IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

PEOPLE FIRST OF ALABAMA, *et al.*,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 2:20-cv-00619-AKK
JOHN H. MERRILL, Secretary of State, *et al.*,	)	
Defendants.	)	

STATE DEFENDANTS' PARTIAL MOTION TO DISMISS

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STATE DEFENDANTS' PARTIAL MOTION TO DISMISS

Defendants the State of Alabama and Secretary of State John H. Merrill ("State Defendants") move to dismiss certain claims under Rules 12(b)(1) and (6).

I. Factual Background

The COVID-19 pandemic has prompted Alabama officials to take unprecedented measures to protect the public health while balancing other interests. As this Court has already noted, State officials have taken a number of actions to protect the public health, including declaring a state of emergency, issuing a series of orders to restrict public activities, delaying the primary runoff election from March to July, and allowing any voter who does not wish to vote in person at the primary runoff election because of COVID-19 to vote absentee. Doc. 58 at 7-8.

Alabama law requires a qualified elector who wishes to apply for an absentee ballot to certify that to he or she meets at least one of eight requirements (the "excuse requirement"). ALA. CODE § 17-11-3(a). For the 2020 primary runoff election, the Secretary promulgated an emergency rule allowing qualified voters who determine it is not possible or reasonable to vote in person due to the pandemic to vote absentee. Doc. 34-1 at 59-60. Recently, the Secretary promulgated emergency rules allowing similar use of absentee voting for all remaining 2020 elections. ALA. ADMIN CODE r. 820-2-3-.06-.02ER (June 25, 2020) (August municipal elections); *id.* 820-2-3-.06-.03ER (July 17, 2020) (all House District 49 special elections); *id.* 820-2-3-.06-

.04ER (July 17, 2020) (November 3 general election); Doc. 107, Exs. 15-17.[1]

Absentee ballots must be either signed by two witnesses or notarized (the "witness requirement") to be opened and counted, a rule that "goes to the integrity and sanctity of the ballot and election." ALA. CODE § 17-11-10(b). As this Court found, Alabama has a "legitimate and strong interest in preventing such fraud." Doc. 58 at 39. Due to the pandemic, the Governor permitted notaries to attest the signing of absentee ballot affidavits remotely to limit possible exposure. Doc. 58 at 9.

The "photo ID requirement" requires absentee voters to include a copy of any one of a number of types of photo ID (unless meeting a narrow exemption). ALA. CODE § 17-9-30 Alabama issues free photo IDs to voters at locations statewide. ALA. CODE § 17-9-30(a); *see also* ALA. ADMIN. CODE r. 820-2-9-.05. Plaintiffs' claims center on alleged difficulties Plaintiffs would have copying a photo ID, though they allege briefly that photo IDs are not easily obtainable during the pandemic. *See* Doc. 75 at ¶¶ 15, 168-176.

While no Alabama statute specifically prohibits "curbside voting," no statute sets out how it could be done. *See generally* ALA. CODE §§ 17-9-1 to 17-9-15. Plaintiffs generally assert that curbside voting could be safer for voters particularly at risk of COVID-19, but offer no insight as to how it would be safe to have poll

[1] A court may take into account matters of public record in ruling on a motion to dismiss. *See Bryant v. Avado Brands, Inc.*, 187 F.3d 1271, 1280 (11th Cir. 1999).

workers hand materials through a car window. They also do not provide any ideas as to how the State is expected to overcome logistical hurdles such as recruiting more poll workers, acquiring more voting machines, planning for weather impacts, handling traffic flow, etc.—all on short notice in the middle of everything else the State needs to do to conduct elections during a pandemic. Doc. 75 at ¶¶ 16, 177-187.

The State Defendants do not enforce the challenged requirements for absentee ballots, though the Secretary has thus far used his emergency authority to liberalize the excuse requirement. ALA. CODE § 17-11-10. State Defendants do not administer "curbside voting" at polling places—each county's governing body designates and equips polling places, ALA. CODE § 17-16-4, and the Probate Judge of each county is the chief elections official of that county, ALA. CODE § 17-1-3(b).

