IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

POTTER COUNTY REPUBLICAN PARTY, DANIEL ROGERS, individually and on behalf of all other similarly affected Plaintiffs,	§	
v.	§	
CHRISTY BENGE, in her official capacity as the POTTER COUNTY ELECTIONS ADMINISTRATOR and as proposed representative of a defendant class of similarly situated Texas county election officials,	§	Civil Action No. 2:26-cv-00215-Z
Defendants.	§	

DEFENDANT CHRISTY BENGE'S MOTION TO DISMISS

Defendant Christy Benge, pursuant to Fed. R. Civ. P. 12, moves to dismiss Plaintiffs' action on the following grounds and for the following reasons:[1]

1. As contemplated by Fed. R. Civ. P. 12(b)(1), the Court lacks jurisdiction over the subject matter of this action because:

(a) Plaintiffs lack standing inasmuch as the Complaint asserts only a generalized grievance shared by every voter in Potter County (and, potentially, in Texas), which is insufficient to show an injury in fact;

(b) Plaintiffs lack standing since the injury they allege — potential foreign actor and AI-assisted third-party interference — is speculative and conjectural, not concrete or imminent;

[1] The arguments and authorities supporting this motion are contained in the Brief in Support of Defendant's Motion to Dismiss, which is being filed contemporaneously with this motion and which is adopted and incorporated herein.

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(c) Plaintiffs lack standing because the Complaint does not reflect a vote-dilution injury that is individualized or personalized to Plaintiffs;

(d) Plaintiffs lack standing since the alleged injury — potential foreign actor and AI-assisted third-party interference — is not fairly traceable to Defendant;

(e) Plaintiffs lack standing because the requested statewide relief is not redressable against Defendant Christy Benge as a single, county-level official; and

(f) Plaintiff Potter County Republican Party lacks organizational standing since its alleged injury is a generalized grievance shared by every voter in Potter County (and, potentially, in Texas), and its resource expenditure theory of injury is foreclosed by *Food & Drug Admin. v. All. for Hippocratic Med*.[2] and the Fifth Circuit's application thereof.

2. In the alternative, and as contemplated by Fed. R. Civ. P. 12(b)(6), the Complaint fails to state a claim against Defendant Christy Benge upon which relief can be granted because:

(a) The precept of *Purcell* and its progeny bars the eleventh-hour election interference sought by the Complaint;

(b) The Complaint fails to identify a protected property or liberty interest to support the putative claim under the Due Process Clause of the Fourteenth Amendment to the United States Constitution;

(c) The controlling *Anderson*/*Burdick*[3] framework as applied to the Complaint precludes any substantive Due Process claim;

(d) The Complaint fails to allege any disparate treatment to support a claim under the Equal Protection Clause of the Fourteenth Amendment;

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[2] 602 U.S. 367, 394 (2024).

[3] *See Anderson v. Celebrezze*, 460 U.S. 780 (1983); *Burdick v. Takushi*, 504 U.S. 428 (1992).

(e) The election irregularity alleged does not rise to the level of willful misconduct that undermines the election process, as required to sustain an election-related claim under 42 U.S.C. § 1983;

(f) To the extent Plaintiffs seek relief under the Help America Vote Act (HAVA), 42 U.S.C. § 15301 *et seq*., HAVA does not itself create a private right of action, nor is one properly implied thereunder; and

(g) The Declaratory Judgment Act does not create an independent basis of subject-matter jurisdiction or an independent cause of action, so the Complaint's deficiencies identified above foreclose Plaintiffs' declaratory judgment claim in Count 2 of the Complaint.

Based on the matters asserted above, Defendant Christy Benge requests that the Court dismiss this action without prejudice for lack of subject-matter jurisdiction or, alternatively, dismiss this cause with prejudice for failure to state a claim upon which relief can be granted.

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Respectfully submitted,

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By: /s/ Scott Brumley
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Attorney for Defendant Christy Benge

CERTIFICATE OF SERVICE

On November 9, 2026, I filed the foregoing document with the clerk of court for the United States District Court for the Northern District of Texas. I hereby certify that I have served the document on all counsel of record by a manner authorized by Federal Rules of Civil Procedure 5(b)(2), specifically, through the Court's CM/ECF system.

/s/ Scott Brumley
Scott Brumley
Attorney for Defendant Christy Benge

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Proposed Order on Motion under Fed. R. Civ. P. 12(b)(1)

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Defendants.	§	

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ORDER ON DEFENDANT'S MOTION TO DISMISS FOR LACK OF SUBJECT-MATTER JURISDICTION

After considering Defendant Christy Benge's motion to dismiss for lack of subject-matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1), and Plaintiffs' response, the Court GRANTS the motion.

Accordingly, this action is DISMISSED without prejudice for lack of subject-matter jurisdiction.

All other pending motions and requests for relief are DENIED as moot.

IT IS SO ORDERED.

SIGNED on _____, 20_____.

_____
HON. MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE

Proposed Order on Motion under Fed. R. Civ. P. 12(b)(6)

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Defendants.	§	

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ORDER ON DEFENDANT'S MOTION TO DISMISS FOR PLAINTIFFS' FAILURE TO STATE A CLAIM

After considering Defendant Christy Benge's motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) asserting that Plaintiffs have failed to state a claim upon which relief can be granted, and Plaintiffs' response, the Court:

_____ DENIES the motion and retains the case on the Court's docket.

_____ GRANTS the motion and dismisses this action with prejudice.

IT IS SO ORDERED.

SIGNED on _____, 20_____.

_____
HON. MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE