

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

LOUISIANA STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE;
ANTHONY ALLEN; and STEPHANIE ANTHONY

Civil Action No. 3:19-cv-479
JWD-EWD

v.

STATE OF LOUISIANA; and R. KYLE ARDOIN, in
his official capacity as Secretary of State of Louisiana

**DEFENDANT, R. KYLE ARDOIN, LOUISIANA SECRETARY OF STATE,
REPLY TO OPPOSITION TO MOTION TO DISMISS**

MAY IT PLEASE THE COURT:

Defendant, R. Kyle Ardoin, Louisiana Secretary of State, files this reply to address certain arguments made in Plaintiffs' opposition (Doc 35). No motion for leave is required. See Doc 29.

The Louisiana Secretary of State Duties With Respect To This Case Are Ministerial

The Louisiana Secretary of State's duties with respect to a voting rights case challenging district composition under Section 2 of the Voting Rights Act are ministerial. Judge Brady of this Court has so held with respect to the Louisiana Secretary of State. See *Terrebonne Parish NAACP v. Jindal*, Civil Action No. 14-069, Middle District of Louisiana, Doc 171, p. 11, "The Secretary of State's duties with regard to election laws are established by the legislature without regard to how election districts are formed or election districts are established."

In so ruling there, Judge Brady accepted the Secretary of State's argument that "his duties are purely ministerial and concerned with the mechanics of conducting elections and therefore, he is without power to enforce, defend, or change the laws governing the voting scheme of the State."

In finding the Louisiana Secretary of State neither a necessary or indispensable party, Judge Brady referred to the Louisiana Secretary of State's duties in *Terrebonne Parish NAACP* to be ministerial,

“...the Secretary of State will carry out his ministerial duties and conduct elections pursuant to any remedial plan adopted by the Louisiana Legislature or by this Court.” *Terrebonne Parish NAACP*, Doc 171, pp. 11-12 (emphasis added)

Plaintiffs attempt to distinguish the *Terrebonne Parish NAACP* case from this case, arguing that *Terrebonne* was a “parish-specific matter” and this case concerns “multiple parish elections”. See Opposition, Doc 35, pp. 9-10. This is a distinction without a difference. Whether an election in Louisiana is held in one parish or in more than one parish, in a part of a parish, in several parishes, several parts of parishes, in the entire state or in a specific municipality (or part thereof), the Louisiana Secretary of State's ministerial duties remain the same. Those duties include the duties set forth in the Opposition, (Doc 35, p 8) are ministerial duties with one possible exception. Plaintiffs mention the Louisiana Secretary of State's duty to “review and approve or deny election precinct boundary changes, mergers, divisions and consolidation”, citing La. R.S. 18:532.1. That section of election code is not applicable to this case. It involves changes to the “configuration, boundaries, or designation of an election precinct,” not of a voting district, La. R.S. 18:532.1A. These are changes made by a parish governing authority when the precinct has either too few (less than 300) or too many (more than 2,200) registered voters, La. R.S. 18:532B(1)(b). Only changes made by a “precinct merger” must be reviewed by the Secretary of State, La. R.S. 18:532.1C(3). This review has nothing to do with the creation or changes to voting districts, certainly not to the Supreme Court voting districts.

Plaintiffs cite cases from other states to support its opposition. It is not known what the

duties of the secretaries of state are in these other states, particularly not whether the duties at issue are ministerial.

Plaintiffs also cite a case from this Court, *Johnson v. Ardoin*, 2019 WL 2329319, that is not a final ruling; there is a motion for reconsideration pending. See *Johnson v. Ardoin*, Middle District of Louisiana, No. 18-025, Doc 101. Further, the Court has stayed that case pending *en banc* consideration by the Fifth Circuit Court of Appeals on an unspecified unsettled legal issue, *Johnson v. Ardoin*, Doc 133.

The Secretary of State Is Not Needed To Afford Complete Relief to Plaintiffs

In *Terrebonne Parish NAACP v. Jindal*, Judge Brady found that complete relief can be afforded in a Section 2 Voting Rights case without Louisiana Secretary of State remaining as defendant, despite plaintiffs' contention at Doc 35, p. 10, that "his presence in this suit is necessary to afford complete relief." Judge Brady held that "the Governor and Attorney General will be instrumental in devising and implementing a remedy to the ... voting schemes", *Terrebonne Parish NAACP*, Doc 171, p. 10. Just as the State, the remaining defendant, will be in this case.

The Secretary of State Seeks To Be Removed As Defendant

The Louisiana Secretary of State is not seeking dismissal of the entire case in his FRCP Rule 21 argument, just dismissal of the case against him, his removal as party defendant as Rule 21 allows. Thus dismissal will serve judicial economy, will reduce costs to the state of Louisiana and the plaintiffs, and reserve judicial resources.

A dispensable party may properly be dismissed pursuant to FRCP 21. See *Krueger v. Cartwright*, 996 F.2d 928, 934 (7th Cir. 1993), citing *Newman-Green, Inc. v. Alfonzo-Llorain*, 109 S.Ct. 2218, 2225-26 (1989). The Louisiana Secretary of State is a dispensable party in a Section 2

voting rights case. See *Terrebonne Parish NAACP v. Jindal*, Middle District of Louisiana, Civil Action No. 14-069, Doc 171, p. 11. The facts of this case warrant dismissal of the Secretary of State as a party defendant.

Respectfully Submitted:

s/Celia R. Cangelosi
CELIA R. CANGELOSI
La. Bar Roll No. 12140
5551 Corporate Blvd., Suite 101
Baton Rouge, LA 70808
Telephone: (225) 231-1453
Facsimile: (225) 231-1456
Email: celiacan@bellsouth.net

Attorney for R. Kyle Ardoin, Louisiana Secretary of State

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed electronically and served on counsel for the parties by electronic notification by CM/ECF on November 7, 2019.

s/Celia R. Cangelosi
CELIA R. CANGELOSI