

CV-20-454

In the Arkansas Supreme Court
An Original Action

Arkansas Voters First, a ballot question committee; Bonnie Miller, individually and on behalf of Arkansas Voters First; and Open Primaries Arkansas, a ballot question committee

Petitioners

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John Thurston, in his official capacities as Secretary of State and Chair of the State Board of Election Commissioners; and the State Board of Election Commissioners

Respondents

Arkansans for Transparency, a ballot question committee; and Jonelle Fulmer, individually and on behalf of Arkansas for Transparency

Intervenors

EMERGENCY MOTION FOR PRELIMINARY INJUNCTION

For their Emergency Motion for Preliminary Injunction, Bonnie Miller, Arkansas Voters First (“AVF”), and Open Primaries Arkansas (collectively, “Petitioners”) state:

1. The Petitioners incorporate by reference the allegations made in their Consolidated Original Petition, Amended Consolidated Original Petition, Second Amended Consolidated Original Action Complaint, Supplement to the Second Amended Consolidated Original

Action Complaint and Third Amended Consolidated Original Action Complaint.

2. AVF has submitted signatures to the Arkansas Secretary of State in support of two initiative petitions.

3. Whether or not the petitions have or will qualify for the ballot is the subject of this litigation.

4. Pursuant to Ark. Code Ann. §7-5-204(a), the deadline for the Arkansas Secretary of State to certify any proposed measures, questions, or amendments to the Arkansas Constitution to the County Board of Election Commissions of each county is Thursday, August 20, 2020.

5. The Secretary of State has not indicated whether or not he intends to certify these two proposed amendments as required by law. The Secretary of State should be ordered to certify the proposed amendments pursuant to Ark. Code Ann. §7-5-204(c)(1). The failure of the Secretary of State to certify these two amendments would be fatal to these proposed amendments.

6. There is no harm to the Secretary of State if he is compelled to certify these two amendments. If the Court rules against the

Petitioners, the Court could simply order that the votes for the proposed amendments not be counted. *See* Ark. Code Ann. § 7-5-204(c)(2).

WHEREFORE, Petitioners respectfully ask this Court to:

- (a) Enter a mandatory injunction, compelling the Arkansas Secretary of State to certify these proposed constitutional amendments to the County Board of Election Commissioners of each county by Thursday, August 20, 2020 and to take all other steps necessary as required by law to ensure these measures are placed on the ballot if and until this court orders otherwise; and,
- (b) Award AVF all other just and proper relief to which it is entitled.

Respectfully Submitted,

/s/ Adam H. Butler
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CERTIFICATE OF SERVICE

I, Adam H. Butler, hereby certify that on August 17, 2020, I electronically filed the foregoing with the Clerk of the Court using the eFlex filing system, which shall serve all counsel of record.

/s/ Adam H. Butler