

IN THE ARKANSAS SUPREME COURT

**BONNIE MILLER, individually and on behalf of
ARKANSAS VOTERS FIRST and
OPEN PRIMARIES ARKANSAS,
BALLOT QUESTION COMMITTEES**

PETITIONER

NO: CV-20-454

VS

**JOHN THURSTON IN HIS CAPACITY
AS ARKANSAS SECRETARY OF STATE**

RESPONDENT

**MOTION TO EXPEDITE AND
FOR PRELIMINARY INJUNCTION**

Come now Petitioner, and for its *Motion* state:

1. On Friday, July 17, 2020, Petitioner filed a verified original petition, herein. The petition is incorporated by reference into this Motion. The Petitioner has submitted to the Arkansas Secretary of State two separate popular names and ballot titles for his approval as required by law, so that he can circulate the respective initiative petitions to be placed on the ballot for the election to be held on November 3, 2020.

2. The Arkansas Secretary of State has failed to count any of the signatures submitted in support of the valid initiative petitions. Without a count of any of the signatures in support of the respective initiative petitions, the initiative process is being thwarted in violation of Arkansas law. The Petitioner seeks an order compelling the Arkansas Secretary of State to begin counting the signatures

provided in support of the respective initiative petitions and/or afford Petitioner the “cure-period” of at least thirty (30) days as required by Arkansas law, and to comply with all steps required to ensure that the measures are included on the ballot.

3. The Arkansas Secretary of State has already indicated that he does not intend to count the valid signatures Petitioner submitted in support of the respective, valid, and timely initiative petitions. Exh. 1, Secretary of State “Declaration of Insufficiency Letter to Arkansas Voters First Regarding Redistricting”, dated July 17, 2020; Exh. 2, Secretary of State “Declaration of Insufficiency Letter to Arkansas Voters First Regarding Open Primary Elections”, dated July 17, 2020.

4. Petitioner must collect 89,151 signatures of registered voters. The deadline for the Arkansas Secretary of State to certify any proposed amendments to the Arkansas Constitution to the County Boards of Election Commissioners is August 20, 2020. Exh. 3, Arkansas 2020 Election Deadlines. Within thirty (30) days (no later than August 20, 2020), the Arkansas Secretary of State must certify proposed amendments to the County Boards of Election Commissioners. Exh. 3, Arkansas 2020 Election Deadlines. Each day that passes without the collection and/or counting of signatures makes the ultimate task of collecting and/or counting

the requisite number of signatures on or before August 20, 2020, extremely difficult.

5. The process of counting the number of valid signatures is the first step in the process. Without taking that step, immediately, the other, applicable, election deadlines could doom the measures in question due to the Arkansas Secretary of State's refusal to perform his duties regarding the counting of signatures.

6. The Arkansas Secretary of State should be ordered to immediately count the valid signatures submitted by Petitioner. The Arkansas Secretary of State should also be ordered to provide Petitioner with a cure period of at least thirty (30) days to cure any deficiencies, as required by Arkansas law.

7. Pursuant to Ark. R. Civ. P. 65, Petitioner has demonstrated they will suffer irreparable harm if the Arkansas Secretary of State does not begin counting the valid signatures they submitted. The measures in question would be summarily and unlawfully defeated by the refusal of the Secretary of State to perform his duties under Arkansas law and count their valid signatures.

8. Pursuant to Ark. R. Civ. P. 65, Petitioner has demonstrated a likelihood of success on the merits. The reason given by the Arkansas Secretary of State for his refusal to count the valid signatures submitted is a disingenuous, thinly-veiled stalling tactic that is not supported by Arkansas law.

9. Ark. R. Civ. P. 65(b) provides that the Court may issue a temporary restraining order without notice or with oral notice.

10. This Court should issue an immediate, temporary restraining order directing the Arkansas Secretary of State to immediately begin counting the valid signatures submitted by Petitioner. This Court should also hold a hearing to determine whether the temporary restraining order will result in a preliminary/permanent injunction.

11. Ark. R. Civ. P. 65(b)(3) provides that if a temporary restraining order is issued, the motion for a preliminary injunction must be heard at the earliest possible time, taking precedence over all other matters.

For the reasons set forth in the Original Petition and this Motion, the Petitioner requests that the Court enter a temporary restraining order, and/or preliminary injunction, without notice to the Secretary of State, requiring that, within 3 days, the Arkansas Secretary of State begin counting the signatures provided in support of the respective initiative petitions and/or afford Petitioner the “cure-period” required by Arkansas law; requests that this Court issue a preliminary and permanent injunction requiring the Arkansas Secretary of State to immediately begin counting the valid signatures submitted, and for all other relief to which Petitioner is entitled.

