

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI CIVIL DIVISION**

Case No. 1:12-cv-22282-WJZ
Honorable Judge William J. Zloch

KARLA VANESSA ARCIA, an individual,
MELANDE ANTOINE, an individual, VEYE
YO, a civic organization based in Miami-
Dade County, FLORIDA IMMIGRANT
COALITION, INC., a Florida non-profit
corporation, NATIONAL CONGRESS FOR
PUERTO RICAN RIGHTS, a Pennsylvania
non-profit corporation, FLORIDA NEW
MAJORITY, INC., a Florida non-profit
corporation, and 1199SEIU UNITED
HEALTHCARE WORKERS EAST, a Labor
Union,

Plaintiffs,

v.

KEN DETZNER, in his official capacity as
Florida Secretary of State,

Defendant.

**PLAINTIFFS' STATEMENT OF UNDISPUTED MATERIAL
FACTS IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT**

Plaintiffs Karla Vanessa Arcia, *et al.*, by and through their respective undersigned counsel, in accordance with Local Rule 7.5A and 7.5C, hereby submit this statement of undisputed material facts in support of their motion for summary judgment:

1. Defendant KEN DETZNER is Florida's Secretary of State. In his capacity as Secretary, Detzner is the chief election officer of the State. He is responsible for the administration of state laws that affect voting and for ensuring that elections in Florida are conducted according to law. Fla. Stat. § 92.012. He is responsible for coordinating Florida's

duties and responsibilities under the National Voter Registration Act of 1993 (NVRA). First Amended Compl., ¶ 16.

2. In April 2012, the Florida Department of State (“DOS”) sent the State’s Supervisors of Elections (“SOEs”) the names of 2,625 “potential non-citizens.” According to DOS, those names were drawn from a larger list of 180,506 “potential non-citizens” that was generated by the Florida Department of Highway Safety and Motor Vehicles (“FDHSMV”) by matching the Florida voter file with Florida’s Driver and Vehicle Information Database. Ex. B (Declaration and Expert Report of Daniel Smith), ¶ 12.

3. On April 12, 2012, DOS presented a webinar with Powerpoint presentation to SOEs. Ex. A (Declaration of Ion V. Sancho), ¶¶ 5-7. Under the heading “What to Do,” Defendant’s PowerPoint presentation directed the State’s SOEs to, *inter alia*, review the file of names for their county, conduct any additional research, initiate notice to the registered voter, determine eligibility, and remove any ineligible voters. *Id.* at Ex. A2, 8-18.

4. On April 30, 2012, Defendant suspended the program to purge alleged non-citizens. Ex. A (Sancho Decl.) ¶ 10. In May 2012, however, Chris Cate, a spokesman for the state Division of Elections, indicated that the purge would be resumed, stating: “I don’t have a timetable on when the next list of names will be sent to supervisors, but there will be more names.” Judd Legum, “In Florida, Scott Administration Vows to Accelerate Voter Purge: ‘There Will Be More Names,’ ThinkProgress.org, (May 30, 2012), *available at* <http://thinkprogress.org/justice/2012/05/30/491997/in-florida-scott-administration-vows-to-accelerate-voter-purge-there-will-be-more-names/?mobile=nc> (last accessed Sept. 19, 2012).

5. On August 14, 2012, the Defendant announced that the State of Florida would partner with the Department of Homeland Security (DHS) to attempt a new systematic program to

remove alleged non-citizens from the voting rolls. The new program would use DHS' Systematic Alien Verification for Entitlements (SAVE) database. Ex. A (Sancho Decl.) ¶ 11.

6. In furtherance of the Defendant's new purge program, the Florida State Division of Elections ("FSDOE") presented a webinar with a Powerpoint presentation to SOE personnel on September 10, 2012. *Id.* ¶ 12.

7. The Powerpoint states that the new process will check alleged non-citizens by matching through the FDHSMV database and the Florida Voter Registration System ("FVRS"), and then through a manual review process utilizing the Bureau of Voter Registration Services ("BVRS") rolls. From there, the SOEs are supposed to run those persons' identities through the SAVE database. *Id.* ¶ 14.

8. The SAVE database is a compilation of databases that contains information on legal immigrants who are issued green cards or visas, as well as those immigrants who have become naturalized citizens. It includes unique numeric identifiers for those individuals, such as a person's alien number or the number from a Certificate of Naturalization or Certificate of Citizenship. But the SAVE database it is not a universal citizen database; many individuals, including natural-born citizens, are not included in it. Ex. B (Smith Decl. and Rpt.), ¶ 42.

9. There are three possible results from the SAVE database: (1) confirmation based on the information in the database that the person whose information is entered is a citizen; (2) confirmation that the person is not a citizen; or (3) a statement that the SAVE database is unable to verify the person's immigration status. If the SAVE database search does not provide information on the person's immigration status either way, the Supervisor is to seek additional verification from that person. Seeking additional verification will require a 10-to-20 day response time. The Supervisor must send a letter to the registered voters that "remind[s] them of eligibility

requirements and that it is illegal to be registered and vote when someone is not a U.S. citizen.”

Ex. A (Sancho Decl.), ¶ 15.

10. If the Supervisor determines, after using the SAVE database, that a person is not eligible to vote, the Supervisor must then commence the Notice and Removal process under the Florida Statutes. This process includes sending certified mailings with documentation. Any person’s failure to respond to this mailing within 30 days may result in the person’s removal from the voter rolls. *Id.* ¶ 16.

