

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

MAR 14 2018

JAMES W. McCORMACK, CLERK

By:  DEP CLERK

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF ARKANSAS
WESTERN (LITTLE ROCK) DIVISION**

Dr. JULIUS J. LARRY III

PLAINTIFF

VS.

NO. 4:18-CV-116-KGB

**STATE OF ARKANSAS;
HONORABLE ASA HUTCHINSON,
In his Official Capacity as Governor
of the State of Arkansas; HONORABLE
LESLIE RUTLEDGE, in her Official
Capacity as Attorney General of the
State of Arkansas; HONORABLE
MARK MARTIN, in his official capacity
as Arkansas Secretary of State**

DEFENDANTS

**DEFENDANT ARKANSAS SECRETARY OF STATE'S
REPLY IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS**

COMES NOW, Defendant, Honorable Mark Martin, (“Defendant Secretary”), in his official capacity as Arkansas Secretary of State, and for his Reply in support of his Motion to Dismiss, states that:

1. Dismissal of the case is proper for lack of subject matter jurisdiction over Defendant Secretary, in any capacity.
2. A Plaintiff must live in the district that is the primary focus of their racial gerrymandering claim. *United States v. Hays*, 515 U.S. 737, 745 (1995); see *Caucus v. Alabama*, 575 U.S. ___, 135 S.Ct. 1257 (2015).

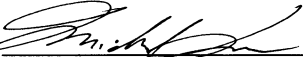
3. Defendant Secretary asks the Court to dismiss the Complaint for lack of subject matter jurisdiction, to dismiss Defendant Secretary from the Complaint, to deny Plaintiff the relief he seeks, and to grant Defendant such additional relief to which he may be entitled to under the circumstances.

WHEREFORE, and for the foregoing reasons, Defendant Secretary of State Mark Martin, in his official capacity, prays that the Court deny Plaintiff any of the relief requested against Defendant Secretary; that the Court dismiss Plaintiff's Complaint against Defendant Secretary of State; that the Court deny Plaintiff's requests for declaratory, preliminary, and injunctive relief; that the Court deny any of Plaintiff's requests for fees, costs, or expenses; that the Court grant Defendant Secretary such additional relief to which he may be entitled under the circumstances

Respectfully submitted this 14th day of March, 2018.

HONORABLE MARK MARTIN
ARKANSAS SECRETARY OF STATE
In his Official Capacity, Defendant

By: /s/ AJ Kelly
A.J. Kelly
General Counsel and
Deputy Secretary of State
AB No. 92078
PO Box 251570
Little Rock, AR 72225-1570
(501) 682-3401
Fax: (501) 682-1213
kellylawfedecf@aol.com

By: 
Michael Fincher
Associate General Counsel

Arkansas Secretary of State
AB No. 2016037
500 Woodlane St., Ste 256
Little Rock, AR 72201
(501) 682-3401
Fax: (501) 682-1213

*Attorneys for Defendant
Arkansas Secretary of State*

CERTIFICATE OF SERVICE

I do hereby certify that on this 14th day of March, 2018, I have served the foregoing via the electronic filing system in the Federal District Court Clerk's Office (CM/ECF) to the Attorney General and the Assistant Attorney General who has entered his appearance, and via first class mail to the following:

Dr. Julius J. Larry III
2615 W.12th Street
Little Rock, AR 72202


Michael Fincher