

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
)
American Civil Liberties Union of South)
Carolina Foundation,)
)
)
Plaintiff,)
)
v.)
)
State Election Commission; South)
Carolina Department of Motor Vehicles,)
)
)
Defendants.)
)
)
_____)

**IN THE COURT OF COMMON
PLEAS**

CASE NO. 2024-CP-40-06286

**MOTION TO DISMISS
COMPLAINT AND OPPOSITION
TO MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Intervenor Thomas C. Alexander, in his official capacity as President of the South Carolina Senate (“President Alexander”), (1) moves to dismiss the Plaintiff’s complaint pursuant to Rules 12(b)(1) and 12(b)(6), SCRCF; and (2) opposes Plaintiff’s motion for temporary restraining order and preliminary injunction, and states as follows:

1. **No Standing.** Plaintiff is a nonprofit organization, and it has none of the voting rights it purports to asserts here. It therefore lacks standing. *See Berry v. McLeod*, 328 S.C. 435, 449, 492 (Ct. App. 1997) (“The plaintiffs alleged they had been denied their right to vote in a referendum on the bond, but this is also a right personal to the individuals, not of the town.”).
2. **DMV Complied with the Law.** The South Carolina Department of Motor Vehicles followed the laws as written with respect to its role in the voter registration process, and the complaint fails to allege facts that actually demonstrate noncompliance with South Carolina Code §§ 7-5-180 and 7-5-320. As a result, even if the Court accepts the allegations in the complaint as true, it fails to state a claim upon which relief can be granted.
3. **Separation of Powers,** The South Carolina Constitution vests authority in the General Assembly alone to establish the laws governing elections in the state. *See S.C. Const. art.*

II, § 10. Likewise, the Legislature alone has the power to suspend laws if and when necessary. *See id.* art. I, § 7. Plaintiff’s request for relief amounts to asking this Court to suspend various aspects of the South Carolina Election Code—including the statutory process for registering to vote and the accompanying sworn attestation that the application is a qualified elector, and the statutory deadline for registering as an elector before an election. Such a request is an invitation for the Court to alter the State Election Code, which is prohibited as a matter of separation of powers.

4. **Laches/Purcell.** Finally, this case is filed way too late and too close to Election Day for it to be justiciable in any event. Assuming *arguendo* Plaintiff has standing (which it does not), SCDMV did not follow the law (which it did), and the South Carolina Constitution grants courts the power to establish and suspend election laws (which it does not), this case still fails as a matter of law because it was filed just two weeks before Election Day, after registration has lawfully closed and after early voting had begun. As the United States Supreme Court has repeatedly emphasized, courts “should not alter state election rules in the period close to an election.” *Andino v. Middleton*, 141 S. Ct. 9, 10 (2020) (Kavanaugh, J., concurring) (citing *Purcell v. Gonzalez*, 549 U.S. 1, 5 (2006)).

Accordingly, the Court should dismiss this case in its entirety, and it should likewise deny the Plaintiff’s motion for a temporary restraining order and preliminary injunction. Moreover, to the extent not inconsistent with the above, President Alexander respectfully joins and adopts by reference the arguments made by the Defendants and other proposed Intervenors in opposition to Plaintiff’s motion and seeking dismissal of this matter.

Dated: October 24, 2024

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