

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

LOUISIANA STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE;
ANTHONY ALLEN; and STEPHANIE ANTHONY

Civil Action No. 3:19-cv-00479
JWD-EWD

v.

STATE OF LOUISIANA; and R. KYLE ARDOIN, in
his official capacity as Secretary of State of Louisiana

ANSWER OF DEFENDANT, R. KYLE ARDOIN,
LOUISIANA SECRETARY OF STATE

NOW COMES Defendant, R. Kyle Ardoin, in his official capacity as Louisiana Secretary of
State (“Secretary of State”), who objects to and answers the complaint as follows:

FIRST DEFENSE

This case does not present a case or controversy as required by Art. III, §2, Cl. 1 of the United
States Constitution and so the Court lacks jurisdiction.

SECOND DEFENSE

Nor does the Complaint state a claim upon which relief can be granted as to the Secretary of
State for any alleged violation.

THIRD DEFENSE

The United States District Court for the Eastern District of Louisiana has exclusive
jurisdiction under the *Chisom* Consent Decree and plaintiffs are estopped from seeking relief in the
Middle District of Louisiana.

FOURTH DEFENSE

The Plaintiffs lack standing to sue.

FIFTH DEFENSE

Venue is proper in the Eastern District of Louisiana.

SIXTH DEFENSE

Plaintiffs' claims are barred by laches.

SEVENTH DEFENSE

Plaintiffs' claims are speculative and not sufficiently concrete given the impending release of the 2020 Census data.

EIGHTH DEFENSE

Plaintiffs' claims and relief are barred by the Equal Protection Clause of the 14th Amendment.

NINTH DEFENSE

The Voting Rights Act does not apply to the election of judges.

IN FURTHER ANSWERING the particular allegations of the Complaint:

1.

Paragraph 1 is denied as written. Further answering, Defendant Secretary of State shows that La. Const. Art. 5 defines the Louisiana state courts and the jurisdictions of each court.

2.

Paragraph 2 violates the pleading requirements of Fed. R. Civ. P. 8 and addresses too many topics to allow this Defendant to respond; and this paragraph is therefore denied.

3.

Paragraph 3 violates the pleading requirements of Fed. R. Civ. P. 8 and addresses too many

topics to allow this Defendant to respond; and this paragraph is therefore denied.

4.

Paragraph 4 is denied.

5.

Paragraph 5 is a request for relief requiring no answer. To the extent that an answer is required, Defendant Secretary of State denies that Plaintiffs are entitled to any of the relief they seek.

6.

Defendant Secretary of State admits that Plaintiffs are alleging a claim under the Voting Rights Act and that a Voting Rights claim arises under the laws of the United States but contends that the Eastern District of Louisiana should have exclusive jurisdiction over this proceeding under the *Chisom* Consent Decree.

7.

Defendant Secretary of State admits the 28 U.S.C. §§2201 and 2202 authorize a court to grant declaratory and injunctive relief. Further answering, see answer to Paragraph 6.

8.

Paragraph 8 contains a conclusion of law and requires no answer of Defendant Secretary of State.

9.

Paragraph 9 contains a conclusion of law and requires no answer of Defendant Secretary of State. If answer is required, then Paragraph 9 is denied and denied for lack of sufficient information so as to justify a belief as to the truth of those allegations.

10.

Paragraph 10 violates the pleading requirements of Fed. R. Civ. P. 8 and addresses too many topics to allow this defendant to respond, and this paragraph is therefore denied. The last sentence of Paragraph 10 is denied; and the remainder of Paragraph 10 is denied for lack of sufficient information so to justify a belief.

11.

Paragraph 11 is denied.

12.

The first sentence of Paragraph 12 is denied for lack of sufficient information so as to justify a belief. The remainder of Paragraph 12 is denied.

13.

The first sentence of Paragraph 13 is denied for lack of sufficient information so as to justify a belief. The remainder of Paragraph 13 is denied.

14.

Paragraph 14 is admitted.

15.

Paragraph 15 is admitted.

16.

Paragraph 16 violates the pleading requirements of Fed. R. Civ. P. 8 and contains legal argument and conclusions of law that can only be addressed by legal memorandum; and is therefore denied.

17.

Paragraph 17 violates the pleading requirements of Fed. R. Civ. P. 8 and is so convoluted, and even contains a table and contains too many topics to allow defendant to respond; and this Paragraph is therefore denied.

18.

Paragraph 18 violates the pleading requirements of Fed. R. Civ. P. 8, and is so convoluted and even contains a table, covers too many topics, and makes it difficult for this defendant to respond; and this paragraph is therefore denied.

19.

Paragraph 19 is denied as written. Further answering, Defendant Secretary of State responds that the jurisdiction of the Louisiana Supreme Court is set forth in La. Const. Art. V, §5.

20.

