

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

Common Cause Florida, FairDistricts Now,
Dorothy Inman-Johnson, Brenda Holt,
Leo R. Stoney, Myrna Young, and Nancy
Ratzan,

Plaintiffs,

v.

Laurel M. Lee, in her official capacity as
Florida Secretary of State,

Defendant.

Case No.: 4:22-cv-109

DECLARATION OF SUPERVISOR MARK S. EARLEY

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am a resident of Florida and am fully familiar with the facts set forth below.
2. I currently serve as Supervisor of Elections for Leon County, Florida (“Leon County Supervisor of Elections”). Leon County is located in northern Florida and is home to Florida’s capital, Tallahassee. Out of 67 counties, Leon County is the 22nd most populous county in Florida.
3. In addition to my elected office as Leon County Supervisor of Elections, I am currently the President-Elect of Florida Supervisors of Elections, Inc., the state association for Florida’s 67 Supervisors of Elections. I have worked in elections administration for over 30 years.
4. I have a degree in mechanical engineering from the FAMU-FSU College of Engineering. I also hold both state and national certifications in the field of election administration as a Certified Elections Registration Administrator and a Master Florida Certified Elections Professional.
5. As Leon County Supervisor of Elections, I hold an elected office. In this role, my duties include administering county, state, and federal elections.
6. In Florida, the Supervisors of Elections administer elections in each county, which includes providing for the distribution of voting systems, assigning voters to districts, preparing ballots, recruiting and training elections officials,

conducting in-person voting and vote-by-mail, and tabulating and canvassing results.

7. On August 23, 2022, Florida is scheduled to hold its 2022 statewide primary election.

8. At this time, I understand that Florida's legislature and Governor have not reached an agreement on a new congressional district plan following the delivery of the 2020 Census data to be used for the 2022 statewide primary election.

9. In order for the primary election to proceed on August 23, 2022, election officials need adequate time to complete an arduous process to prepare for the election and meet certain deadlines prior to the primary. Without adequate time, my staff and I will face an extreme burden moving forward with the necessary election administration processes.

10. For example, in advance of the primary, Florida election officials must have adequate time to prepare and mail ballots to members of the armed services, their dependents overseas, and other citizens residing overseas, and those voters must also have adequate time to return their completed ballots. Under the federal Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"), vote-by-mail ballots that include elections for federal office must be transmitted no later than 45 days before a primary election. *See* 52 U.S.C. § 20302(a)(8)(A). The

deadline to transmit vote-by-mail ballots pursuant to UOCAVA is therefore July 9, 2022.

11. Ballot information must be sent to the printer in advance of the July 9, 2022 UOCAVA deadline for transmittal of vote-by-mail ballots. The following window for mailing the very large initial batches of vote-by-mail ballots is open between 40 and 33 days out from the election. In my experience, vote-by-mail vendors that are used to print and mail ballots typically require the data drop of voter information for the large mailings approximately two to three weeks ahead of time to ensure the materials, data integrity, and other factors are in place to turn these mailings around within the statutory guidelines. Three weeks before the July 9, 2022 UOCAVA deadline is June 18, 2022.

12. Ballots cannot be created before candidates for office are determined. By statute, the names of all duly qualified candidates for election must be certified to Supervisors of Elections within seven days after the closing date for qualifying. Fla. Stat. § 99.061(6). The qualifying period in Florida for candidates for Congress, State Senator, and State Representative, among other candidates, is set to begin on June 13, 2022 and to close on June 17, 2022. Fla. Stat. § 99.061(9). Thus, the list of qualified candidates must be certified by June 24, 2022 (within seven days of June 17, 2022). By June 24, 2022 at the latest, vote-by-mail ballots should be sent to the printer in order to allow sufficient time to create and proof

ballots and conduct a quality control testing back in the local elections offices before ballots are approved and ready for transmittal to voters to meet the July 9, 2022 UOCAVA deadline.

13. Redistricting requires elections staff to complete a process of assigning voters to new districts prior to creating and preparing ballots for the election and prior to sending ballots to be printed. This process is replicated for State House, State Senate, and Congressional maps. My staff cannot begin this process unless we have received shapefiles for all maps to be used.

14. As Supervisor of Elections, I assign voters to their voting districts through a process known as geocoding. Geocoding is the process by which census data for every district, precinct, and other boundary such as for local school boards is entered into the districting software used by state and county elections officials. For Florida electoral districts, the geocoding process typically begins with the receipt of district shapefiles from the Legislature, which include geographic data setting the boundaries for legislative districts. After receiving the relevant shapefiles, my staff uses the files and mapping software to update the voting districts that are assigned to particular voter addresses.

