

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

EILEEN JANIS AND KIM COLHOFF, )  
)  
Plaintiff(s), )  
)  
v. )  
)  
CHRIS NELSON, IN HIS INDIVIDUAL AND )  
OFFICIAL CAPACITY AS SECRETARY OF )  
STATE OF SOUTH DAKOTA AND AS A )  
MEMBER OF THE STATE BOARD OF )  
ELECTIONS; MATT MCCAULLEY, CINDY )  
SCHULTZ, CHRISTOPHER W. MADEN, )  
RICHARD CASEY, KAREN M. LAYHER, )  
AND LINDA LEA M. VIKEN, IN THEIR )  
INDIVIDUAL AND OFFICIAL CAPACITIES )  
AS MEMBERS OF THE STATE BOARD OF )  
ELECTIONS; AND SUE GANJE, IN HER )  
OFFICIAL AND INDIVIDUAL CAPACITY AS )  
AUDITOR FOR SHANNON COUNTY; AND )  
LA FAWN CONROY, IN HER INDIVIDUAL )  
AND OFFICIAL CAPACITY AS A POLL )  
WORKER FOR SHANNON COUNTY, )  
)  
Defendant(s). )

Case No.: 09-5019

**GANJE AND CONROY'S MOTION  
TO DISMISS PLAINTIFFS'  
FOURTEENTH AMENDMENT  
CLAIMS**

Defendants, Sue Ganje and LaFawn Conroy, by and through their counsel of record Sara  
Frankenstein of Gunderson, Palmer, Nelson & Ashmore, pursuant to Fed. R. Civ. P. 12(c),  
hereby submit their Motion to Dismiss Plaintiffs' Fourteenth Amendment Claims.

Plaintiffs' Count 1 of their Amended Complaint alleges a violation of Equal Protection of  
§ 1 of the Fourteenth Amendment to the United States Constitution. Plaintiffs' Count 2 alleges a  
violation of Due Process under § 1 of the Fourteenth Amendment. Plaintiffs do not allege in  
their Amended Complaint that any Defendants acted purposefully or intentionally to  
discriminate. Therefore, Plaintiffs' Counts 1 and 2 must be dismissed.

A Memorandum in Support is filed simultaneously herewith and incorporated herein through this reference.

Dated: January 7, 2010.

GUNDERSON, PALMER, NELSON  
& ASHMORE, LLP

By: *s/Sara Frankenstein*

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**CERTIFICATE OF SERVICE**

I hereby certify on January 7, 2010, a true and correct copy of **GANJE AND CONROY'S MOTION TO DISMISS PLAINTIFFS' FOURTEENTH AMENDMENT CLAIMS** was served electronically through the CM/ECF system upon the following individuals:

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By: *./s/Sara Frankenstein*  
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