Respectfully Submitted,

Adam H. Butler

Adam H. Butler

AR Sct. # 2003007

414 West Court St.

Paragould, AR 72450

870.239.9581

abutler@paragouldlawyer.com

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing was served on the following person via U.S. and electronic mail this 20th day of July, 2020:

Secretary of State John Thurston
State Capitol
Suite 256
500 Woodlane St.
Little Rock, AR 72201



Adam H. Butler



JOHN THURSTON

ARKANSAS SECRETARY OF STATE

ELECTRONICALLY FILED
Arkansas Supreme Court
Stacey Pectol, Clerk of the Courts
2020-Jul-20 02:58:33
CV-20-454
1 Page

David A. Couch
Attorney at Law
1501 N. University Ave., Suite 228
Little Rock, AR 72207

via electronic mail to arhog@me.com

July 17, 2020

Re: Declaration of Insufficiency
Sponsor: Arkansas Voters First
Petition: Citizens Commission for an Independent Redistricting Commission

Dear Mr. Couch:

I would like to clarify a statement made in my original letter of insufficiency dated July 14, 2020. As noted in that letter, the above referenced petition has been declared insufficient because Arkansas Voters First did not comply with Ark. Code Ann. § 7-9-601(b)(3). Therefore, the submitted signatures "shall not be counted by the Secretary of State for any purpose," Ark. Code Ann. § 7-9-601(f), and I "without delay notif[ied] the sponsors of [this] petition" of its insufficiency. Ark. Const. art. 5, § 1; *see* Ark. Code Ann. § 7-9-111(d)(1) ["If the signatures submitted on a statewide initiative petition . . . are found to be insufficient, the Secretary of State *shall forthwith notify the sponsors in writing*, through their designated agent, and shall set forth his or her reasons for so finding." (emphasis added)].

I want to clarify the statement I made regarding the possibility that there may be other as yet undetermined reasons the petition may not be sufficient. I did not intend to infer that our normal intake procedures would cease. In fact, we have been continuously evaluating the petition under our normal intake analysis (facial review), which does not involve counting the signatures.

Once intake is complete on the petition, I will issue a revised letter listing all reasons, if there are others in addition to the one originally reported, that the petition is insufficient.

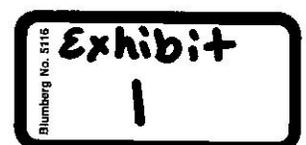
Sincerely,

/s/ John Thurston

John Thurston
Arkansas Secretary of State

State Capitol • Suite 256 • 500 Woodlane Street • Little Rock, Arkansas 72201-1094
501-682-1010 • Fax 501-682-3510
e-mail: arsos@sos.arkansas.gov • www.sos.arkansas.gov

EXHIBIT 1





JOHN THURSTON
ARKANSAS SECRETARY OF STATE

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David A. Couch
Attorney at Law
1501 N. University Ave., Suite 228
Little Rock, AR 72207

via electronic mail to arhog@me.com

July 17, 2020

Re: Declaration of Insufficiency
Sponsor: Arkansas Voters First
Petition: A Constitutional Amendment Establishing Top Four Open Primary Elections and Majority Winner
General Elections with Instant Runoff if Necessary

Dear Mr. Couch:

I would like to clarify a statement made in my original letter of insufficiency dated July 14, 2020. As noted in that letter, the above referenced petition has been declared insufficient because Arkansas Voters First did not comply with Ark. Code Ann. § 7-9-601(b)(3). Therefore, the submitted signatures "shall not be counted by the Secretary of State for any purpose," Ark. Code Ann. § 7-9-601(f), and I "without delay notif[ied] the sponsors of [this] petition" of its insufficiency. Ark. Const. art. 5, § 1; see Ark. Code Ann. § 7-9-111(d)(1) ("If the signatures submitted on a statewide initiative petition . . . are found to be insufficient, the Secretary of State *shall forthwith notify the sponsors in writing*, through their designated agent, and shall set forth his or her reasons for so finding." (emphasis added)).

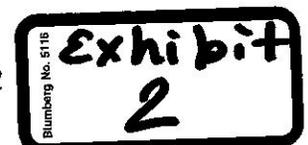
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Once intake is complete on the petition, I will issue a revised letter listing all reasons, if there are others in addition to the one originally reported, that the petition is insufficient.

Sincerely,

/s/ John Thurston

John Thurston
Arkansas Secretary of State



Election Deadlines

July 6	Deadline to submit petition.
August 6	Deadline for Board of Election Commissioners to approve or reject ballot title
August 20	Deadline for SOS to certify any proposed measures, questions or Amendments to the Arkansas Constitution to the CBEDs of each county
September 4	Deadline for county clerks to make applications available for absentee ballots for the General Election
September 17	Deadline for the CBEC to deliver absentee ballots to the county clerk for mailing to qualified applicants
September 18	UOCAVA deadline - deadline for county clerks to deliver ballots to absentee voters who made application (uniformed service members and citizens residing outside of USA)
October 19	Early voting begins
October 24	Publication deadline for CBEC to publish proposed amendment to the Arkansas Constitution.
November 3	General Election

