

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Blake Mazurek, Robin Smith, and
Timothy Smith,

Plaintiffs,

v

Case No. 1:23-cv-00185

Honorable Jane M. Beckering

Magistrate Phillip J. Green

Kathy Berden, Mayra Rodriguez, Meshawn
Maddock, John Haggard, Kent Vanderwood,
Marian Sheridan, James Renner, Amy
Facchinello, Rose Rook, Hank Choate,
Mari-Ann Henry, Clifford Frost, Stanley
Grot, Timothy King, Michele Lundgren, and
Ken Thompson,

Defendants.

Reply in Support of Plaintiffs' Motion for Remand

Plaintiffs Blake Mazurek, Robin Smith, and Timothy Smith respectfully submit this reply brief in support of their motion for remand.

Defendants argue in their response brief that this Court has jurisdiction based on a complicated rendition of what they claim is “the independent state legislature theory.” Defendants are wrong. Defendants’ argument is based on their attempt to cast plaintiffs’ claims as claims seeking to punish defendants as presidential electors (which, according to defendants, allegedly runs afoul of Article II, Section 1, Clause 2 of the Constitution). Plaintiffs’ claims do nothing of the sort.

Plaintiffs’ claims do not take issue with the fact that, *before* the election, defendants were nominated to serve as electors on the Republican Party’s slate of presidential electors in the event

the Republican presidential candidate were to win the election in Michigan. Instead, plaintiffs' claims take issue with the fact that *after* the election, and after the slate of electors nominated by the Democratic Party were certified as the duly elected presidential electors from Michigan, defendants falsely claimed to be the winning presidential electors. Thus, defendants were not "alternate electors" as they now claim in support of their convoluted "independent state legislature theory"; rather, defendants were fake electors as indisputably alleged in the complaint.

Defendants confuse and conflate their status before the election with their status after their candidate lost the election, all in an effort to create federal jurisdiction where none exists. Plaintiffs' claims do not involve defendants' status as presidential electors because defendants never achieved such status as a result of the election, and plaintiffs' complaint therefore cannot implicate defendants' articulation of the so-called "independent state legislature theory."

For these reasons, and for the reasons explained in plaintiffs' motion for remand, which defendants have largely failed to address, plaintiffs respectfully request that this Court enter an order remanding this case to state court and requiring defendants to pay plaintiffs' attorney fees incurred as a result of the removal, as allowed by 28 U.S.C. § 1447(c).

Respectfully Submitted,

BLAKE MAZUREK, ROBIN SMITH, and
TIMOTHY SMITH

Date: May 3, 2023

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