

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

KELVIN LEON JONES, et al.,

Plaintiffs,

v.

RON DESANTIS, in his official
capacity as Governor of the State
of Florida, et al.,

Defendants.

Consolidated Case No. 4:19-cv-
300-RH/MJF

**PLAINTIFFS’ OPPOSED MOTION FOR LEAVE TO FILE A
REPLY TO DEFENDANTS’ OPPOSITION TO PLAINTIFFS’
MOTION TO EXPAND THE PRELIMINARY INJUNCTION**

Pursuant to Local Rule 7.1(I), *Gruver* Plaintiffs¹ file this motion for leave to file a reply to the Governor and Secretary of State’s Response in Opposition (ECF 218, the “Opposition”) to Plaintiffs’ Motion to Expand the Preliminary Injunction (ECF 211), which seeks to modestly expand the Court’s preliminary injunction order (ECF 207, the “Order”) to apply to three named plaintiffs added through the *Gruver* Plaintiffs’ First Amended

¹ *Gruver* Plaintiffs include Jeff Gruver, Emory Marquis “Marq” Mitchell, Betty Riddle, Kristopher Wrench, Keith Ivey, Karen Leicht, Raquel Wright, Steven Phalen, Clifford Tyson, Jermaine Miller, Curtis Bryant, Jr., Jesse D. Hamilton, LaToya Moreland, Florida State Conference of the NAACP, Orange County Branch of the NAACP, and League of Women Voters of Florida.

Complaint and a member of organizational Plaintiff the Florida State Conference of the NAACP. All four individuals are registered to vote and have shown via sworn declarations that they have outstanding legal financial obligations (“LFOs”) they are unable to pay.²

Local Rule 7.1(I) states that “in extraordinary circumstances, the Court may grant leave to file a reply memorandum in support of” any motion. Extraordinary circumstances exist here for three reasons:

First, since filing *Gruver* Plaintiffs’ motion, new facts have developed concerning the failure by Defendants Governor and Secretary of State (collectively, “Defendants”) to provide meaningful guidance to Supervisors of Elections (“SoEs”) that is necessary to implement the Court’s Order. In particular, Defendants have failed to provide meaningful guidance to SoEs regarding the eligibility to register to vote and to vote of certain citizens, including newly added Plaintiffs, who have outstanding LFOs they are unable to pay. Counsel for Plaintiffs requested guidance from Defendants, and from certain SoEs, about whether a newly added Plaintiff and member of an organizational Plaintiff could vote in November elections without fear of

² Two of the returning citizens who seek the protection of this Court’s Order, Mr. Curtis Bryant and Mr. Anthrone Oats, submitted declarations before the Court’s October preliminary injunction hearing. *See* ECF 152-22 (filed Sept. 17, 2019), ECF 170-4 (filed Sept. 24, 2019).

repercussions by state officials. Defendants refused to confirm those individuals' eligibility to vote, and also failed to give SoEs sufficient guidance regarding Plaintiffs' and other returning citizens' voting rights following this Court's Order. Plaintiffs should receive an opportunity to show in a reply memorandum that expanding the Order is necessary, particularly for the four individuals seeking relief through their Motion, given Defendants' continued failure to provide adequate responses to Plaintiffs or sufficient guidance to SoEs required by the Court's Order.

Second, extraordinary circumstances exist because Defendants' failure to provide required guidance to SoEs perpetuates the chilling effect on the exercise of voting rights by newly added Plaintiffs and member of an organizational Plaintiff, risking that they will continue to suffer the irreparable harm that this Court identified in the Order. *See* ECF 207 at 51 (“[W]hen a state wrongly prevents an eligible citizen from voting, the harm to the citizen is irreparable.”). Indeed, due to the failure by Defendants and certain SoEs to acknowledge eligibility to vote for those who are unable to pay LFOs following this Court's Order, a newly added Plaintiff and a member of an organizational Plaintiff both decided not to vote in recent elections because of the mere risk of prosecution.

Third, after representing to the public their agreement with the Court's

Order, Defendants subsequently filed a notice of appeal (ECF 219) to overturn that very same Order. Defendants' appeal marks a departure from the public statement made just weeks ago by the Governor's spokesperson that the Court's Order "affirms the Governor's consistent position . . . recognizing the need to provide an avenue for individuals unable to pay back their debts as a result of true financial hardship."³ This Court relied on the Governor's public statements in its Order Setting a Schedule on Plaintiffs' Motion. *See* ECF 212 at 2–3. Now that Defendants are appealing this Court's Order, however, newly added Plaintiffs and a member of an organizational Plaintiff must seek assurances about their ability to exercise their voting rights in upcoming elections as they are unable to pay their outstanding LFOs, and Defendants are unwilling to assure them that they can lawfully vote. Defendants' abrupt change in course—from agreeing with the Order to appealing it—creates extraordinary circumstances warranting leave for a reply.

For the foregoing reasons, Plaintiffs respectfully request leave to file a reply memorandum by November 22, 2019.

³ *See* Lawrence Mower, *Being poor shouldn't stop Florida felons from voting, judge rules in Amendment 4 case*, Tampa Bay Times (Oct. 19, 2019), <https://www.tampabay.com/florida-politics/buzz/2019/10/19/being-poor-shouldntstop-florida-felons-from-voting-judge-rules-in-amendment-4-case/>.

N.D. FLA. LOC. R. 7.1 CERTIFICATION

Pursuant to N.D. Fla. Loc. R. 7.1(B), undersigned counsel states that on November 20, 2019, counsel for *Gruver* Plaintiffs requested by email counsel for Defendant Secretary Lee and counsel for Governor DeSantis's position regarding *Gruver* Plaintiffs' motion for leave to file a reply to the Governor and Secretary of State's Response in Opposition to Plaintiffs' Motion to Expand the Preliminary Injunction. Defendant Secretary Lee and Defendant Governor DeSantis object to *Gruver* Plaintiffs' motion for leave to file a reply.

Pursuant to N.D. Fla. Loc. R. 7.1(F), this motion contains fewer than 8,000 words. It contains 761 words.

Dated: November 21, 2019

Respectfully submitted,

/s/ Pietro Signoracci

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* Admitted *Pro Hac Vice*

** *Pro Hac Vice* applications forthcoming

CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2019, I served a true and correct copy of the foregoing document via electronic notice by the CM/ECF system on all counsel or parties of record.

/s/ Pietro Signoracci

Counsel for Gruver Plaintiffs