

11. Without knowledge, therefore denied.

12. Without knowledge, therefore denied.

13. Without knowledge, therefore denied.

14. Without knowledge, therefore denied.

15. Without knowledge, therefore denied.

16. Without knowledge, therefore denied.

17. Without knowledge, therefore denied.

18. Without knowledge, therefore denied.

19. Without knowledge, therefore denied.

20. The Florida NAACP is a well-known and respected organization; the SOE admits the assertions in paragraph 20 except the SOE is without knowledge as to the last two sentences of paragraph 20.

21. The SOE admits the allegations of the first sentence of paragraph 21. The SOE is without knowledge as to the remaining allegations in paragraph 21, so those allegations are denied.

22. Without knowledge, therefore denied.

23. Without knowledge, therefore denied.

24. Admitted.

25. Admitted.

26. Admitted that the LWVF seeks to increase political participation. Otherwise without knowledge and therefore denied.

27. Admitted.

28. The SOE takes no position regarding the argument and characterizations presented in paragraph 28.

29. Without knowledge, therefore denied.

30. The cited statutes and references to case law speak for themselves.

31. Admitted that Craig Latimer is the Supervisor of Elections for Hillsborough County. Admitted that the SOE is responsible for conducting elections and voter registration in Hillsborough County. The language of SB 7066 speaks for itself.

32. Admitted.

33. Admitted.

34. Admitted.

35. Admitted.

36. Admitted.

37. The SOE takes no position regarding the argument and characterizations presented in paragraph 37. Admitted that Amendment 4 passed.

38. The language of the cited Constitutional reference speaks for itself.

39. The SOE takes no position regarding the argument and characterizations presented in paragraph 39. The references to Amendment 4 and to the cited Supreme Court opinion speak for themselves.

40. The references to the cited case law speak for themselves.

41. The references to the cited case law speak for themselves. The SOE takes no position regarding the argument and characterizations presented in paragraph 41.

42. Admitted.

43. The SOE takes no position regarding the argument and characterizations presented in paragraph 43.

44. The SOE takes no position regarding the argument and characterizations presented in paragraph 44.

45. The SOE takes no position regarding the argument and characterizations presented in paragraph 45.

46. The SOE takes no position regarding the argument and characterizations presented in paragraph 46.

47. The SOE takes no position regarding the argument and characterizations presented in paragraph 47.

48. The SOE takes no position regarding the argument and characterizations presented in paragraph 48.

49. Admitted.

50. Admitted.

51. Admitted.

52. The cited statutory language speaks for itself.

53. The cited “three options” speak for themselves.

54. The SOE takes no position regarding the argument and characterizations presented in paragraph 54. The cited Advisory Opinion speaks for itself.

