

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

PEOPLE FIRST OF ALABAMA,)	
et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action Number 2:20-cv-619-AKK
)	
JOHN MERRILL, et al.)	
)	
Defendants.)	

**MOTION TO DISMISS OF DEFENDANT BRITNEY JONES-
ALEXANDER, IN HER OFFICIAL CAPACITY AS PROBATE JUDGE
OF WILCOX COUNTY, ALABAMA**

Defendant Britney Jones-Alexander, in her official capacity as Probate Judge of Wilcox County, Alabama, hereby respectfully files this Motion to Dismiss. All claims against Judge Jones-Alexander are due to be dismissed pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, as follows:¹

1. As this Court has recognized, Article III of the United States Constitution “limits the subject-matter jurisdiction of federal courts to ‘Cases’ and ‘Controversies.’” *Jacobson v. Florida Secretary of State*, 957 F.3d 1193, 1201

¹ None of the arguments in this Motion should be interpreted as a declaration by Judge Jones-Alexander as to the liability of any other Defendant named in this lawsuit, as it would be inappropriate for her to take a stance as to these issues.

(11th Cir. 2020). To fulfill this requirement, a plaintiff must establish all three elements of standing: “(1) an injury in fact that (2) is fairly traceable to the challenged action of the defendant and (3) is likely to be redressed by a favorable decision.” *Id.* “Because the elements of standing ‘are not mere pleading requirements but rather an indispensable part of the plaintiff’s case, each element must be supported with the manner and degree of evidence required at the successive stages of the litigation.’” *Id.* (quoting *Lujan v. Defs. Of Wildlife*, 504 U.S. 555, 561 (1992)).

2. Neither the elements of traceability or redressability are met with respect to Judge Jones-Alexander as to any of Plaintiff’s claims. As the Office of the Attorney General of Alabama has previously stated, Judge Jones-Alexander’s role as the “chief election official within the county” authorizes her to “perform most functions within the voter registration system, **with the exception of voter registration or absentee management.**” Ala. Op. Att’y Gen. No. 2012-037, 2012 WL 679218 at *2 (Feb. 15, 2012) (emphasis added). Those duties are instead committed by Alabama law to the county absentee election manager, who performs them pursuant to the directions issued by the Secretary of State pursuant to his rule-making authority. Ala. Code (1975) 17-11-2. And indeed, the Secretary of State has specifically exercised that rulemaking authority in this case to enforce the challenged provisions, including, *inter alia*, the requirement that “no poll worker

or other election official shall count an absentee ballot unless the appropriate affidavit has been properly completed by the voter.” Ala. Admin. Code r. 820-2-10-.05. To the extent that Plaintiffs may have been injured by any of the provisions regarding absentee balloting, such injury is not traceable to any action by Judge Jones-Alexander, and she has no authority under Alabama law to provide redress for these injuries.

3. Further, although Plaintiffs’ claims regarding the Curbside Voting Ban are addressed against all Defendants, the actual factual allegations establish that this ban is both traceable to and redressable only by Secretary Merrill, who is specifically alleged to have exercised the authority granted to him by Alabama law to stop previous efforts at curbside voting. (Doc. 75, ¶¶ 179, 180.) All claims against Judge Jones-Alexander are accordingly due to be dismissed pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure.

4. In the alternative, all claims brought against Judge Jones-Alexander pursuant to 42 U.S.C. § 1983 are due to be dismissed with prejudice pursuant to 42 U.S.C. § 1983 because Plaintiffs have failed to adequately allege a causal connection between one or more of her actions and their alleged injuries. 42 U.S.C. § 1983 provides as follows:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, ***subjects, or causes to be subjected***, any citizen of the United State or other person within the jurisdiction therefore to the deprivation of any

rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...

42 U.S.C. § 1983 (emphasis added). The plain language of § 1983 thus “requires proof of an affirmative causal connection between the official’s acts or omissions and the alleged constitutional deprivation.” *Alcocer v. Mills*, 906 F.3d 944, 951 (11th Cir. 2018) (quoting *Zatler v. Wainwright*, 802 F.2d 397, 401 (11th Cir. 1986)); *see also Los Angeles County, Cal. v. Humphries*, 562 U.S. 29 (2010) (holding that causal connection requirement is equally applicable to suit for money damages or equitable relief). The First Amended Complaint contains no specific allegations against Judge Jones-Alexander whatsoever; instead, Plaintiffs have simply repeatedly alleged that “Defendants” have collectively violated their rights even though Probate Judges have no authority over the challenged provisions. The § 1983 claims against Judge Jones-Alexander are accordingly due to be dismissed with prejudice pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

5. Also, in the alternative, Judge Jones-Alexander hereby adopts and incorporates by reference as if fully set out herein the arguments made in III(B) – (F) of the “State Defendants’ Partial Motion to Dismiss” (Doc. 112, pgs. 8-15.)

WHEREFORE, THESE PREMISES CONSIDERED, Judge Britney Jones-Alexander, in her official capacity as Probate Judge of Wilcox County, Alabama, hereby respectfully submits this Motion to Dismiss.

Respectfully submitted this the 27th day of July, 2020.

s/Jamie H. Kidd

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CERTIFICATE OF SERVICE

I hereby certify that on this the 27th day of July, 2020, I electronically filed the foregoing Motion to Dismiss with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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