IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA

ELVIN McCORVEY,

Plaintiff,

vs. CASE NO.: 3:08cv138/MCR/MD

KURT BROWNING, in
his official capacity as
Secretary of State of the
State of Florida; and BILL
McCOLLUM, in his official
capacity as Attorney General
of the State of Florida,

Defendants.

/ ____________________________ /

DECLARATION OF KURT S. BROWNING

Pursuant to 28 U.S.C. § 1746, Kurt S. Browning declares the following:

1. I am over eighteen years of age and competent to make this declaration. I
am the Secretary of State of Florida. I have served in that capacity since January
2007. Prior to being appointed Secretary of State, I was the Supervisor of
Elections for Pasco County, Florida, for approximately 26 years.

2. On May 21, 2007, Governor Charlie Crist signed into law House Bill
537, which was previously passed by both the Florida House of Representatives
and the Florida Senate. This bill changed the date of Florida’s Presidential
Preference Primary Election from the second Tuesday in March to the last Tuesday
in January in each year the number of which is a multiple of four. The effect of this law was that in 2008, Florida’s Presidential Preference Primary Election was held on January 29, 2008.

3. In October, 2007, pursuant to Section 103.101, Florida Statutes, the political parties submitted to the Department of State a list of the parties’ candidates for placement on the presidential preference primary ballot. The Presidential Candidate Selection Committee publicly announced the candidates and submitted the names for placement on the ballot. Florida conducted its Presidential Preference Primary Election on January 29, 2008 in compliance with Florida law in every respect. After the Presidential Preference Primary Election, the results were tabulated and certified in the same manner as they are for every statewide election.

4. There are 67 counties in Florida, each of which has its own supervisor of elections. These 67 supervisors of elections are responsible for coordinating the election process in over 6,800 precincts.

5. Beginning in April 2008 and continuing to the present, the Department of State and Florida’s 67 supervisors of elections began preparing for the statutorily-established statewide primary election to be held on August 26, 2008 and the statewide general election for federal and state offices to be held on November 4, 2008. These preparations have included or will include, among other
things, renting or arranging for space for voting locations (both in each precinct for the election and in multiple locations in each county for early voting), arranging for poll workers, preparing the ballots and other forms, mailing absentee ballots to overseas voters, and informing voters about when, where, and how to vote.

6. The following list includes some of the relevant dates and events established by statute that the Department of State and supervisors of elections are responsible for meeting with regarding to the August primary election:

**May 28**  - Last day to notify overseas voters of upcoming primary election *(Section 100.025, Florida Statutes – at least 90 days prior to regular primary and general elections)*

**June 27**  - Deadline for Department of State to certify to the supervisors the names of all duly qualified statewide, multicounty, and district candidates who have qualified with the Department *(Section 99.061, Florida Statutes – within 7 days after the closing date for qualifying)*

**July 22**  - Deadline for supervisors to mail absentee ballots to overseas voters for the Primary Election *(Section 101.62, Florida Statutes – not fewer than 35 days before the primary election)*

**July 27**  - Last date for supervisors to designate early voting sites for the Primary Election *(Section 101.657, Florida Statutes – not later than the 30th day prior to the election)*

**July 27**  - Last date for supervisors to e-mail to overseas voters the list of candidates for the Primary Election *(Section 101.6952, Florida Statutes – not later than 30 days before each election)*

**August 22**  - Last date for supervisors to mail absentee ballots for the Primary Election *(Section 101.62, Florida Statutes – no later than 4 days before the election)*
August 25 - Last date to publish sample ballot in newspaper of general circulation in the county for the primary election (Section 101.20, Florida Statutes – prior to the day of the election)

August 26 - PRIMARY ELECTION (Section 100.061, Florida Statutes – on the Tuesday 10 weeks prior to the general election)

7. House Bill 537 also mandated the elimination of touchscreen voting machines in Florida, except for use by disabled voters, effective July 1, 2008. The transition to paper ballots and optical scan voting systems has added to the already-heavy workload of supervisors of elections in those counties which previously used touchscreen voting machines. The supervisors of elections in those counties are currently in the process of disposing of their touchscreen systems, acquiring new systems, and reconfiguring them for elections occurring on or after July 1, 2008.

8. In light of the statutory deadlines set forth in ¶ 6 above, and the ongoing equipment conversion described in ¶ 7 above, it would not be possible to conduct a second statewide Presidential Preference Primary before the August 26, 2008 primary election.

9. Although it might technically be possible to add a Presidential Preference Primary race for the Democratic Party to the August 26, 2008, primary ballot if the Court issued such an order well in advance of June 27, 2008 (the deadline for the Department of State to certify the names of candidates to be placed on the primary ballot), such a scenario would not appear to allow the results to be considered by the Democratic National Committee. According to its website, that party’s
national convention is scheduled for August 25-28, 2008 (www.demconvention.com). The results from the August 26, 2008 primary election will not be certified until September 2, 2008.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief.

Executed on May 27, 2008.

Kurt S. Browning