II. Legal Standard

"[A] court must first determine whether it has proper subject matter jurisdiction before addressing the substantive issues [in the complaint.]" *Taylor v. Appleton*, 30 F.3d 1365, 1366 (11th Cir. 1994). A Rule 12(b)(1) motion for lack of subject-matter jurisdiction can challenge the sufficiency of the pleading itself (a facial attack), or the factual existence of subject-matter jurisdiction (a factual attack). *Lawrence v. Dunbar*, 919 F.2d 1525, 1528-29 (11th Cir. 1990). For a facial attack, the court considers the allegations of the complaint to be true. *Id.* at 1529 (citation

omitted). In a factual attack, the court may weigh evidence to satisfy itself that it has jurisdiction, with no presumption that a plaintiff's allegations are true. *Id.*

A plaintiff bears the burden of proof to establish jurisdiction. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 103-04 (1998). Thus, "[i]t is the responsibility of the complainant clearly to allege facts demonstrating that he is a proper party to invoke judicial resolution of the dispute and the exercise of the court's remedial powers." *Warth v. Weldin*, 422 U.S. 490, 518 (1975).

For a motion to dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6), the Court must accept the complaint's factual allegations as true. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). A complaint does not need detailed factual allegations, but must provide "more than labels and conclusions" "above the speculative level." *Id.* The Court need not accept a legal conclusion as true even under Rule 12(b)(6). *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).[2]

III. Argument

A. As this Court has already found, Plaintiffs have failed to demonstrate standing as to most claims against State Defendants.

This Court has found that Plaintiffs have no standing to raise the witness and photo ID requirement claims against the Secretary; these claims should thus be

[2] "[A]s early as possible," a district court should resolve "[f]acial challenges to the legal sufficiency of a claim or defense, such as a motion to dismiss based on failure to state a claim for relief" *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1367 & n.35 (11th Cir. 1997). Such disputes "always present[] a purely legal question; there are no issues of fact because the allegations contained in the pleading are presumed to be true." *Id.* at 1367 (citation omitted).

dismissed against the Secretary and, for similar reasons, against the State. Additionally, the new excuse requirement claim is moot and should be dismissed.

Standing is a jurisdictional prerequisite for this Court to entertain Plaintiffs' claims, and consists of three elements:

> First, the plaintiff must demonstrate that she has suffered an injury in fact—an invasion of a legally protected interest that is both (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical. Second, the plaintiff must show a causal connection between her injury and the challenged action of the defendant—*i.e.*, the injury must be fairly traceable to the defendant's conduct, as opposed to the action of an absent third party. Finally, the plaintiff must show that it is likely, not merely speculative, that a favorable judgment will redress her injury.

Lewis v. Governor of Ala., 944 F.3d 1287, 1296 (11th Cir. 2019) (internal citations and quotation marks omitted) (en banc).

This Court's opinion accompanying its Preliminary Injunction Order found that Plaintiffs lack standing concerning their witness requirement claims against the Secretary. Citing binding Eleventh Circuit precedent, the Court determined that Plaintiffs' alleged injuries regarding the witness requirement could only be redressed by county officials. Doc. 58 at 24-26 (citing *Jacobson v. Fla. Sec'y of State*, 957 F.3d 1193 (11th Cir. 2020)). Thus, this Court should dismiss this portion of Plaintiffs' claims as to the Secretary. Concerning the photo ID requirement, this Court stated that *Jacobson* required that it could not rely on an injunction against the Secretary to establish standing. Doc. 58 at 23 n.12. And two judges concurring in

the Eleventh Circuit's denial of the State Defendants' emergency motion for a stay agreed that the State Defendants "won their claim that Plaintiffs lacked standing to sue them" on both issues. *People First of Ala. v. Sec'y of State for Ala.*, No. 20-12184, 2020 WL 3478093, at *15 (11th Cir. June 25, 2020) (Rosenbaum & Jill Pryor, JJ., concurring). Therefore, Plaintiffs' claims regarding both the witness and photo ID requirements against the Secretary should be dismissed.[3]

Dismissal of the State of Alabama under all claims premised on the witness and photo ID requirements is warranted for the same reasons. Additionally, this Court found that, to the extent a "ban" on curbside voting exists, such a ban is traceable to Secretary Merrill rather than the State, as no State statute expressly prohibits curbside voting. Doc. 58 at 21. Further, the State did not waive its sovereign immunity by appealing the preliminary injunction and never declared an intent to subject itself to federal jurisdiction.[4] As to Plaintiffs' claims against the

