

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

DR. ORLY TAITZ, ESQ., ET AL.

PLAINTIFFS

V.

CIVIL ACTION NO. 3:12cv280-HTW-LRA

DEMOCRAT PARTY OF MISSISSIPPI, ET AL.

DEFENDANTS

**MISSISSIPPI SECRETARY OF STATE'S
MOTION FOR JUDGMENT ON THE PLEADINGS**

Defendant Mississippi Secretary of State Delbert Hosemann files this Motion to Dismiss pursuant to Fed. R. Civ. P. 12(c) and states:

1. Plaintiffs' First Amended Complaint purportedly seeks injunctive and declaratory relief to require the Secretary of State to "de-certify" or "annul" all votes cast for President Obama in the March 13, 2012 Mississippi Democratic presidential preference primary, and prohibiting the Secretary from placing President Obama's name on the ballot for the Mississippi 2012 general presidential election, based upon Mississippi Code Sections 23-15-961 and 23-15-963. The First Amended Complaint also purportedly seeks damages and other relief on account of federal RICO claims pled against various other defendants.

2. Plaintiffs' claims regarding the November 2012 Mississippi general election should be dismissed because they have failed to comply with the requirements of Section 23-15-963, which are jurisdictional and mandatory. Furthermore, they have failed to state a valid claim for relief as courts do not have jurisdiction to enjoin the Secretary of State from carrying out his duties required by Mississippi law.

3. Plaintiffs' claims regarding the 2012 Mississippi presidential preference primary

should be dismissed because they failed to comply with the requirements of Section 23-15-961, which are jurisdictional and mandatory. Furthermore, they have failed to state a valid claim for relief as courts may not compel the Secretary of State to undo the election results. Additionally, any claims as to the presidential preference primary are moot because the election has already taken place.

4. Plaintiffs have not asserted any valid RICO claims against the Secretary of State. Their First Amended Complaint expressly disavows making any such claims against him. Furthermore, to the extent plaintiffs ever intended to assert any such RICO claims against the Secretary of State, they have failed to meet the pleading requirements imposed by Fed. R. Civ. P. 8 and 9.

FOR THESE REASONS, and those set forth in his separate Memorandum of Authorities filed with the Court, the Secretary of State respectfully requests that the Court enter an order, pursuant to Fed. R. Civ. P. 12(c) granting him judgment on the pleadings and dismissing all of the plaintiffs' claims asserted against him in this action.

THIS the 27th day of April, 2012.

Respectfully submitted,

Delbert Hosemann, Mississippi
Secretary of State

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State of Mississippi

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been filed with the Clerk of Court electronically and thereby served on the following persons, and/or served by electronic mail where indicated:

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THIS the 27th day of April, 2012.

S/Justin L. Matheny
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