

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LEAGUE OF UNITED LATIN AMERICAN
CITIZENS OF IOWA,

Case No. CVCV062715

Petitioner,

v.

**PETITIONER'S RESISTANCE TO
RESPONDENTS' MOTION TO DISMISS
AMENDED PETITION**

IOWA SECRETARY OF STATE PAUL
PATE, in his official capacity; IOWA
VOTER REGISTRATION COMMISSION;
BUENA VISTA COUNTY AUDITOR SUE
LLOYD, in her official capacity; CALHOUN
COUNTY AUDITOR ROBIN BATZ, in her
official capacity; JEFFERSON COUNTY
AUDITOR SCOTT RENEKER, in his
official capacity; MONTGOMERY
COUNTY AUDITOR STEPHANIE BURKE,
in her official capacity,

Respondents.

COMES NOW Petitioner League of United Latin American Citizens ("LULAC") of Iowa in response to Respondents' Motion to Dismiss Amended Petition, filed on January 28, 2022. In opposition to Respondents' motion, LULAC states:

1. On January 18, 2022, LULAC filed an Amended Petition as a matter of course under Iowa Rule 1.402(4). The Amended Petition included additional factual allegations regarding the impact of the continuing injunction in *King v. Mauro* No. CV6739, slip. Op. (Iowa Dist. Ct. Mar. 31, 2008, corrected April 8, 2008), on the use of Spanish language voting materials, and further explained why the relief that LULAC requests in this action would redress its injuries. *See* Am. Pet. ¶¶ 13, 39-41.

2. On that same day, LULAC also filed a Resistance Brief opposing Respondents' motion to dismiss the original petition, which explained that, consistent with its allegations,

“LULAC is prepared to prove that some election officials would provide non-English voting materials” if the English-Only Law were properly interpreted to exempt voting materials. Pet’r’s Resistance to Mot. to Dismiss at 7.

3. On January 28, 2022, Respondents filed a Reply Brief in support of their motion to dismiss the original petition. *See* Reply in Supp. of Resp’ts’ Mot. to Dismiss. In addition, the Respondents filed a separate motion to dismiss the Amended Petition that effectively reiterated their prior arguments. *See* Resp’ts’ Mot. to Dismiss Am. Pet (“Second Motion”).

4. In Respondents’ Second Motion, they argue that “the court lacks authority to dissolve or enjoin a permanent injunction in a prior proceeding.” *Id.* at 2. To avoid repetition, LULAC incorporates the arguments set forth in its Resistance Brief. In addition, LULAC would like to bring to the Court’s attention the Iowa Court of Appeals’ decision in *In re Schrock*, 746 N.W.2d 279 (Table), 2008 WL 239193 (Iowa Ct. App. 2008). There, a non-party to a family law judgment issued in Buchanan County brought suit in Fayette County to void that judgment. *Id.* at *1. Though the action was styled as a declaratory judgment voiding a prior judgment, the relief requested was functionally equivalent to that requested here. The *Schrock* court held that “[c]learly, Iowa district courts have subject matter jurisdiction to hear a declaratory judgment action and to declare a prior judgment void.” *Id.* at *2. Though the Court noted that venue in Fayette County was improper under Iowa Rule 1.1510, it found that any venue objection had been waived. *Id.* at 3. Therefore, the Court reversed the dismissal of the suit and permitted a non-party to seek to void a judgment that injured them *in a different county*. *Id.* at 4. In other words, the Iowa Court of Appeals has previously recognized the authority of Iowa courts to void prior judgments—even when brought by a stranger to the litigation.

5. Respondents' Second Motion also argues that "LULAC lacks standing because its requested declaratory judgment . . . won't redress any alleged injury to LULAC or its members." Second Mot. at 2. To avoid repetition, LULAC incorporates the arguments set forth in its Response Brief. In addition, LULAC would like to bring to the Court's attention two relevant cases in the election law context where a remedy which provided election officials with additional discretion to assist voters was considered sufficient to redress a plaintiff's injuries. *See, e.g., Obama for Am. v. Husted*, 697 F.3d 423, 437 (6th Cir. 2012) (affirming district court's restoration of Ohio boards' of elections discretion in setting hours and days for early voting in the three days leading up to Election Day); *League of Women Voters of Fla., Inc. v. Detzner*, 354 F. Supp. 3d 1280, 1284-87 (N.D. Fla. 2018) (denying motion to dismiss action seeking injunction to give local elections officials discretion to place early-voting sites on college campuses).

6. For the reasons stated herein, as well as those contained in LULAC's prior Resistance Brief, Respondents' Motion to Dismiss the Amended Petition should be denied.

Dated this 3rd day of February, 2022.

Respectfully submitted,

/s/ Shayla L. McCormally

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