[3] Secretary Merrill respectfully disagrees with this Court's previous ruling that Plaintiffs have established standing with respect to the curbside voting claims against Secretary Merrill, for reasons similar to those other courts have enunciated. *See Mays v. Thurston*, No.4:20-cv-341, 2020 WL 1531359, at *2 (E.D. Ark. Mar. 30, 2020) ("Any injury caused by Plaintiffs' failing to take advantage of . . . available avenues to exercise their rights to vote are not caused by or fairly traceable to the actions of the State, but rather are caused by the global pandemic."); *Clark v. Edwards*, __ F.Supp.3d ___, 2020 WL 3415376, at *11 (M.D. La. June 22, 2020) ("[I]n a situation where judicial intervention is disfavored as a matter of law, and the state authorities, to whom the Constitution delegates the authority to determine the 'Times, Places, and Manner' of elections, have undertaken a Virus-related *expansion* of voting opportunities, this Court finds that Plaintiffs have not plausibly alleged an injury to their right to vote.") (emphasis in original).

[4] Plaintiffs misconstrue State Defendants' appellate briefing. The State *compared* itself to a defendant-intervenor in establishing that it had standing to appeal the preliminary injunction. The

State under the Voting Rights Act ("VRA"), the State maintains that sovereign immunity bars these claims.[5] Accordingly, Plaintiffs have failed to demonstrate standing against the State for any claim and sovereign immunity bars their claims in Counts 1 and 3-5, and this Court should dismiss all Counts alleged against the State.

Finally, Plaintiffs' challenge to the excuse requirement is moot. Mootness is a jurisdictional limitation mandating dismissal when a case "no longer presents a live controversy to which the court can give meaningful relief." *Fla. Ass'n of Rehab. Facilities, Inc. v. Fla. Dep't of Health & Rehab. Servs.*, 225 F.3d 1208, 1217 (11th Cir. 2000) (internal quotation and citation omitted). Here, the promulgation of emergency rules expanding absentee balloting for all 2020 elections cures any alleged injuries Plaintiffs suffered as a result of the excuse requirement, and leaves

State was, of course, already named as a defendant in this suit by Plaintiffs. This situation is unlike waiver that sometimes occurs when a state voluntarily removes a suit from state court to federal court after having waived its immunity in state court. *See Lapides v. Bd. of Regents of Univ. of Ga.*, 535 U.S. 613, 619-20 (2002). Here, having already been involuntarily subjected to a federal forum by Plaintiffs, the State does not waive its immunity by appealing a decision that infringes upon its interests within that forum.

[5] The State acknowledges that a panel of the Eleventh Circuit held that the VRA validly abrogated States' sovereign immunity. *Ala. State Conf. of the NAACP v. Alabama*, 949 F.3d 647, 652-54 (11th Cir. 2020). The State maintains that Congress could not have intended such a result because the text of the statute does not even create a private cause of action to enforce the substantive requirements of Section 2. *See Morse v. Republican Party of Va.*, 517 U.S. 186, 232 (1996) (lead plurality) (observing that "§ 2, like § 5, provides no right to sue on its face . . . ."); *Ford v. Strange*, 580 F. App'x 701, 705 (11th Cir. 2014) (noting that Section 2 contains only "an implied private right of action."). Before the State could move for en banc review, the State prevailed on the remainder of the case and the Eleventh Circuit dismissed the appeal as moot. *Ala. State Conf. of the NAACP v. Alabama*, 806 F. App'x 975 (11th Cir. 2020).

no meaningful relief for this Court to provide as to the excuse requirement.[6] As such, all of Plaintiffs' claims premised on the excuse requirement should be dismissed.

B. Plaintiffs' facial challenges to the witness requirement and the "prohibition" on curbside voting fail to state a claim.