11. The individual Plaintiffs, Karla Vanessa Arcia and Melande Antoine, are U.S. citizens and legally registered Florida voters. They were nonetheless on the list of 2,625 potential non-citizens that Defendant sent to the SOEs in April. They are therefore at particular risk of being erroneously purged under Defendant’s renewed program, which will check that list in the SAVE database. Compl. ¶¶ 40-41.

12. Plaintiff VEYE YO (“VEYE YO”), is a Miami-Dade County-based civic organization that is affiliated with the Haitian-American Grassroots Coalition. It has an office in Miami-Dade County, Florida, and individual members throughout South Florida. VEYE YO’s primary purposes are to empower Haitian-American citizens who are engaged in civic and democratic endeavors, and to assist members of the Haitian-American community in identifying and articulating issues of concern, including voting rights issues. To achieve this goal, VEYE YO facilitates naturalization classes, registers voters, and engages in voter education and voter mobilization efforts. Defendant’s practices have frustrated VEYE YO’s mission as VEYE YO has been required to expend resources to locate members who have been unlawfully purged or who received letters questioning their eligibility to vote, to educate its members about Defendant’s practices, and to combat them at the expense of its regularly-conducted

programs/activities. Moreover, VEYE YO has individual members who have been adversely affected by the Program to Purge Alleged Non-Citizens. First Amended Compl. ¶ 11.

13. Plaintiff FLORIDA IMMIGRANT COALITION, INC. (“FLIC”), is a Florida non-profit corporation with its principal office in Miami-Dade County, Florida, and with member organizations located throughout the State of Florida. Central to FLIC’s stated mission is the integration of immigrants into the civic and cultural life of America’s communities. Ex. C (Decl. of Maria Del Rosario Rodriguez, Florida Immigrant Coalition), ¶ 2. In early 2012, FLIC helped launch an initiative aimed at providing opportunities for the full integration of Florida’s largest immigrant communities through a citizenship program that includes citizenship clinics and naturalization classes. Defendant’s practices are frustrating FLIC’s mission and forcing it to divert its scarce resources to combat Defendant’s voter-purge practices at the expense of its regularly-conducted programs/activities. *Id.*, ¶¶ 3, 4; First Amended Compl. ¶ 12.

14. Plaintiff the NATIONAL CONGRESS FOR PUERTO RICAN RIGHTS (“NCPRR”) is a Pennsylvania non-profit corporation and membership organization dedicated to securing full equality for Puerto Ricans living in the United States through advocacy, education and participation in the political process. Ex. E (Decl. of Wilfredo Seda, National Congress for Puerto Rican Rights), ¶ 2. NCPRR has chapters across the United States, including Central and Southern Florida. These chapters are actively involved in safeguarding Puerto Rican and Hispanic voting rights and ensuring the political access of Puerto Ricans and Haitian Americans in Florida. *Id.* ¶ 3. NCPRR’s mission is frustrated by Defendant’s voter-purge practices, and NCPRR is being forced to divert resources to combat Defendant’s unlawful practices. *Id.* ¶ 4; First Amended Compl. ¶ 13.

15. Plaintiff FLORIDA NEW MAJORITY, INC. (“FNM”), is a Florida non-profit corporation and membership organization with its principal office in Miami-Dade County, Florida. Founded in 2009, FNM is dedicated to organizing, educating, and mobilizing disempowered communities in Florida to win equity and fairness throughout the State. To achieve its goal, FNM works with citizens who are engaged in civic and democratic endeavors and assists members of its target communities in identifying and articulating issues of concern, including voting rights issues. Defendant’s voter-purge practices are frustrating FNM’s mission. FNM is being required to expend resources (1) to locate members who have been unlawfully purged and/or (2) to educate its members about Defendant’s unlawful practices in order to combat them, at the expense of its regularly-conducted programs/activities. FNM has individual members who have been affected by the Program to Purge Alleged Non-Citizens. First Amended Compl. ¶ 14.

16. Plaintiff 1199SEIU UNITED HEALTHCARE WORKERS EAST (“1199SEIU”) is a labor union that represents 25,000 healthcare workers, as well as an additional 7,400 retired members, in the State of Florida. 1199SEIU has members in 43 out of the 67 counties in Florida, including, but not limited to, the counties in this District. Many of 1199SEIU’s members are registered to vote or have sought to register to vote. 1199SEIU has devoted significant time, energy and resources to making sure its members and their families, co-workers, and community members are registered to vote. Ex. D (Decl. of Dale Ewart, 1199SEIU United Healthcare Workers), ¶ 2. Voter registration, education, and engagement are central to 1199SEIU’s mission. Some of 1199SEIU’s members, including the individual Plaintiffs, are United States citizens who were adversely affected by the Program to Purge Alleged Non-Citizens. Defendant’s practices frustrate 1199SEIU’s mission and require it to expend its limited resources investigating and

taking measures to counteract the Program to Purge Alleged Non-Citizens, thus diverting resources from its planned voter registration and education activities. *Id.* ¶ 4-5; First Amended Compl. ¶ 15.

17. Plaintiffs filed this lawsuit on June 19, 2012, and filed their First Amended Complaint on September 12, 2012, alleging a violation of Section 8(c)(2)(A) of the NVRA, 42 U.S.C. § 1973gg-6(c)(2)(A).

18. The next federal election in Florida will take place on November 6, 2012, which is fewer than 90 days from the date of this filing.

Respectfully submitted this nineteenth day of September, 2012.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 19, 2012, a true and correct copy of the foregoing was served on all counsel of record via CM/ECF.

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