Paragraph 20 is denied as written as containing partial characterizations of various provisions of the Louisiana Constitution and not entirely accurate allegations of fact. The provisions of La. Const. Art. V, §§ 3, 4 and 6 are the best evidence of their contents. Defendant Secretary of State specifically denies that Louisiana Supreme Court justices are elected in partisan elections; and admits that one chief justice and six associate justices are each elected from single member districts for terms of ten years; and represents that the chief justice is the judge oldest in point of service on the supreme court.

21.

Paragraph 21 is denied.

22.

Paragraph 22 violates the pleading requirements of Fed. R. Civ. P. 8 and is so convoluted and addresses too many topics to allow this Defendant to respond; and this Paragraph is therefore denied. Further answering, Defendant notes that the terms “consolidated contest” and “runoff election” are not contained in the Louisiana Election Code, making it even more difficult for defendant to respond to the allegations of Paragraph 22.

23.

Paragraph 23 violates the pleading requirements of Fed. R. Civ. P. 8 and is so convoluted and contains too many topics to allow defendant to respond; and this Paragraph is therefore denied. Further answering, Defendant Secretary of State notes that it does not know what is meant by “original electoral process” to allow for response.

24.

Paragraph 24 alleges a partial characterization of a decision of the United States Supreme Court and a legal proceeding; and is therefore denied. Further answering, Defendant Secretary of State responds that the cited United States Supreme Court decision would be the best evidence of its content/holding, and does not constitute a statement of fact.

25.

Paragraph 25 alleges a partial recitation of Act 512 of 1992 and a “federal consent decree”, neither of which constitute allegations of fact, and are therefore denied as written. Further answering, Defendant Secretary of State represents that the provisions of Act 512 of 1992 and of the unspecified “federal consent decree” would constitute the best evidence of their contents.

26.

Paragraph 26 violates the pleading requirements of Fed. R. Civ. P. 8 and addresses too many topics to allow this Defendant to respond; and is therefore denied. Further answering, Defendant Secretary of State admits that he understands that Justice Revius Ortique was the first African American to serve on the Louisiana Supreme Court, occurring after an election was held in 1992.

27.

Paragraph 27 violates the pleading requirements of Fed. R. Civ. P. 8 and addresses too many topics to allow this Defendant to respond; and is therefore denied. Further answering, Defendant Secretary of State admits that he understands that Justice Bernette Johnson is the second African American to serve on the Louisiana Supreme Court, after having been elected in 1994.

28.

Paragraph 28 is denied as written. Defendant Secretary of State admits that the current apportionment of the Louisiana Supreme Court consists of seven single member districts.

29.

The allegations of Paragraph 29 are denied as written. Further answering, Defendant Secretary of State admits that Justice Johnson was elected to the Louisiana Supreme Court without opposition from District 7 in both 2000 and 2010.

30.

Paragraph 30 is admitted; Justice Bernette Johnson was sworn in as Chief Justice of the Louisiana Supreme Court on February 1, 2013.

31.

Paragraph 31 is denied as written. Further answering, Defendant Secretary of State admits that, since 2000, Justice Johnson has been the only African American holding an elected seat on the Louisiana Supreme Court. Defendant further notes that there are only five elected associate justices serving on the Louisiana Supreme Court at this time, all of whom are white.

32.

Paragraph 32 is denied for lack of sufficient information so as to justify a belief as to the truth of those allegations. Further answering, Defendant Secretary of State admits that he understands that Justice Johnson and Justice Ortique are the only two African Americans to have served as elected members of the Louisiana Supreme Court.

33.

Paragraph 33 violates the pleading requirement of Fed. R. Civ. P. 8 and principally contains legal argument that can only be addressed by legal memorandum; and is therefore denied.

34.

Paragraph 34 is denied.

35.

Paragraph 35 is denied.

36.

Paragraph 36 is denied.

37.

Paragraph 37 is denied.

38.

Paragraph 38 violates the pleading requirements of Fed. R. Civ. P. 8 and is convoluted and

contains too many topics to allow Defendant to respond; and is therefore denied. Further answering, Paragraph 38 also contains legal argument that can only be addressed by memorandum; and is therefore denied.

39.

Paragraph 39 alleges partial characterizations of various litigation and decisions of the Middle District of Louisiana and the United States Supreme Court, and are therefore denied. These allegations as made violate the pleading requirements of Fed. R. Civ. P. 8 and are convoluted and discuss too many topics to allow this Defendant to respond; and this Paragraph is therefore denied.

40.

Paragraph 40 is denied for lack of sufficient information to justify a belief as to the truth of the allegation, which allegations violate the pleading requirement of Fed. R. Civ. P. 8 and address too many topics to allow defendant to respond; and the paragraph is therefore denied.

41.

The allegations of Paragraph 41 are denied for lack of sufficient information so as to justify a belief as to the truth of those allegations, allegations which contain a conclusion of law and require no answer of Defendant.

42.

Paragraph 42 violates the pleading requirements of Fed. R. Civ. P. 8 and is so convoluted and addresses too many topics to allow this Defendant to respond; and the Paragraph is denied. Further answering, the decision of the federal district court in *Chisom v. Jindal*, 890 F. Supp. 2d 696 (E.D. La. 2012), would be the best evidence of its contents, although not a statement of fact.