Plaintiffs' challenges in this lawsuit come in the context of the COVID-19 pandemic. Their complaint's introduction discusses both the challenge of voting and the challenged provisions' impact during a pandemic. Doc. 75 ¶¶ 1-25. Plaintiffs ask that "the Court enjoin the Challenged Provisions and declare them unconstitutional *for the duration of the 2020 election cycle*," but not beyond. *Id.* ¶ 25 (emphasis added). Nothing in Plaintiffs' statement of facts alleges that the challenged provisions present a constitutional issue outside the context of the current pandemic.

Nonetheless, Plaintiffs then allege a facial challenge to the witness requirement, photo ID requirement, and curbside voting "ban" as well as an as-applied challenge in the pandemic context. Doc. 75 ¶ 190. However, Plaintiffs have alleged no facts indicating what their facial challenge to these matters is, let alone "sufficient facts so that each element of the . . . violation can be identified." *Mun.*

[6] Even if Plaintiffs' claims were not moot, they would lack standing to raise their "excuse requirement" claims against the State Defendants. While the Secretary passed emergency rules expanding absentee voting, that does not mean that State Officials *enforce* such rules, or that, in a normal election, they would determine whether a voter falls within one of the excuses that allows her to vote absentee. Alabama law provides that an Absentee Election Manager ("AEM") shall submit an absentee ballot to voters who comply with the requirements for such voting, including the "excuse" provisions. ALA. CODE § 17-11-5(a). Further, an AEM "may require additional proof of a voter's eligibility to vote absentee when there is evidence of continuous absentee voting." *Id.*

Utils. Bd. of Albertville v. Ala. Power Co., 934 F.2d 1493, 1501 (11th Cir. 1991). "Conclusory allegations will not survive a motion to dismiss if not supported by facts constituting a legitimate claim for relief." *Id.* (internal quotation and citation omitted). Thus, Plaintiff's facial claims should be dismissed.

C. Plaintiffs fail to make out a prima facie ADA claim as to the witness and photo ID requirements.

This Court agreed that "[b]ecause the witness requirement is deemed a condition precedent to eligibility under state law, and essential eligibility requirements are not subject to reasonable modifications, the plaintiffs cannot state an ADA claim against the witness requirement based on the current record." Doc. 58 at 60 (citing ALA. CODE § 17-11-10; *Eubanks v. Hale*, 752 So. 2d 1113, 1157-58 (Ala. 1999)). More fundamentally, however, one cannot even make out a prima facie case under the ADA without "meet[ing] the essential eligibility requirements" because one must do so to be a "qualified individual with a disability." *Compare* 42 U.S.C. § 12132 *with id.* § 12131. Because Plaintiffs have failed, as a matter of law, to state an ADA claim against the witness requirement—and this Court has recognized this failure—this Court should dismiss the claims in Count 2 against the witness requirement. *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1368 (11th Cir. 1997) *see also Butler v. Sukhoi Co.*, 579 F.3d 1307, 1314 (11th Cir. 2009) (finding that allowing a case to proceed where a plaintiff failed to make out a prima facie case constituted abuse of discretion).

For the same reasons, Plaintiffs fail to state a claim as to the photo ID requirement.[7] Alabama law makes clear that providing a photo ID is an essential eligibility requirement to having an absentee ballot counted. *See* ALA. CODE § 17-9-30. "[A]n absentee ballot shall not be issued unless the required identification is submitted with the absentee ballot application," subject to only one exception: to comply with federal law. *Id.* § 17-9-30(b)-(c) Although an AEM may issue a *provisional* ballot when receiving an application without ID within eight days of an election, *id.* § 17-9-30(c), this is no exception: "the voter's ballot *will not be counted*" unless a photo ID is provided by the following Friday at 5:00 P.M., *id.* § 17-10-2(c)(1)(b)(3.) (emphasis added). Like the witness requirement, the Alabama Supreme Court held that absentee voters' failure to "include proper identification" is "a defect fatal to the votes cast by those absentee voters" and reversed the decision of the trial court that would allow those voters to "'cure' that defect." *Townson v. Stonicher*, 933 So. 2d 1062, 1065-67 (Ala. 2005) (citing *Eubanks*, 752 So. 2d at 1151-57). To frame it as this Court did, it is clear that both the Alabama Legislature and the Alabama Supreme Court regard the provision of a photo ID as essential—or, a "condition precedent"—to counting absentee ballots. *See* Doc. 58 at 60, 66-67.

