

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

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|---|---|-------------------------------------|
| DEMOCRATIC PARTY OF VA., ET AL., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Civil Action No. 3:21-CV-756 |
| |) | |
| ROBERT H. BRINK, ET AL., |) | |
| |) | |
| Defendants. |) | |

MOTION TO DISMISS

Defendants Robert H. Brink, John O’Bannon, and Jamilah D. LeCruise, in their official capacities as Chairman, Vice-Chairman, and Secretary of the Virginia State Board of Elections (SBE)¹, and Christopher Piper, in his official capacity as Commissioner of the Virginia Department of Elections (ELECT), by counsel and pursuant to Fed. R. Civ. P. 12(b)(6), move the Court for entry of an order dismissing the Plaintiffs’ Complaint with prejudice. Plaintiffs rest their claims for relief on the grounds that (1) the requirement to provide a voter’s Social Security number on a voter registration form dissuaded an unnamed, unnumbered number of potential voters from registering to vote; and (2) the cure process provided to assist absentee voters who submit deficient ballots is insufficient. However, the Complaint contains no well-pled allegation that such dissuasion from registering to vote or hinderance in rectifying deficient absentee ballots actually occurred. Accordingly, Plaintiffs lack the necessary factual prerequisite for maintaining the current suit.

¹ The State Board of Elections consists of five members pursuant to Virginia Code § 24.2-102(A). Plaintiffs name only three of the five members in their Complaint.

In support of this motion, Defendants provide herewith a memorandum in support setting forth in detail the grounds in support of the requested relief.

Respectfully submitted,

ROBERT H. BRINK
JOHN O'BANNON
JAMILAH D. LECRUISE
CHRISTOPHER E. PIPER

By: /s/ Carol L. Lewis
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CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2022, I electronically filed a true and accurate copy of the foregoing with the Court's CM/ECF system, which will then send a notification of such filing to the parties.

/s/ Carol L. Lewis

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