

IN THE SUPREME COURT OF ARKANSAS

**JENNIFER MCGILL, INDIVIDUALLY AND ON
BEHALF OF THE ARKANSAS CANVASSING
COMPLIANCE COMMITTEE; &
CHEROKEE NATION ENTERTAINMENT, LLC**

Petitioners

v.

No. CV-24-492

**JOHN THURSTON,
IN HIS OFFICIAL CAPACITY
AS SECRETARY OF STATE**

Respondent

**LOCAL VOTERS IN CHARGE,
A BALLOT QUESTION COMMITTEE;
AND JIM KNIGHT, INDIVIDUALLY
AND ON BEHALF OF
LOCAL VOTERS IN CHARGE**

Intervenors

Respondent's Pre-Trial Brief

On July 5, 2024, Local Voters in Charge (LVC) submitted their ballot petition and supporting documents to the office of the Secretary of State. On July 31, 2024, the Secretary of State certified LVC's Proposed Amendment for the 2024 ballot. At the time of certification, the Secretary of State had no way of knowing that LVC had violated Ark. Code Ann. § 7-9-601(b)(3) by failing to certify that its paid canvassers had no disqualifying offenses. The certifications that were submitted to the Secretary of State listed the individuals that were certifying the documents as "Manager[s] for the canvassing effort of Local Voters in Charge." That

statement did not confirm or deny that the individuals making the certification were members of Local Voters in Charge. Since the Secretary of State had no reason to question whether these individuals were members of Local Voters in Charge, he accepted the certifications as valid.

It was only after LVC's own admissions in their filings in a separate proceeding, as well as the discovery process in this case, that it became apparent LVC had persons associated with paid canvassing companies make the certifications instead of LVC. This means that while the Secretary of State correctly certified the Proposed Amendment for the ballot, this Court should now invalidate any votes cast for this Proposed Amendment in the upcoming election.

Arkansas law requires sponsors of statewide initiatives to certify to the Secretary of State "that each paid canvasser in the sponsor's employ has no disqualifying offenses" that would prevent them from being a paid canvasser. Ark. Code Ann. § 7-9-601(b)(3). The statute does not say that a third party or an agent of the sponsor may make the certification. Rather, "the sponsor shall certify." *Id.* In the present case, LVC did not make this certification in compliance with Ark. Code Ann. § 7-9-601(b)(3). Instead, employees of third-party canvassing companies did so.

The deadline to certify the 2024 ballot was August 22, 2024. Therefore, while the proposed amendment will appear on the ballot, no votes on the proposal should be counted.

The Amended Original Action Complaint alleges a host of other allegations

about which Respondent does not have any information or knowledge. If these factual allegations are found by the Special Master to be true, that finding would be additional grounds for not counting any votes on the proposed amendment.

Conclusion

The Secretary of State requests this Court find that LVC did not properly certify its paid canvassers in compliance with Ark. Code Ann. § 7-9-601(b)(3). Therefore, this Court should find that votes cast on the Proposed Amendment should not be counted.

Respectfully submitted,

TIM GRIFFIN
Attorney General

By: /s/ Jordan Broyles
Jordan Broyles
Ark. Bar No. 2015156
Justin Brascher
Assistant Attorney General
Ark. Bar No. 2023029
Office of the Arkansas Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201
(501) 503-4335
(501) 682-2591 fax
jordan.broyles@arkansasag.gov
justin.brascher@arkansasag.gov

Attorneys for Respondent

CERTIFICATE OF SERVICE

I, Jordan Broyles, hereby certify that on August 26, 2024, I electronically filed the foregoing with the Clerk of the Court using the eFlex filing system, which notifies eFlex participants.

/s/Jordan Broyles
Jordan Broyles