[7] While this Court held to the contrary in its preliminary injunction opinion, it said that the State Defendants did not "make a serious effort to demonstrate that the photo ID requirement is an essential eligibility requirement." Doc. 58 at 61-62. The State Defendants therefore provide additional briefing on this point.

Although the photo ID requirement contains an exception to comply with federal law, such an exception cannot undermine an eligibility requirement's essentiality. If that were the case then States must always choose between "compromis[ing] their essential eligibility criteria for public programs" and openly defying federal voting laws—risking suit from the United States[8] or loss of federal funds.[9] *Tennessee v. Lane*, 541 U.S. 509, 532 (2004). No matter how the State chooses, it is coerced into a result that infringes upon its sovereignty, violating basic principles of federalism. This result is a far cry from *Mary Jo C. v. N.Y. State & Local Ret. Sys.*, 707 F.3d 144 (2d Cir. 2013), where New York voluntarily chose to "waive[] or extend[] the filing deadline for disability retirement benefits." *Id.* at 160.

Accordingly, Plaintiffs fail to state a claim as a matter of law under the ADA because the photo ID requirement is an essential eligibility requirement of voting by absentee ballot, as recognized by the Alabama Legislature and Alabama Supreme Court. As such, Plaintiffs fail to make a prima facie ADA case concerning the photo

[8] The United States has sued the State multiple times to enforce the Uniformed and Overseas Citizens Absentee Voting Act. *See, e.g.*, *United States v. Alabama*, 778 F.3d 926 (11th Cir. 2015).

[9] To the extent that receipt of federal funds pursuant to a federal voting law also serves to "compromise a State's essential eligibility criteria" pursuant to the ADA, *Lane*, 541 U.S. at 532, such a condition would likely violate the Spending Clause. *See New York v. United States*, 505 U.S. 144, 171-72 (1992). A valid exercise of the Spending Clause requires that "[t]he conditions imposed are unambiguous" or, in other words, the legislation must "inform[] the States exactly what they must do and when they must do it." *Id.* (citing *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17 (1981)). Here, the State was not informed that allowing for exceptions to receive federal funds would also work to undercut the essentiality of its eligibility requirements and effectively expand the exceptions beyond those to which the State agreed.

ID requirement, and this Court should dismiss the claims in Count 3 against the photo ID requirement for the same reasons discussed for the witness requirement.

D. Plaintiffs have failed to state a claim under Section 2 of the VRA.

Count 3 alleges the challenged provisions, except the photo ID requirement, violate § 2 of the VRA, which requires that any voting denial or abridgement be "on account of race." 52 U.S.C. § 10301(a); *see also Solomon v. Liberty Cty. Comm'rs*, 221 F.3d 1218, 1225 (11th Cir. 2000) (en banc) ("[T]o be actionable, a deprivation of the minority group's right to equal participation in the political process must be on account of a classification, decision, or practice that depends on race or color, not on account of some other racially neutral cause" (quotation and citation omitted)).

Plaintiffs have not pled sufficient facts to make it plausible that any alleged denial or abridgement of the right to vote regarding witness signatures or curbside voting is on account of race. They allege that those who have contracted and died from COVID-19 are disproportionately Black; that African Americans are more likely to have underlying conditions that raise the risk of death or serious illness if a person contracts COVID-19; and that Black Alabamians lag behind White Alabamians in socioeconomic factors. But these allegations do not add up to anyone having greater difficulty voting *on account of race*.

First, *all* voters want to avoid COVID-19. Everyone, regardless of race, should be cautious. Second, to the extent that contracting COVID-19 is riskier for

some than others, it is not because of race, but is instead because of underlying conditions. A 65-year-old White voter with diabetes is in the same position as a 65-year-old Black voter with diabetes. And third, no voter is denied the right to vote; every voter can be cautious and still satisfy the witness and photo ID requirements because the excuse requirement has been loosened throughout the 2020 elections.