55. The cited statutory language speaks for itself.

56. The cited statutory language speaks for itself.

57. The cited statutory language speaks for itself.

58. The SOE takes no position regarding the argument and characterizations presented in paragraph 58.

59. The SOE takes no position regarding the argument and characterizations presented in paragraph 59.

60. The SOE takes no position regarding the argument and characterizations presented in paragraph 60.

61. The SOE takes no position regarding the argument and characterizations presented in paragraph 61.

62. The SOE takes no position regarding the argument and characterizations presented in paragraph 62.

63. The SOE takes no position regarding the argument and characterizations presented in paragraph 63.

64. The SOE takes no position regarding the argument and characterizations presented in paragraph 64.

65. The SOE takes no position regarding the argument and characterizations presented in paragraph 65.

66. The cited statutory language speaks for itself.

67. The SOE takes no position regarding the argument and characterizations presented in paragraph 67.

68. The SOE takes no position regarding the argument and characterizations presented in paragraph 68.

69. The SOE takes no position regarding the argument and characterizations presented in paragraph 69.

70. The SOE takes no position regarding the argument and characterizations presented in paragraph 70.

71. The SOE takes no position regarding the argument and characterizations presented in paragraph 71.

72. The SOE takes no position regarding the argument and characterizations presented in paragraph 72.

73. The SOE takes no position regarding the argument and characterizations presented in paragraph 73.

74. The SOE takes no position regarding the argument and characterizations presented in paragraph 74.

75. The SOE takes no position regarding the argument and characterizations presented in paragraph 75.

76. The SOE takes no position regarding the argument and characterizations presented in paragraph 76.

77. The SOE takes no position regarding the argument and characterizations presented in paragraph 77.

78. The SOE takes no position regarding the argument and characterizations presented in paragraph 78.

79. The SOE takes no position regarding the argument and characterizations presented in paragraph 79.

80. The SOE takes no position regarding the argument and characterizations presented in paragraph 80.

81. The SOE takes no position regarding the argument and characterizations presented in paragraph 81.

82. The SOE takes no position regarding the argument and characterizations presented in paragraph 82.

83. The cited language from case law speaks for itself. The SOE takes no position regarding the argument and characterizations presented in paragraph 83.

84. The SOE takes no position regarding the argument and characterizations presented in paragraph 84.

85. Without knowledge, therefore denied.

86. Without knowledge, therefore denied.

87. The SOE takes no position regarding the argument and characterizations presented in paragraph 87.

88. The SOE takes no position regarding the argument and characterizations presented in paragraph 88.

89. The SOE takes no position regarding the argument and characterizations presented in paragraph 89.

90. The SOE takes no position regarding the argument and characterizations presented in paragraph 90.

COUNT ONE

91. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

92. Admitted; the cited language speaks for itself.

93. The SOE takes no position regarding the argument and characterizations presented in paragraph 93.

94. Without knowledge, therefore denied.

95. Without knowledge, therefore denied.

96. Without knowledge, therefore denied.

97. The SOE takes no position regarding the argument and characterizations presented in paragraph 97.

98. The SOE takes no position regarding the argument and characterizations presented in paragraph 98.

COUNT TWO

99. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

100. The SOE takes no position regarding the argument and characterizations presented in paragraph 100.

101. Admitted; the cited language speaks for itself.

102. The cited language speaks for itself.

103. The cited language speaks for itself.

104. The SOE takes no position regarding the argument and characterizations presented in paragraph 104.

105. Without knowledge, therefore denied.

106. The SOE takes no position regarding the argument and characterizations presented in paragraph 106.

107. The SOE takes no position regarding the argument and characterizations presented in paragraph 107.

108. The SOE takes no position regarding the argument and characterizations presented in paragraph 108.

109. The SOE takes no position regarding the argument and characterizations presented in paragraph 109.

110. The SOE takes no position regarding the argument and characterizations presented in paragraph 110.

111. The SOE takes no position regarding the argument and characterizations presented in paragraph 111.

COUNT THREE

112. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

113. Admitted.

114. The cited language speaks for itself.

115. Without knowledge, therefore denied.

116. Denied that the SOE “confirmed Plaintiffs’ eligibility to vote and added Plaintiffs to the registration rolls,” with the exception of Plaintiff Clifford Tyson.

117. Without knowledge, therefore denied.

118. Without knowledge, therefore denied.

119. Admitted.

120. The SOE takes no position regarding the argument and characterizations presented in paragraph 120.

121. The SOE takes no position regarding the argument and characterizations presented in paragraph 121.

122. The SOE takes no position regarding the argument and characterizations presented in paragraph 122.

123. The SOE takes no position regarding the argument and characterizations presented in paragraph 123.

124. The SOE takes no position regarding the argument and characterizations presented in paragraph 124.

125. Without knowledge, therefore denied.

126. Without knowledge, therefore denied.

127. The SOE takes no position regarding the argument and characterizations presented in paragraph 127.

COUNT FOUR

128. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

129. The SOE takes no position regarding the argument and characterizations presented in paragraph 129.

130. Admitted.

131. The SOE takes no position regarding the argument and characterizations presented in paragraph 131.

132. The SOE takes no position regarding the argument and characterizations presented in paragraph 132.

133. The SOE takes no position regarding the argument and characterizations presented in paragraph 133.

COUNT FIVE

134. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

135. The cited language speaks for itself.

136. Without knowledge, therefore denied.

137. Without knowledge, therefore denied.

138. Without knowledge, therefore denied.

139. Without knowledge, therefore denied.

140. Without knowledge, therefore denied.

141. Without knowledge, therefore denied.

142. Without knowledge, therefore denied.

143. Without knowledge, therefore denied. The SOE takes no position regarding the argument and characterizations presented in paragraph 143.

