

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

BONNIE HEATHER MILLER, ROBERT
WILLIAM ALLEN, ADELLA DOZIER
GRAY, and ARKANSAS VOTERS FIRST,

Plaintiffs,

v.

JOHN THURSTON, in his official capacity
as Secretary of State of Arkansas,

Defendant.

Case No. 5:20-cv-05070-pkh

Hon. Paul K. Holmes, III

JOINT STATEMENT OF STIPULATED FACTS

1. Defendant John Thurston is the Arkansas Secretary of State and the chief elections officer in the State of Arkansas, and is charged under the Arkansas Constitution with receiving filed petitions and determining the sufficiency of signatures. Compl. ¶ 10, ECF No. 2.

2. On March 16, 2020, AVF filed the Proposed Amendment with the Secretary of State's office. This submission contained the full text, ballot title, and popular name for the Proposed Amendment. Compl. ¶ 21, ECF No. 2; Petition Filed with Sec'y of State, ECF No. 7-21; Proposed Ballot Measures Filed, University of Arkansas Division of Agriculture Research & Extension, https://www.uaex.edu/business-communities/voter-education/docs/Citizens_Redistricting_Commission-Sample_Petition_Part.pdf.

3. On March 16, the Secretary of State returned to AVF a file-marked copy of the Proposed Amendment and AVF was allowed to begin collecting signatures in support of the Proposed Amendment. Compl. ¶ 22, ECF No. 2; Petition Filed with Sec'y of State, ECF No. 7-21;

Proposed Ballot Measures Filed, University of Arkansas Division of Agriculture Research & Extension, https://www.uaex.edu/business-communities/voter-education/docs/Citizens_Redistricting_Commission-Sample_Petition_Part.pdf.

4. Under the Arkansas Constitution, “the people reserve to themselves the power to propose . . . amendments to the Constitution, and to enact or reject the same at the polls independent of the General Assembly.” Ark. Const. art. 5, § 1.

5. Arkansas’s initiative and referendum provision is “self-executing . . . but laws may be enacted to facilitate its operation.” *See* Ark. Const. art. 5, § 1; Compl. ¶ 26, ECF No. 2.

6. As the law currently stands, in order to get the Proposed Amendment on the November 3, 2020 ballot AVF would have to gather a number of petition signatures equal to at least 10% of the total votes cast for the office of governor in the last gubernatorial election. *See* Ark. Const. art. 5, § 1; Compl. ¶ 27, ECF No. 2.

7. Based on the number of votes cast for the office of governor in the last gubernatorial election, AVF must submit the signatures of at least 89,151 qualified Arkansas voters to Defendant to get the Proposed Amendment on the November 3, 2020 ballot. *See* Ark. Sec’y of State, 2020 Initiatives and Referenda Handbook at 2, https://www.sos.arkansas.gov/uploads/2019-2020_I_R_Handbook_-_Jan_2020.pdf (last visited Apr. 21, 2020); Compl. ¶ 28, ECF No. 2.

8. As the law currently stands, in order to get the Proposed Amendment on the November 3, 2020 ballot AVF would also have to collect signatures from “at least fifteen counties of the State . . . bearing the signature of not less than one-half of the designated percentage of the electors” of the county. Ark. Const. art. 5, § 1.

9. As the law currently stands, petition signatures for the Proposed Amendment may not be electronically collected. Ark. Ann. Code §§ 7-9-103(a)(1)(A), 7-9-104(c)(1); Compl. ¶ 27, ECF No. 2.

10. As the law currently stands, the petition must be “prepared and circulated in fifteen (15) or more parts or counterparts,” each an exact copy of the others. Ark. Ann. Code § 7-9-108(a).

11. As the law currently stands, each part must have a canvasser’s affidavit attached and must certify “that all signatures appearing on the petition part were made in the presence of the affiant, and that to the best of the affiant’s knowledge and belief each signature is genuine and each person signing is a registered voter.” Ark. Ann. Code § 7-9-108(b); Compl. ¶ 27, ECF No. 2

12. As the law currently stands, each “part” of the petition must be limited to signatures from a single county. Ark. Ann. Code § 7-9-108(d).

13. As the law currently stands, the voter’s signature must be accompanied by her printed name, date of birth, residence, city or town of residence, and date of signing. Ark. Ann. Code § 7-9-104.

14. As the law currently stands, paid canvassers must be trained about Arkansas law regarding petition gathering by the initiative’s sponsor and provided a copy of the Secretary of State’s Initiatives and Referenda Handbook. Ark. Ann. Code § 7-9-111(f)(2)(B)(i) & (ii).

15. As the law currently stands, initiative petitions must be filed with the Secretary of State “not less than four months before the election.” Ark. Const. art. 5, § 1. The deadline to submit signatures for a constitutional amendment for the November general election ballot in Arkansas is July 3, 2020. Compl. ¶ 29, ECF No. 2.

16. The Secretary of State must verify the signatures within 30 days of receipt. Ark. Ann. Code § 7-9-111(a).

17. If the Secretary of State determines that AVF has submitted an insufficient number of signatures, but at least 75% of the required signatures (66,864 in 2020) are valid, Arkansas law requires him to inform AVF of the deficiency and permit at least 30 days from the date of the notification to gather the additional needed signatures or provide proof of the validity of the submitted signatures. Ark. Ann. Code § 7-9-111(d)(1); Ark. Const. art. 5, § 1; Compl. ¶ 30, ECF No. 2.

18. An independent candidate for a United States Senate or statewide office must collect the signatures of only three percent of qualified electors of the state based on the total number of votes cast statewide for governor in the most recent gubernatorial election, but in no event is the candidate required to gather more than 10,000 signatures. Ark. Ann. Code. § 7-7-103; Compl. ¶ 31, ECF No. 2.

19. A petition seeking a referendum to overturn a legislative act must collect the signatures of only six percent of qualified electors of the state based on the total number of votes cast statewide for governor in the most recent gubernatorial election. Ark. Const. art. 5, §1; Compl. ¶ 32, ECF No. 2.

20. A petition seeking a statutory change must collect the signatures of eight percent of qualified electors of the state based on the total number of votes cast statewide for governor in the most recent gubernatorial election. Ark. Const. art. 5, § 1; Compl. ¶ 33, ECF No. 2.

21. If supplemental signatures are filed, the Defendant is to determine the sufficiency of the additional signatures within 30 days of filing the supplemental petitions. Ark. Ann. Code. § 7-9-111(d)(3); Compl. ¶ 34, ECF No. 2.

Dated May 11, 2020

Respectfully submitted,

David A. Couch
1501 North University Ave
Suite 228
Little Rock, AR 72207
(501) 661-1300
arhog@icloud.com

Annabelle E. Harless*
Campaign Legal Center
55 W. Monroe St., Ste. 1925
Chicago, IL 60603
(312) 312-2885
aharless@campaignlegal.org

*Admitted Pro Hac Vice

/s/ Ruth M. Greenwood

Ruth M. Greenwood*
Campaign Legal Center
125 Cambridgepark Drive
Cambridge, MA 02140
rgreenwood@campaignlegal.org
(202) 560-0590

Robert Weiner*
Mark Gaber*
Christopher Lamar*
Campaign Legal Center
1101 14th Street NW, Suite 400
Washington, DC 20005
rweiner@campaignlegal.org
mgaber@campaignlegal.org
clamar@campaignlegal.org
(202) 736-2200

Attorneys for the Plaintiff

/s/ William C. Bird, III

William C. Bird, III
Office of the Arkansas Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201
(501) 682-1317
Fax: (501) 682-2591
william.bird@arkansasag.gov

Attorney for the Defendant