43.

Paragraph 43 is denied. Further answering, Defendant Secretary of State notes that *Scott v. Schedler*, 2018 WL 264603 (E.D. La. Jan. 23 2012) held that, as of October 15, 2012, the Louisiana Department of Health and Hospitals, Louisiana Department of Children and Family Services, and the Louisiana Secretary of State were in compliance with the mandates of the National Voter Registration Act.

44.

The allegations of Paragraph 44 are denied. Further answering, Defendant shows that on June 29, 2020, the Fifth Circuit Court of Appeals reversed the cited decision of the Middle District of Louisiana. See *Fuselier v. Landry*, 2020 WL 3496856 (5th Cir. 6/29/2020).

45.

Paragraph 45 is denied.

46.

Paragraph 46 is denied.

47.

Paragraph 47 violates the pleading requirements of Fed. R. Civ. P. 8, and addresses too many topics to allow this Defendant to respond, and contains conclusory statements; and therefore is denied.

48.

Paragraph 48 is denied.

49.

Paragraph 49 violates the pleading requirements of Fed. R. Civ. P. 8, contains conclusions of law and conclusory statements, contains too many topics; and is therefore denied.

50.

Defendant Secretary of State is without sufficient knowledge to admit or deny the allegations of Paragraph 50; if answer is required, these allegations are denied.

51.

If answer is required, the allegations of Paragraph 51 are denied as the cited American Community Survey would be the best evidence of its contents.

52.

For lack of sufficient information as to justify a belief, the allegations of Paragraph 52 are denied. Defendant is unable to determine the meaning of “for that same time period” as used in Paragraph 52.

53.

For lack of sufficient information so as to justify a belief, the allegations of Paragraph 51 are denied.

54.

For lack of sufficient information so as to justify a belief as well as for lack of a temporal period made with the allegation, the allegations of Paragraph 54 are denied.

55.

For lack of sufficient information so as to justify a belief as well as for lack of specificity, and for the use of conclusory statements and generality, the allegations of Paragraph 55 are denied.

56.

Paragraph 56 violates the pleading requirements of Fed. R. Civ. P. 8 and is so convoluted and includes too many topics, as well as conclusory statements, to allow this Defendant to respond; and is therefore denied.

57.

This conclusory and non specific allegation of Paragraph 57 is denied.

58.

The allegations of Paragraph 58 are denied for lack of sufficient information so as to justify a belief, denied as written, and denied. Further answering, Defendant states that he is not aware of “eight statewide executive officer positions.”

59.

The allegations of Paragraph 59 are denied for lack of sufficient information so as to justify a belief as to the truth of those allegations as written. Further answering, Defendant Secretary of State admits that Louisiana had an African American governor in 1872 and 1873, and understands that no African American has been elected as governor of Louisiana since that time.

60.

The allegations of Paragraph 60 are believed to be correct.

61.

Paragraph 61 is denied.

62.

Paragraph 62 is denied.

63.

The allegation of Paragraph 63 is admitted to the extent that only one of the current six Louisiana congressmen are known to be African American. However, the significance of the percentage of 16.7% is unknown to the Secretary of State and therefore denied.

64.

The allegations of Paragraph 64 are denied to the extent that the Secretary of State is unable

to understand the term “nearly all”.

65.

The allegations of Paragraph 65 are denied as containing a conclusory statement of “underrepresented” without more. Further answering, Defendant Secretary of State shows that the cited decision has been reversed by the Fifth Circuit Court of Appeals.

66.

The allegations of Paragraph 66 require no answer of Defendant. If required, the allegations are denied.

67.

Paragraph 67 is denied.

68.

Paragraph 68 is denied.

69.

Paragraph 69 is denied.

70.

Paragraph 70 is denied.

71.

For the remainder of the Complaint constituting Plaintiffs’ “Prayer for Relief,” no answer is required. To the extent that an answer is required, Defendant Secretary of State denies that Plaintiffs are entitled to any of the relief they seek.

72.

Each and every allegation of the Complaint not heretofore expressly admitted or denied is hereby denied.

73.

The Secretary of State is entitled to and requests reasonable attorney fees, including expert fees and litigation expenses, and costs associated with this proceeding under 42 U.S.C. 1988(b) and 52 U.S.C. 10310(e).

WHEREFORE, Defendant, R. Kyle Ardoin, in his official capacity as Louisiana Secretary of State, prays for judgment in Defendant's favor and for a dismissal of Plaintiffs' Complaint with prejudice and at Plaintiffs' cost; and for an award of reasonable attorneys fees, including expert fees, litigation expenses, and costs. Defendant further prays for all full, general and equitable relief.

Respectfully Submitted:

s/Celia R. Cangelosi
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Attorney for Defendant, R. Kyle Ardoin, in his official capacity as Louisiana Secretary of State

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed electronically and served on counsel for the parties by electronic notification by CM/ECF on July 10, 2020.

s/Celia R. Cangelosi
CELIA R. CANGELOSI