

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

RICK SCOTT FOR SENATE,

Plaintiff,

v.

**BRENDA C. SNIPES, solely in her capacity
as Supervisor of Elections of Broward
County, Florida, and THE BROWARD
COUNTY CANVASSING BOARD,**

Defendants.

CASE NO.

JUDGE

**Verified Complaint for Declaratory
and Injunctive Relief**

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff Rick Scott for Senate (“Plaintiff”), through its undersigned counsel, sues Defendants Brenda C. Snipes, solely in her capacity as the Supervisor of Elections of Broward County, Florida, and the Broward County Canvassing Board (collectively, “Defendants”), and alleges:

JURISDICTION AND VENUE

1. This is a lawsuit for declaratory and injunctive relief under § 86.011, Fla. Stat.
2. Venue is proper in Broward County, Florida because Defendants maintain their principal places of business in Broward County and because all or part of the claim for relief at issue in this litigation arose in Broward County.

THE PARTIES

3. Plaintiff is a federal campaign committee authorized to conduct political activity throughout Florida, including by supporting the candidacy of Rick Scott for election as United States Senator from Florida during the 2018 general election.
4. Defendants are responsible for overseeing the conduct of elections in Broward

County, including but not limited to the conduct of election personnel throughout the county in the post-election process.

5. Plaintiff is supporting candidates to be voted upon in the election in Broward County and throughout Florida. Plaintiff's interests in enforcing Florida's election laws, and ensuring a fair election, are adversely affected by the conduct complained of below.

6. All conditions precedent to the filing of this lawsuit have been performed, have been waived, or are otherwise excused.

**COUNT I – REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF
ENJOINING DEFENDANTS' SUBMISSION OF ANY RETURNS AFTER THE
UNOFFICIAL RETURN DEADLINE, EXCEPT FOR THOSE RETURNS SPECIFIED IN
§ 101.6952(5), FLA. STAT.**

7. Plaintiff adopts and realleges the allegations of paragraphs 1–6 above.

8. Section 102.141(5), Fla. Stat., the main provision of the Florida Election Code at issue in this lawsuit, governs the submission of voting returns to the Florida Department of State. That provision states (emphasis added):

The canvassing board shall submit on forms or in formats provided by the division unofficial returns to the Department of State for each federal, statewide, state, or multicounty office or ballot measure no later than noon on the third day after any primary election and **no later than noon on the fourth day after any general or other election. Such returns shall include the canvass of all ballots** as required by subsection (2).

9. The language of § 102.141(5) is uncomplicated and unambiguous.

10. Despite the fact that *all* unofficial returns shall be submitted to the Department of State as required by § 102.141(5), by a certain deadline (*i.e.*, noon today), Defendants proceeded to count additional ballots after the noon deadline (hereinafter referred to as the “Illegal Ballots”) and after submitting their unofficial return to the Department of State (the “Unofficial Return”).

11. Between the Unofficial Return and the official return, which shall be filed by noon on the 12th day following the general election with the Department of State, under §

102.112(2), Fla. Stat., the only ballots that may be added to the return are overseas military ballots in accordance with § 101.6952(5), Fla. Stat. Section 101.6952(5) states (emphasis added):

A **vote-by-mail ballot from an overseas voter** in any presidential preference primary or general election which is postmarked or dated no later than the date of the election and is received by the supervisor of elections of the county in which the overseas voter is registered no later than 10 days after the date of the election shall be counted as long as the vote-by-mail ballot is otherwise proper.

12. Upon information and belief, Defendants intend to add the Illegal Ballots to Defendants' official return, in violation of Florida law.

13. As of the filing of this lawsuit, Defendants have failed and refused to confirm whether they will count and/or add the Illegal Ballots to Defendants' official return, or maintain the Illegal Ballots segregated at all times and not included in Defendants' official return. There is no basis or law that would require or permit Defendants to count ballots after the submission of the Unofficial Return, except for those ballots specified in § 101.6952(5).

14. There is a present, *bona fide* controversy over whether Defendants are presently violating the mandates of § 102.141(5).

15. Plaintiff's, its candidates', and its voters' rights will be violated if the Election Code is not followed, as Defendants' ongoing violation of § 102.141(5) jeopardizes the integrity of, and may alter the outcome of, the 2018 general election.

16. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

a. A declaratory judgment that Defendants' submission of an official return including the Illegal Ballots violates § 102.141(5), Fla. Stat.

b. A temporary and permanent injunction ordering Defendants to maintain the Illegal Ballots segregated at all times and not included in Defendants' official return.

c. The costs of this lawsuit, together with reasonable attorney's fees to the extent provided by law; and

d. Such further relief as the Court deems just and proper.

VERIFICATION

I hereby swear or affirm under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

/s/ Alette D. Rodz
Counsel for Plaintiff

Dated: November 10, 2018

Respectfully submitted,

/s/ Aliette D. Rodz

Aliette D. Rodz, Esq.

Florida Bar No. 0173592

Email: arodz@shutts.com

SHUTTS & BOWEN LLP

200 S. Biscayne Blvd., Suite 4100

Miami, FL 33131

Office: (305) 347-7342

Facsimile: (305) 347-7742

-and-

George T. Levesque, Esq.

Florida Bar No. 555541

Email: george.levesque@gray-robinson.com

Leslie Arsenault Metz, Esq.

Florida Bar No. 98865

Email: leslie.metz@gray-robinson.com

Jason Zimmerman, Esq.

Florida Bar No. 104392

Email: jason.zimmerman@gray-robinson.com

Jeff Aaron, Esq.

Florida Bar No. 123473

Email: jeff.aaron@gray-robinson.com

GRAYROBINSON, P.A.

515 N. Flagler Dr., Suite 1425

West Palm Beach, FL 33401

Office: (561) 268-5727

Facsimile: (561) 886-4101

Attorneys for Plaintiff

TLHDOCS 14066783 1