15. After voters are assigned to districts, my staff must also perform an audit of the geocoding to ensure its accuracy before ballot preparation.

16. Every voter must also be coded with a State House, State Senate, and

congressional district (among others) in a voter registration system that is separate from the mapping software system. Information in the voter registration system street tables must be aligned with the data and shapefiles in the mapping software system. For most counties, including Leon, this process is not automated. If the system detects errors, street segment and voter information must be reviewed manually on an individual basis to resolve any issues.

17. Once new congressional districts are set, the shapefiles must also be used to determine and align precincts to congressional districts. New precincts must be approved by the Board of County Commissioners. That body meets every two weeks.

18. After the close of the candidate filing period, elections officials must also create and print ballots, review the ballots for potential errors, and then prepare and test voting equipment.

19. Ballot preparation and proofing ballots cannot begin until after the proper geographic boundaries for voting districts are set, geocoding is complete, the candidates are known, and the candidate-filing period closes. The process of generating and proofing ballots is complex and involves multiple technical systems and quality-control measures that precede ballot editing and coding of voting machines. The lines of each of the maps are incorporated into the process for deciding where new precinct lines will be drawn, whether precincts will need to be

split, and where those splits will be placed. Each of the precincts need to correspond to specific polling places, and every voter needs to be assigned to a precinct and to have an available ballot that includes all of the races they will vote for at that precinct. This all needs to be determined before the precincts are finalized to ensure that the vote-by-mail mailings can be sent out accurately and on time, and that the overlapping district combinations are properly reflected in the precinct/splits in the voter registration street tables.

20. After consulting with my staff, which is especially experienced in this work, and based on my 30 years of experience in election administration, I estimate that it will take our office a minimum of four weeks from the date that a new congressional district plan is enacted and shapefiles are delivered to counties in Florida to complete the necessary tasks before sending ballots to the printer, including determination of new precincts, the geocoding process, and delivery of information necessary to create the ballots.

21. As such, my office needs a new congressional districting map approximately four weeks prior to the June 24, 2022 deadline for certification of all duly qualified candidates, at which time ballots would need to be submitted to be printed to meet the July 9, 2022 UOCAVA deadline. Accordingly, in order to be timely implemented in Leon County, a new congressional map needs to be in place by May 27, 2022 at the absolute latest (4 weeks before June 24, 2022) to

allow my staff and I adequate time to prepare for the election and meet the relevant election deadlines in advance of the primary.

22. In my role as President-Elect of Florida Supervisors of Elections, I have spoken with many of my fellow Supervisors of Elections in other Florida counties. While my staff and I believe we could complete all of the work for Leon County if we had finalized maps by May 27, 2022, I have spoken to numerous Supervisors who strongly believe that May 27, 2022 would not give them enough time to complete the work for their counties, and who believe the deadline for completing that work is early May or even late April. Based upon my knowledge of the additional complexities present with the technical processes in other, larger counties, I believe these concerns are well-founded and should be taken into consideration when setting a deadline for a finalized Congressional map. The reasons for the different estimates of time needed to prepare for the election include that I have a well-trained staff with substantial experience administering prior elections, other counties are also larger and more complex than Leon County, and some smaller counties do not have a wealth of technical resources available to them.

23. I understand that Supervisor Lori Edwards of Polk County estimates that it will take her office a minimum of six to eight weeks prior to the June 24, 2022 deadline for certification of all duly qualified candidates to prepare for the

election and meet the relevant election deadlines in advance of the primary. I have no reason to disagree with the reasonableness of Supervisor Edwards' estimate of the time that her office needs to prepare for the election.

24. I understand that the Florida Secretary of State has stated in court filings in this proceeding and in a state-court proceeding that the deadline for the State to have a new congressional map is June 13, 2022. I do not believe it will be possible for any Supervisor of Elections in Florida, whose county is impacted by uncertainty in the drawing of the Florida Congressional district boundaries, to meet the necessary deadlines for realigning the voter registration street indices, re-precincting voters accurately laying out, proofing and printing ballots, and conducting the initial testing of voting equipment with ballots before the UOCAVA mailing deadlines to confidently comply with the July 9, 2022 UOCAVA deadline, and prepare for the August 23, 2022 primary if a new map is not finalized until June 13, 2022.

25. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of April, 2022.


Mark S. Earley