

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 FIRST AMENDED COMPLAINT
(Doc. 26)**

Defendant Craig Latimer, the Hillsborough County Supervisor of Elections (herein, “the SOE”) files his Answers and Affirmative Defenses responsive to the First Amended Complaint (Doc. 26) 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. The SOE takes no position regarding the argument and characterizations presented in paragraph 10.

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. Without knowledge, therefore denied.

21. Without knowledge, therefore denied.

22. Without knowledge, therefore denied.

23. Without knowledge, therefore denied.

24. The Florida NAACP is a well-known and respected organization; the SOE admits the assertions in paragraph 24 except the SOE is without knowledge as to the last two sentences of paragraph 24.

25. The SOE admits the allegations of the first sentence of paragraph 25. The SOE is without knowledge as to the remaining allegations in paragraph 25, so those allegations are denied.

26. Without knowledge, therefore denied.

27. Without knowledge, therefore denied.

28. Admitted.

29. Admitted.

30. Admitted that the LWVF seeks to increase political participation.

Otherwise without knowledge and therefore denied.

31. Admitted.

32. The SOE takes no position regarding the argument and characterizations presented in paragraph 32.

33. Without knowledge, therefore denied.

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

35. 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.

36. Admitted.

37. Admitted.

38. Admitted.

39. Admitted.

40. Admitted.

41. The SOE takes no position regarding the argument and characterizations presented in paragraph 41. Admitted that Amendment 4 passed.

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

43. The SOE takes no position regarding the argument and characterizations presented in paragraph 43. The references to Amendment 4 and to the cited Supreme Court opinion speak for themselves.

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

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

46. Admitted.

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. The SOE takes no position regarding the argument and characterizations presented in paragraph 49.

50. The SOE takes no position regarding the argument and characterizations presented in paragraph 50.

51. The SOE takes no position regarding the argument and characterizations presented in paragraph 51.

52. The SOE takes no position regarding the argument and characterizations presented in paragraph 52.

53. Admitted.

54. Admitted.

55. Admitted.

56. The cited statutory language speaks for itself.

57. The SOE takes no position regarding the argument and characterizations presented in paragraph 57. The cited “three options” speak for themselves.

58. Without knowledge as to what “some counties” do, as there are 67 counties in Florida. Otherwise the SOE takes no position regarding the allegations of paragraph 58.

59. Without knowledge as to what “some counties” do, as there are 67 counties in Florida. Otherwise the SOE takes no position regarding the allegations of paragraph 59.

60. The cited Advisory Opinion speaks for itself.

61. The cited statutory language speaks for itself.

62. The cited statutory language speaks for itself.

63. The cited statutory language speaks for itself.

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 SOE takes no position regarding the argument and characterizations presented in paragraph 66.

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 is without knowledge regarding the allegations presented in paragraph 78.

79. The cited statutory language speaks for itself.

80. The SOE is without knowledge regarding the allegations presented in paragraph 80.

81. The SOE is without knowledge regarding the allegations presented in paragraph 81.

82. The SOE is without knowledge regarding the allegations presented in paragraph 82.

83. The SOE is without knowledge regarding the allegations presented in paragraph 83.

84. The SOE is without knowledge regarding the allegations presented in paragraph 84.

85. The SOE takes no position regarding the argument and

characterizations presented in paragraph 85.

86. The SOE takes no position regarding the argument and characterizations presented in paragraph 86.

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.

91. The SOE takes no position regarding the argument and characterizations presented in paragraph 91.

92. The SOE takes no position regarding the argument and characterizations presented in paragraph 92.

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

94. The SOE takes no position regarding the argument and characterizations presented in paragraph 94.

95. The SOE takes no position regarding the argument and

characterizations presented in paragraph 95.

96. The SOE takes no position regarding the argument and characterizations presented in paragraph 96.

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.

99. The SOE takes no position regarding the argument and characterizations presented in paragraph 99.

100. The cited language from case law speaks for itself. The SOE takes no position regarding the argument and characterizations presented in paragraph 100.

101. The SOE takes no position regarding the argument and characterizations presented in paragraph 101.

102. Without knowledge, therefore denied.

103. Without knowledge, therefore denied.

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

105. The SOE takes no position regarding the argument and characterizations presented in paragraph 105.

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.

COUNT ONE

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

109. Admitted; the cited language speaks for itself.

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

111. Without knowledge, therefore denied.

112. Without knowledge, therefore denied.

113. Without knowledge, therefore denied.

114. The SOE takes no position regarding the argument and characterizations presented in paragraph 114.

115. The SOE takes no position regarding the argument and characterizations presented in paragraph 115.

COUNT TWO

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

117. The SOE takes no position regarding the argument and

characterizations presented in paragraph 117.

118. Admitted; the cited language speaks for itself.

119. The cited language speaks for itself.

120. The cited language speaks for itself.

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

122. Without knowledge, therefore denied.

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. The SOE takes no position regarding the argument and characterizations presented in paragraph 125.

126. The SOE takes no position regarding the argument and characterizations presented in paragraph 126.

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

128. The SOE takes no position regarding the argument and characterizations presented in paragraph 128.

COUNT THREE

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

130. The SOE takes no position regarding the argument and characterizations presented in paragraph 130.

131. Admitted; the cited language speaks for itself.

132. Admitted, the cited language speaks for itself.

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

134. The SOE takes no position regarding the argument and characterizations presented in the first sentence of paragraph 134. The SOE denies the allegation made in the last sentence of paragraph 134.

