

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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CV-20-454

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

**Petitioners' Motion to Expedite and
to Refer Additional Matters to the Special Master**

Bonnie Miller, Arkansas Voters First (“AVF”), and Open Primaries Arkansas (collectively, “Petitioners”) state:

1. On July 6, 2020, AVF submitted timely, valid initiative petitions with the requisite accompanying signatures to the Secretary of State.

2. On July 14, 2020, the Secretary wrote to AVF stating that he was unable to count *any* signatures submitted by AVF in connection with either petition because of the wording of AVF's certification language (required under Ark. Code Ann. § 7-9-601(b)(3)), which was submitted to the Secretary. **Exhibits 5 and 6** to Second Amended Complaint (incorporated herein by reference).

3. On July 17, 2020, having no other remedies, AVF filed this original action.

4. On July 21, 2020, AVF filed its first amendment to the original action petition to clarify the standing of the two ballot question committees.

5. Later that day on July 21, 2020, after stating that he was prohibited from counting signatures, the Secretary wrote AVF stating additional reasons for not counting thousands more signatures submitted in support of the petition for open primaries/rank-choice. **Exhibit 7** to the Second Amended Complaint (incorporated herein by reference).

6. After culling these signatures on various grounds, the face of the petition for open primaries/rank-choice voting had only 88,623 signatures on its. *Id.*

7. On July 22, 2020, the State Board of Election Commissioners met and refused to certify the sufficiency of the popular name and ballot title for open primaries/rank-choice voting.

8. On July 24, 2020, this Court appointed the Honorable John Fogleman as special master to hear factual issues arising under the amended.

9. AVF has filed a second amended complaint to incorporate the above two developments—the Secretary’s additional grounds for culling signatures and the State Board’s refusal to certify the ballot title.

10. Those factual matters that were previously raised in the first amended complaint are now designated as Count 1 in the second amended complaint.

11. AVF has added the Secretary’s additional grounds for culling signatures as Count 2 in the second amended complaint.

12. AVF respectfully asks this Court to refer Count 2 to Judge Fogleman for inclusion in the existing proceedings and expanding his authority to consider the factual issues in Count 2.

13. AVF respectfully asks this Court to bifurcate Count 3, dealing with the sufficiency of the ballot title and popular name, and set a briefing schedule.

14. The deadline for the Secretary to certify any proposed constitutional amendments to the County Boards of Election Commissioners is August 20, 2020.

15. Given the short time frames, and in the interest of judicial economy, AVF respectfully requests this Court expedite consideration of this motion.

Respectfully Submitted,

/s/ Adam H. Butler

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CERTIFICATE OF SERVICE

I, Adam H. Butler, hereby certify that on July 27, 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_____