

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

FUTURE MAE JEFFERS, et al.

PLAINTIFFS

v.

Case No. 2:12-cv-00016-JLH

MIKE BEEBE, in his official capacity as Governor of Arkansas and Chairman of the Arkansas Board of Apportionment; MARK MARTIN, in his capacity as Secretary of State of Arkansas and as a member of the Arkansas Board of Apportionment; DUSTIN McDANIEL, in his capacity as Attorney General of Arkansas and a member of the Arkansas Board of Apportionment; and THE ARKANSAS BOARD OF APPORTIONMENT

DEFENDANTS

**MOTION TO ENJOIN THE CERTIFICATION OF THE
ELECTION RESULTS IN STATE SENATE DISTRICT 24**

Now before the court come the Plaintiffs, Future Mae Jeffers, et. al., and seek injunctive relief for the reasons stated herein.

1. This Court declined to issue an injunction which would have prevented the election from going forth.
2. The election has now been held.
3. The Plaintiffs, in making this request, are fully cognizant of the fact that no ruling has been made in this case on its merits. Plaintiffs, however, believe that now is the appropriate time to freeze all activity related to Senate District 24 pending the decision on the merits of Plaintiffs complaint. Then, if the decision on the merits is for the defendants, the Court can lift the injunction now being requested by the Plaintiffs. Granting the injunction will cause no harm to the Defendants. The

absence of the injunction will greatly harm the Plaintiffs as described in this motion.

4. On May 22, 2012, throughout Arkansas and throughout Senate District 24, an election was held and concluded.
5. The election results, while unofficial, are now known and leave no doubt with regard to the allegations made and proved in the case brought by the Plaintiffs.
6. The Honorable Mark Martin, Secretary of State for the State of Arkansas, maintains a webpage that reports election results.
7. According to the information provided by Secretary Martin's webpage the election results in Senate District 24 are as follows:

State Senate District 24 - DEM 5 of 5 Counties Reporting

	Percent	Votes
Representative Keith M. Ingram (DEM)	60.57%	6,116
Senator Jack Crumbly (DEM)	39.43%	3,981
		10,097

<http://results.enr.clarityelections.com/AR/39376/83080/en/reports.html>

8. Under Arkansas law, the election commissions in the various counties will soon be meeting to certify the election results.
9. ACA 7-7-203(e)(1) states: The county board of election commissioners shall convene, at the time specified in the notice to the members given by the chair of the board, **no later than the tenth day after each primary election for the purpose of canvassing the returns and certifying the election results.**

10. This certification can and will change the condition of the Plaintiffs in an irreparable manner.
11. The Plaintiffs have, prior to this election, put on proof that this election would result as it has and that the district was in violation of the Voting Rights Act.
12. The Plaintiffs have a right to elect the candidate of their choice.
13. Because of term-limits, seniority is a short-lived but all-important piece of state legislative service. Plaintiff, Jack B. Crumbly, is positioned to be number three (3) in seniority in the Arkansas Senate if he is re-elected. Holding that rank will be the highest rank that any state senator from East Arkansas has held since well before the first Jeffers decision.
14. Senator Crumbly was first elected in 2006. He served one full four-year term as senator. Senator Crumbly was re-elected in 2010. He served a partial or two-year term and was up for re-election in this current 2012 election. Because this was a partial term, Senator Crumbly, upon being re-elected, would serve either another two-year term or a four-year term depending upon the straw pulled when all 35 senators convene in 2013. If Crumbly were to draw a four-year term straw, which about half of the senators will, then Crumbly would serve through 2016. If Crumbly were to draw a two-year term straw, which half of the senators will, then he would be up for re-election again in 2014. If Senator Crumbly is elected to serve a full four-year term in 2014, then that term would carry Senator Crumbly through 2018 as the Senator and provide a total of 12 years of service. Twelve years is the most time that a Senator may serve in the Arkansas Senate under the present term limits law which only counts full terms against the two-term limit.

15. The opportunity for 12 years of service only occurs once for State Senators and the opportunity cannot be replaced once the chain of continuous service is broken.
16. For these reasons, the certification of the election results from the May 22, 2012 Preferential Primary Election will have a long lasting impact on the residents in State Senate District 24. Something is being lost that no court order can restore after it is gone.
17. Should the results be certified and the Plaintiffs prevail in this case and a new election be ordered, then Senator Crumbly could be in the position of running on the ballot without the use of his current title “senator.” Additionally, Senator Crumbly will likely be forced to run as a “candidate” rather than an “incumbent” and upon being successful in an election he will be placed in a new senate class with a new rank. That placement will assure that Senator Jack Crumbly never reaches the position of third-ranking member again because term limits will force him out of office before it could happen again.
18. While these are contingencies, they are real and cannot be replicated. Once the chain of events is broken, it cannot be mended.
19. The Plaintiffs are entitled to no less than the most effective representation they can muster through the election process. In this era of term limits, it behooves all voters in all districts to stick with the incumbent until the end of his term in order to effectively compete with other senators and representatives around the state for a piece of the state’s political pie.
20. Finally, while the election was not enjoined from being held for the reasons stated in the Court’s order, enjoining the certification of the results is altogether

different. This simply means that the election, except for the sake of analysis of the results, is treated as if it did not occur. This injunction will not require great effort on the part of any of the actors.