135. Denied that “entirely different schemes” have been incorporated to implement SB7066. Otherwise denied.

COUNT FOUR

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

137. Admitted.

138. The cited language speaks for itself.

139. Without knowledge, therefore denied.

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

141. Without knowledge, therefore denied.

142. Without knowledge, therefore denied.

143. Admitted.

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.

149. Without knowledge, therefore denied.

150. Without knowledge, therefore denied.

151. The SOE takes no position regarding the argument and characterizations presented in paragraph 151.

COUNT FIVE

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

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

154. Admitted.

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

156. Without knowledge, therefore denied.

157. Without knowledge, therefore denied.

158. The SOE takes no position regarding the argument and characterizations presented in paragraph 158.

159. The SOE takes no position regarding the argument and characterizations presented in paragraph 159.

COUNT SIX

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

161. The cited language speaks for itself.

162. Without knowledge, therefore denied.

163. Without knowledge, therefore denied.

164. Without knowledge, therefore denied.

165. Without knowledge, therefore denied.

166. Without knowledge, therefore denied.

167. Without knowledge, therefore denied.

168. Without knowledge, therefore denied.

169. Without knowledge, therefore denied.

170. Without knowledge, therefore denied. The SOE takes no position regarding the argument and characterizations presented in paragraph 170.

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.

173. The SOE takes no position regarding the argument and characterizations presented in paragraph 173.

COUNT SEVEN

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

175. The cited language speaks for itself.

176. Admitted.

177. The SOE takes no position regarding the argument and

characterizations presented in paragraph 177.

178. The SOE takes no position regarding the argument and characterizations presented in paragraph 178.

179. The cited language speaks for itself. Other than the cited language, the SOE takes no position regarding the argument and characterizations presented in paragraph 179.

180. Admitted.

181. The SOE takes no position regarding the argument and characterizations presented in paragraph 181.

182. Without knowledge, therefore denied.

183. Without knowledge, therefore denied.

184. The SOE takes no position regarding the argument and characterizations presented in paragraph 184.

185. The SOE takes no position regarding the argument and characterizations presented in paragraph 185.

186. The SOE takes no position regarding the argument and characterizations presented in paragraph 186.

187. The SOE takes no position regarding the argument and characterizations presented in paragraph 187.

188. The SOE takes no position regarding the argument and

characterizations presented in paragraph 188.

189. The SOE takes no position regarding the argument and characterizations presented in paragraph 189.

190. The SOE takes no position regarding the argument and characterizations presented in paragraph 190.

COUNT EIGHT

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

192. Admitted.

193. Without knowledge, therefore denied.

194. The SOE takes no position regarding the argument and characterizations presented in paragraph 194.

195. The SOE takes no position regarding the argument and characterizations presented in paragraph 195.

196. The SOE takes no position regarding the argument and characterizations presented in paragraph 196.

197. The SOE takes no position regarding the argument and characterizations presented in paragraph 197.

COUNT NINE

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

199. Admitted.

200. Without knowledge, therefore denied.

201. Without knowledge, therefore denied, except as to Plaintiff Clifford Tyson. Admitted as to Clifford Tyson.

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

203. The SOE takes no position regarding the argument and characterizations presented in paragraph 203.

204. The SOE takes no position regarding the argument and characterizations presented in paragraph 204.

205. The SOE takes no position regarding the argument and characterizations presented in paragraph 205.

206. The SOE takes no position regarding the argument and characterizations presented in paragraph 206.

207. The SOE takes no position regarding the argument and characterizations presented in paragraph 207.

COUNT TEN

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

209. Admitted.

210. Admitted; the cited language speaks for itself.

211. Admitted.

212. The cited language speaks for itself.

213. The SOE takes no position regarding the argument and characterizations presented in paragraph 213.

214. The SOE takes no position regarding the argument and characterizations presented in paragraph 214.

COUNT ELEVEN

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

216. The cited language speaks for itself.

217. The SOE takes no position regarding the argument and characterizations presented in paragraph 217.

218. The cited language speaks for itself.

219. The SOE takes no position regarding the argument and characterizations presented in paragraph 219.

220. Admitted, except insofar as the Court's Preliminary Injunction requires that the cited language not be used on voter registration applications.

221. The statement made by Plaintiffs in paragraph 221 is not stated with clarity, so in an abundance of caution the SOE denies the allegation.

222. One purpose of this lawsuit is to request that the Court determine what is "sufficient" as a matter of law. The SOE does not make a determination of what is "sufficient" in the context alleged.

223. The SOE takes no position regarding the argument and characterizations presented in paragraph 223.

224. The SOE takes no position regarding the argument and characterizations presented in paragraph 224.

225. The SOE takes no position regarding the argument and characterizations presented in paragraph 225.

226. The SOE takes no position regarding the argument and characterizations presented in paragraph 226.

227. The SOE takes no position regarding the argument and characterizations presented in paragraph 227.

228. The SOE takes no position regarding the argument and characterizations presented in paragraph 228.

229. The SOE takes no position regarding the argument and

characterizations presented in paragraph 229.

230. The SOE takes no position regarding the argument and characterizations presented in paragraph 230.

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 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**
Stephen M. Todd, Esquire
Sr. Assistant County Attorney
Office of the Hillsborough County
Attorney
Post Office Box 1110
Tampa, Florida 33601-1110
(813) 272-5670 – Fax: (813) 272-
5758
Attorney for Defendant, Craig Latimer as
Supervisor of Elections for Hillsborough
County
Service Emails:
ToddS@hillsboroughcounty.org
MatthewsL@hillsboroughcounty.org
ConnorsA@hillsboroughcounty.org

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 12, 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