

IN THE ARKANSAS SUPREME COURT

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

v. **No. CV-20-454**

**JOHN THURSTON, in his capacity as
Arkansas Secretary of State, et al.** **RESPONDENT**

**ALLISON WHITE, individually and on behalf of
PROTECT ARKANSAS COMMUNITIES, and
PROTECT ARKANSAS COMMUNITIES,
A BALLOT QUESTION COMMITTEE** **INTERVENORS**

**ARKANSAS SECRETARY OF STATE’S MOTION TO DISMISS
THE THIRD AMENDED CONSOLIDATED
ORIGINAL ACTION COMPLAINT
(WITH BRIEF INCORPORATED)**

For his Motion to Dismiss the Third Amended Consolidated Original Action Complaint, Secretary of State John Thurston states:

1. Petitioners seek to breathe life into their dead petition drive and obtain placement on the ballot of their two proposed amendments, knowing full-well that any votes cast in favor of the measures will never be counted. (See Secretary of State’s Response Brief, August 18, 2020).

2. The Secretary has filed herein a Notice and Motion to Vacate (August 11, 2020 regarding the redistricting petition) and a Second Notice and Motion to Vacate (August 18, 2020 regarding the open primaries petition), informing the Court and parties that neither petition contained the number of signatures of registered voters required by the Constitution of Arkansas that would qualify either petition for a cure period. Const. of Ark. art. 5, § 1. Likewise, the petitions should not be certified to the ballot and the Secretary should not be required to spend tax-payers' money to verify and count any signatures submitted pursuant to the provisional cure period this Court granted to the Petitioners.
3. The Arkansas Attorney General, on behalf of the State Board of Election Commissioners, filed herein a Motion to Dismiss the third amended complaint and a supporting brief. (August 18, 2012). To the extent that SBEC's motion and brief addresses Petitioners' failure to comply with the statutory mandate that sponsors of petitions shall certify that any paid canvassers have passed a criminal background check (Ark. Code Ann. § 7-9-

601(b)(3)), the Secretary adopts and incorporates herein by reference the arguments for dismissal therein. (Ark. R. Civ. P. 10(c)).

WHEREFORE, Secretary John Thurston prays that the Third Amended Consolidated Original Action Complaint be dismissed; and for all other just and proper relief.

Respectfully submitted,

JOHN THURSTON
Arkansas Secretary of State

By: /s/ Gary L. Sullivan
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Attorney for Respondent

CERTIFICATE OF SERVICE

I, Gary L. Sullivan, hereby certify that on August 19, 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/ Gary L. Sullivan