

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

**FLORIDA STATE CONFERENCE
OF THE NAACP, DISABILITY
RIGHTS FLORIDA, et al.,**

Plaintiffs,

v.

**LAUREL M. LEE, in her official
capacity as Florida Secretary of State,
et al.,**

Defendants.

**Case No. 4:21-cv-00186-MW-MAF
(Lead Consolidated Case)
Case No. 4:21-cv-00187**

**DEFENDANT CHRISTINA WHITE’S NOTICE OF JOINDER OF
DEFENDANT’S MOTION FOR SUMMARY JUDGMENT (ECF No. 278)**

Defendant Christina White, in her official capacity as Supervisor of Elections for Miami-Dade County (“Supervisor White”), states as follows:

1. In this action, this Court has held that Plaintiffs may proceed with their claims against the Supervisors of Elections relating to “the drop box restrictions..., vote-by-mail application restrictions and ‘line warming’ ban.” ECF No. 242 at 2.

2. Defendant Craig Latimer (“Supervisor Latimer”) filed a Motion to Summary Judgment where he argued that he is entitled to summary judgment because Count IX does not “address[] any claims against SOE’s” and “there is no evidence sufficient to establish a case or controversy involving [Supervisor] Latimer” as to Counts I and III through VIII. ECF No. 278 at 3.

3. In support of his Motion for Summary Judgment, Supervisor Latimer points out the following as it relates to Hillsborough County: (1) “[t]here is no evidence at all in the record that suggests that in Hillsborough County [Supervisor] Latimer’s robust plan to offer multiple choices to voters will diminish voters’ opportunities in 2022 or in any future year, whether caused by SB 90 or for any other reason”; (2) there is no record evidence as to a severe reduction of drop box locations; (3) there is “no evidence that [Supervisor] Latimer’s office cannot or will not meet any and all of the administrative burdens placed upon [it] by [SB 90’s vote-by-mail application restrictions]”; and (4) “there is no evidence in the record that [Supervisor] Latimer ever has, or intends to, deny assistance to queuing voters.” *Id.* at 6, 9, 10, 11.

4. Just like Supervisor Latimer, Supervisor White offered similar testimony in her deposition concerning the conduct and administration of elections in Miami-Dade County.

5. For example, she provided unrebutted testimony that, in Miami-Dade County, all drop boxes were located at Early Voting sites, open during the same days and hours of Early Voting, and manned by staff pursuant to a direction from the Miami-Dade Board of County Commissioners. *See* ECF No. 283-21 (“White Depo”) at 18:14-16 (“The reason that we had manned drop boxes in Miami-Dade was because ... we were directed to do so by the Board of County Commissioners.”); 39:7-8 (“[W]e had the boxes during the days and hours of early voting.”). *See also* ECF No. 283-22 at 26-32. Thus, there will be no severe restriction of the availability

of drop boxes in Miami-Dade County, notwithstanding any of SB 90's drop box restrictions.

6. Additionally, Supervisor White testified that Miami-Dade County will address the administrative burdens imposed upon it by the vote-by-mail application restrictions by "reaching out to [voters] directly by mail, informing [them] that because of the law change, that [their vote-by-mail] request is no longer valid, and they will need to re-enroll if they want to continue to be on the vote-by-mail request list, as well as social media and other forums." White Depo at 28:10-15. Thus, there is no evidence that Supervisor White's office cannot or will not meet any and all of the administrative burdens placed upon it by SB 90's vote-by-mail application restrictions.

7. Finally, with respect to the "line warming" ban, Supervisor White testified that, even before SB 90's enactment, all activity at Miami-Dade County polling places—except for exit polling—occurred outside the 150-foot line. White Depo at 22:16 ("All activity is outside the 150 feet."). And, if anyone needs to sit down, obtain assistance, or get water or food from an organization while waiting in line, Miami-Dade County provides a proxy process where that individual's spot in line is saved while they address those matters. White Depo at 23:2-7 ("We have what's called the proxy process, that a person who is in line with them or just, you know, another voter who is willing to hold the line for them is able to do so. And that person is able to go sit down, whether it's at our area that we have stations for this purpose or wherever they are comfortable."). Thus, the "line warming" ban does not impact

how Miami-Dade conducts its election and, consequently, an injunction relating to the “line warming” ban would offer no relief. *See* White Depo at 24:14-17 (Q: Does Section 102.031 of the Florida Statutes require you to do anything differently? A. I don’t believe so.”).

8. Accordingly, Supervisor White joins the Motion for Summary Judgment filed by Supervisor Latimer as to any as applied challenge that may be inferred from Plaintiffs’ pleadings to the extent such a challenge might be focused upon Miami-Dade County’s Supervisor of Elections.

9. As for any facial challenge to SB 90’s drop box restriction, vote-by-mail application restrictions, and “line warming” ban, Supervisor White notes that, under Fed. R. Civ. P. 5.1, any challenge to the constitutionality of a state statute requires that notice be provided to the state attorney general if “the state, one of its agencies, or one of its officers or employees in an official capacity” is not already a party to the matter. Therefore, the Federal Rules of Civil Procedure implicitly recognize that the state is best positioned to defend the constitutionality of its laws even when standing may exist against a different defendant.

10. In this case, an officer of the State of Florida—Secretary of State Laurel Lee—is already a defendant as to some of the claims. And, in her capacity as the chief election officer of the state under Fla. Stat. § 97.012, Secretary Lee has filed a Motion for Summary Judgment defending the constitutionality of every provision of SB 90 that Plaintiffs challenge, even those provisions where this Court has found that standing only exists as to the Supervisors of Elections. *See generally* ECF No. 285.

11. Therefore, Supervisor White defers to the State of Florida, through Secretary Lee, to defend the constitutionality of its law against any facial challenge.

CONCLUSION

In short, Supervisor White joins the Motion for Summary Judgment filed by Supervisor Latimer, ECF No. 237, as to any as applied challenge that may be inferred against Miami-Dade County and defers to the defenses raised by the Secretary of State as to any facial challenge to SB 90's drop box restrictions, vote-by-mail application restrictions, and "line warming" ban.

Date: November 15, 2021

Respectfully submitted,
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Counsel for Christina White

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served to all counsel of record through the Court's CM/ECF system on November 15, 2021.

/s/ Michael B. Valdes

Michael B. Valdes
Assistant County Attorney

CERTIFICATE OF COMPLIANCE

The undersigned certifies that the foregoing complies with the size, font, and formatting requirements of Local Rule 5.1(C).

/s/ Michael B. Valdes

Michael B. Valdes
Assistant County Attorney

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