Plaintiffs' claim also fails because if Section 2 prevents the enforcement of important elections provisions because of a pandemic, Section 2 in that application is not a "congruent and proportional" remedy, and therefore is unconstitutional in that application. *See Bd. of Trs. of the Univ. of Ala. v. Garrett*, 531 U.S. 356, 374 (2001). Congress passed the VRA to enforce the Fifteenth Amendment, *Lopez v. Monterey County*, 525 U.S. 266, 269 (1999), and State action is required to establish a violation of that Amendment. *Terry v. Adams*, 345 U.S. 461, 473 (1953). Plaintiffs do not claim that the challenged provisions violated Section 2 in the last election, or that they will do so once COVID-19 has run its course. They argue that the onset of the virus made the provisions unconstitutional for 2020 elections, and that it did so without any State action. If Section 2 reaches where there is no State action, then Section 2 exceeds Congress's constitutional authority in this application.

E. The witness requirement is not a prohibited voucher.

This Court has already recognized that witnesses to a voter's absentee ballot "do not vouch for the voter's 'qualifications'" and thus the witness requirement is

not a prohibited "test or device." Doc. 58 at 72 (citing 52 U.S.C. § 10501(b)). Likewise, Plaintiffs' new allegations that the notary aspect of the witness requirement is a voucher fail to state a claim for the same reasons the Court recognized as to the witness requirement. The notary's function is simply to verify the identity of the person signing the affidavit envelope—the same permissible function that the two witnesses serve—not that the person has any particular "qualification" to vote by absentee ballot generally. Consequently, Plaintiffs fail to state a claim as a matter of law that any aspect of the witness requirement violates § 201 of the VRA, and Count 4 should be dismissed.

In any event, Plaintiffs have no right to bring a § 201 claim. The provision for enforcing § 201 provides only that "the Attorney General" may institute an action, and that action must be before a three-judge panel. 52 U.S.C. § 10504. This "express provision of one method of enforcing a substantive rule suggests that Congress intended to preclude others," *Alexander v. Sandoval*, 532 U.S. 275, 290 (2001), including the private right of action Plaintiffs attempt to bring here.

F. Plaintiffs fail to show that the witness requirement is a poll tax.

Plaintiffs allege that the witness requirement is a poll tax, because notaries *may* charge a fee and internet access for remote notarization costs money. Doc. 75 ¶¶ 229-233. This allegation is wrong on its face. Even assuming *arguendo* that the

notary fee constitutes a poll tax,[10] the *witness* requirement does not require Plaintiffs to spend one cent. Setting aside the fact that no voter is required to vote absentee, the affidavit envelope accompanying an absentee ballot must be witnessed either "by the signatures of two witnesses ***or*** a notary public . . . ." ALA. CODE § 17-11-10 (c) (emphasis added). Anyone over age 18 can serve as a witness. *Id.* A neighbor, coworker, relative, delivery or postal worker, or anyone else may serve as a witness without charging any fee. Thus, no voter is required to spend anything to comply with the witness requirement and Plaintiffs' claim fails as a matter of law.

Conclusion

Accordingly, the portion of Plaintiffs' claims against State Defendants outlined herein should be dismissed.

Respectfully submitted,

Steve Marshall,
Attorney General

[10] It does not. A poll tax in violation of the Fourteenth and Twenty-Fourth Amendments "imposes a material requirement solely upon those who refuse to surrender their constitutional right to vote in federal elections without paying a poll tax." *Harman v. Forssenius*, 380 U.S. 528, 541 (1965). A notary fee, like postage, is not a *material* requirement and does not constitute a "poll tax." *Cf. Nielsen v. DeSantis*, No. 4:20-cv-236-RH-MJF, (N.D. Fla. June 24, 2020) (Doc. 332) ("Postage charged by the United States Postal Service—like the fee charged by any other courier or the bus fare for getting to the polls to vote in person—is not a tax prohibited by the Twenty-Fourth Amendment."); *see also League of Women Voters of Ohio v. LaRose*, No. 2:20-cv-01638-MHW-EPD, slip op. at 25 (S.D. Ohio Apr. 3, 2020) (Doc. 57) (Ohio Secretary of State did not impose a poll tax by failing to provide postage prepaid envelopes for voters to return mail-in ballots.).

s/ James W. Davis
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Certificate of Service

I hereby certify that on July 20, 2020 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such to all counsel of record.

/s James W. Davis
Counsel for State Defendants