21. The election held on May 22, 2012 was racially polarized. The polling places and precincts described by both lay and expert witnesses voting consistent with previous patterns of voting.

22. A few examples of polarized voting results are:

a. Sunset (Crittenden County) (Majority Black Polling Place)

i. Crumbly 11

ii. Ingram 5

b. Haefer Community Center (Crittenden County)(Majority White Polling Place)

i. Crumbly 0

ii. Ingram 30

c. Jeannette City Hall (Crittenden County)(Black)

i. Crumbly 35

ii. Ingram 4

d. Crawfordsville Water (Crittenden County)(White)

i. Crumbly 34

ii. Ingram 111

e. Chamber of Commerce (Phillips County)(White)

i. Crumbly 183

ii. Ingram 394

f. Allen Temple Church (Phillips County)(Black)

i. Crumbly 166

ii. Ingram 74

g. Hughes (St. Francis County)(Black)

i. Crumbly 107

ii. Ingram 92

h. Heth/Blackfish (St. Francis County)(White)

i. Crumby 2

ii. Ingram 24

i. Civic Center (Lee County)(Black)

i. Crumbly 282

ii. Ingram 182

j. Richland (Lee County)(Black)

i. Crumbly 21

ii. Ingram 20

23. Under the separate electorates test, each of these polling sites reveal that White Voters and African-American Voters would have elected different candidates if their votes were counted separately.

24. One of the other factors clearly present in the election results is that the turnout at the white polling places was substantially higher in number than it was in the black polling places. For that and other reasons, Ingram was able to win this election.

25. Crittenden County provided the key to this election. Senator Crumbly won a

majority of the votes in Cross, Lee and St. Francis Counties. Representative Ingram won a majority of the votes in Crittenden and Phillips Counties.

26. The election results for each county are listed below:

a. Crittenden County			
i. Crumbly	1390		
ii. Ingram	3638		
b. Cross County			
i. Crumbly	130		
ii. Ingram	70		
c. St. Francis County			
i. Crumbly	806		
ii. Ingram	503		
d. Lee County			
i. Crumbly	434		
ii. Ingram	345		
e. Phillips County			
i. Crumbly	1217		
ii. Ingram	1451		
f. Total Votes	9984		
i. Crumbly	3977	40%	
ii. Ingram	6007	61%	¹

27. Representative Ingram’s votes in Crittenden County, alone, totaled 3638. Senator Crumbly’s total in Cross, Lee, Phillips and St. Francis Counties combined only totaled 2587 votes. Ingram’s Crittenden County vote total in the amount 3638 is equal to 92% of Crumbly’s total votes in the amount of 3977² votes in all five counties.

28. These results of this election were forecast long ago when the Board of Apportionment designed the district as it did. The Board of Apportionment knew, without a scintilla of doubt, that this district would strongly favor a white

¹ Number is greater than 100% due to rounding.

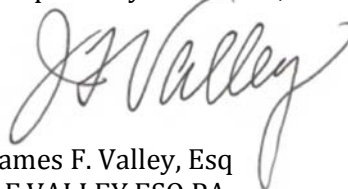
² The vote totals do not necessarily match exactly to those reported on the Secretary of State’s Webpage. However, the impact of the difference in the vote totals is de minimis.

candidate from Crittenden County.

29. The certification of the election result can occur in as little as 48-hours.
30. The Secretary of State is a party and should be enjoined from accepting or acting upon any certification of election or nomination from any of the five counties in Senate District 24 as far as the certification relates to the senate seat sought by Jack Crumbly and Keith Ingram.
31. The irreparable harm which will occur if the certification is not enjoined is:
 - a. District 24's citizens will be required to live with a representative that they did not select in accord with the Voting Rights Act;
 - b. That the constitutional infirmity raised in Plaintiffs' complaint will persist under color of law;
 - c. District 24's citizens stand to lose the opportunity to have a representative with high ranking seniority (3rd in the Arkansas Senate) which cannot be restored after the rank is lost;
 - d. Apathy will be reinforced in an area where turnout is low among African-American voters, in part, because they will have lost another election as a result of white bloc voting and the impact of the loss is not easily measureable; and
 - e. Future candidates will have this set back as an additional hurdle to increasing turnout and participation among African-American candidates and voters.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, Future Mae Jeffers, et al., pray that this Court will grant an injunction prohibiting the Secretary of State from accepting any election certification in the Senate District 24 election which occurred on May 22, 2012 and featured Senator Jack Crumbly and Representative Keith Ingram. Plaintiffs pray for any and all other relief to which they may be entitled in the premises.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I, James F. Valley, certify that on May 23, 2012, consistent with the requirements of FRCP 5, I served a complete copy of this document with any attachments to counsel as listed below:

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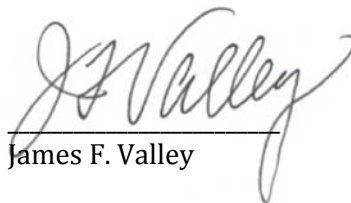
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