

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
EASTERN DIVISION**

<p>Turtle Mountain Band of Chippewa Indians, Spirit Lake Tribe, Wesley Davis, Zachery S. King, and Collette Brown</p> <p style="text-align: center;">Plaintiffs,</p> <p>vs.</p> <p>Alvin Jaeger, in his official capacity as Secretary of State of North Dakota,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">Case No. 3:22-cv-00022</p> <p style="text-align: center;">DEFENDANT’S MOTION TO DISMISS</p>
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Pursuant to Rule 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure Defendant Alvin Jaeger, in his official capacity as Secretary of State of North Dakota moves the Court to dismiss Plaintiffs’ *Complaint* (Doc. 1) in its entirety. The sole claim made by Plaintiffs in this lawsuit is the legislative districts created by the Legislative Assembly following the 2020 Census, specifically Districts 9 and 15, allegedly violate Section 2 of the Voting Rights Act. However, the Voting Rights Act does not contain a private right of action for violation of Section 2, and therefore Plaintiffs have failed to state a claim and this Court lacks subject matter jurisdiction. Additionally, the Turtle Mountain Band of Chippewa Indians and Spirit Lake Tribe are not “citizen[s] of the United States” under the Voting Rights Act, and the Tribes lack standing in any event. This motion is made based on the supporting memorandum of law filed herewith, and all the files, records, and pleadings and proceedings herein.

Dated this 15th day of April, 2022.

By: /s/ David R. Phillips
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Dated this 15th day of April, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **DEFENDANT'S MOTION TO DISMISS** was on the 15th day of April, 2022, filed electronically with the Clerk of Court through ECF:

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