144. The SOE takes no position regarding the argument and characterizations presented in paragraph 144.

145. The SOE takes no position regarding the argument and characterizations presented in paragraph 145.

146. The SOE takes no position regarding the argument and characterizations presented in paragraph 146.

147. The SOE takes no position regarding the argument and characterizations presented in paragraph 147.

148. The SOE takes no position regarding the argument and characterizations presented in paragraph 148.

COUNT SIX

149. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

150. Admitted.

151. Without knowledge, therefore denied.

152. The SOE takes no position regarding the argument and characterizations presented in paragraph 152.

153. The SOE takes no position regarding the argument and characterizations presented in paragraph 153.

154. The SOE takes no position regarding the argument and characterizations presented in paragraph 154.

155. The SOE takes no position regarding the argument and characterizations presented in paragraph 155.

COUNT SEVEN

156. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

157. Admitted.

158. Without knowledge, therefore denied.

159. Without knowledge, therefore denied.

160. Without knowledge, except as to Plaintiff Clifford Tyson. Admitted as to Clifford Tyson.

161. The SOE takes no position regarding the argument and characterizations presented in paragraph 161.

162. The SOE takes no position regarding the argument and characterizations presented in paragraph 162.

163. The SOE takes no position regarding the argument and characterizations presented in paragraph 163.

164. The SOE takes no position regarding the argument and characterizations presented in paragraph 164.

165. The SOE takes no position regarding the argument and characterizations presented in paragraph 165.

COUNT EIGHT

166. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

167. Admitted.

168. Admitted; the cited language speaks for itself.

169. Admitted.

170. The cited language speaks for itself.

171. The SOE takes no position regarding the argument and characterizations presented in paragraph 171.

172. The SOE takes no position regarding the argument and characterizations presented in paragraph 172.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiffs lack Article III standing to sue the SOE; the only Plaintiff who resides in Hillsborough County is Clifford Tyson, who only alleges “he fears he might be removed from the voter registration rolls” (paragraph 18). This allegation of “fear” is not concrete and particularized, as Mr. Tyson does not allege he has

suffered an “injury in fact” which may be traceable to the SOE. His alleged “fear” is simply hypothetical or speculative.

Second Affirmative Defense

Plaintiffs’ claims are not ripe for review as to the SOE; the only Plaintiff who resides in Hillsborough County is Clifford Tyson, who only alleges “he fears he might be removed from the voter registration rolls” (paragraph 18). Moreover, the state has not provided credible and reliable information as the basis for an initial finding of ineligibility. Mr. Tyson’s alleged “fear” is simply hypothetical or speculative, therefore, his claims have not ripened to the point where he can seek redress for a constitutional violation against the SOE.

Third Affirmative Defense

Plaintiffs have failed to exhaust their administrative remedies. 52 U.S.C. §§ 21111, 21112.

Fourth Affirmative Defense

Plaintiffs fail to state a cause of action for which relief may be granted against the SOE.

Fifth Affirmative Defense

Pursuant to 52 U.S.C. § 20507(a)(3), Congress places an affirmative legal duty upon each state with respect to administration of voter registration. The cited statute further provides that the state *may* cause to be removed a registrant from the

official list of eligible voters, “(2) as provided by State law, by reason of criminal conviction.” Bellitto v. Snipes, ___ F.3d ___, 2019 WL 3955692 (11th Cir. August 22, 2019). Federal law thus places upon the State of Florida the duty to ensure that any eligible applicant is registered to vote, and allows the State to cause to be removed eligible voters from the list “as provided by State law, by reason of criminal conviction.” The SOE reasonably relies upon the State of Florida to exercise its federal statutory duty as to requirements with respect to administration of voter registration, which complies with the above-cited statute, so that the SOE may discharge his duty to register voters and to conduct elections in Hillsborough County.

/s/ Stephen M. Todd

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 30, 2019, the foregoing document was electronically submitted to the Clerk of Court using the CM/ECF system which will send a notice of electronic filing to all Parties/Counsel of Record.

/s/ **Stephen M. Todd**
Stephen M. Todd, Esquire