

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

THOMAS JOHNSON, et al.,

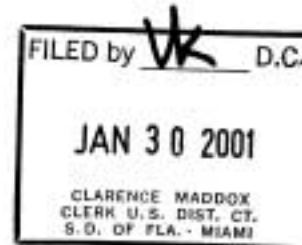
CASE NO. 00-3542-CIV-KING

Plaintiffs,

v.

JEB BUSH, et al.,

Defendants.



**ORDER DENYING DEFENDANTS' MOTIONS TO DISMISS**

THIS CAUSE comes before the Court upon Defendants Clemency Board Members' Motion to Dismiss filed January 5, 2001 and Defendants Pam Iorio's and Defendant Beverly Hill's separate Motions to Dismiss filed January 4, 2001 and January 5, 2001, respectively, adopting the Clemency Board Member' Motion to Dismiss. Plaintiffs filed a Response on January 25, 2001.

Plaintiffs filed a Complaint asserting six constitutional and statutory challenges to Florida's felon disenfranchisement provision of the current Florida Constitution. Specifically, Plaintiffs allege that Florida's felon disenfranchisement laws represent intentional racial discrimination, deny the right to vote on account of race, are arbitrary and irrational, and impose a poll tax and wealth qualification on voting in violation of the First, Fourteenth, and Twenty-Fourth Amendments of the United States Constitution and Sections 2 and 10 of the Voting Rights Act of 1965 ("Voting Rights Act"). Defendants move to dismiss the case pursuant to Fed.R.Civ.P 12(b)(6) arguing that Plaintiffs have failed to allege facts supporting their allegations of discriminatory motive necessary to sustain their claims for relief under the Fourteenth and Fifteen Amendments, Florida's prohibition of felon voting does not violate Section 2 of the Voting Rights Act, and Florida's Clemency Rules do not

impose a poll tax.

Dismissal is justified only when “it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” Hartford Fire Ins. Co. v. California, 509 U.S. 764, 810 (1993) (quoting Mclain v. Real Estate Bd. of New Orleans, Inc., 444 U.S. 232, 246 (1980)). For the purpose of the motion to dismiss, the complaint is construed in the light most favorable to the plaintiff, and all facts alleged by the plaintiff are accepted as true. See Hishon v. King & Spalding, 467 U.S. 69, 73 (1984). Regardless of the alleged facts, however, a court may dismiss a complaint on a dispositive issue of law. See Marshall County Bd. of Educ. v. Marshall County Gas Dist., 992 F.2d 1171, 1174 (11th Cir. 1993).

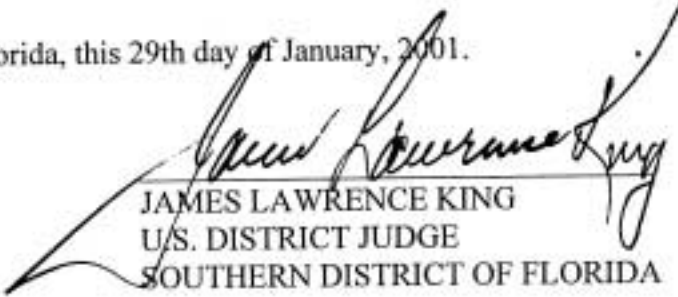
This Court finds that Plaintiffs have satisfied the minimal pleading requirements of the Federal Rules of Civil Procedure to survive Defendants’ Motions to Dismiss. The Federal Rules of Civil Procedure do not require claimants to set out in detail the facts of upon which they base their claims but simply require a short and plain statement of the claim that gives the Defendants fair notice of what the Plaintiffs’ claim is and the ground upon which it rests. See Leatherman v. Tarrant County Narcotics Intelligence & Coordination Unit, 507 U.S. 163, 168 (1993); Fed.R.Civ.P 8(a). In light of this standard, Plaintiffs have sufficiently alleged a claim of intentional racial discrimination in violation of the Fourteenth and Fifteenth Amendments, a claim that Florida’s felon disenfranchisement laws deny them the right to vote in violation of Section 2 of the Voting Rights Act, and a claim that Florida’s conditioning of restoration of the right to vote on the ability of felons to pay monetary penalties violates the Fourteenth and Twenty-Fourth Amendments and the Voting Rights Act. Furthermore, this Court finds that county election supervisors have a significant connection with the enforcement of the challenged laws as the individuals responsible for enforcing

the felon disenfranchisement statutes to render them appropriate Defendants to this §1983 action seeing only injunctive relief.

Accordingly, after a careful review of the record and the Court being otherwise fully advised, it is

ORDERED and ADJUDGED that Defendants' Motions to Dismiss be, and the same are hereby, DENIED. Defendants shall file answers to the Complaint within thirty (30) days hereof.

DONE and ORDERED in chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida, this 29th day of January, 2001.



JAMES LAWRENCE KING  
U.S. DISTRICT JUDGE  
SOUTHERN DISTRICT OF FLORIDA

cc: All counsel of record