

STATE OF INDIANA)
) ss:
COUNTY OF MARION)

IN THE MARION COUNTY SUPERIOR COURT
CAUSE NO: 49D13-0806-PL-027627

LEAGUE OF WOMEN VOTERS)
OF INDIANA, INC. and LEAGUE OF)
WOMEN VOTERS OF INDIANAPOLIS, INC.)
)
Plaintiffs,)
)
-vs-)
)
TODD ROKITA, in his official capacity)
as Indiana Secretary of State,)
)
Defendant.)

DEFENDANT’S MOTION TO DISMISS

Pursuant to Indiana Rules of Trial Procedure 12(B)(1) and 12(B)(6), Defendant Todd Rokita, in his official capacity as Indiana Secretary of State, respectfully moves the Court to dismiss the Amended Complaint. As explained more fully in the memorandum accompanying this motion, this case is not justiciable against the Secretary of State and, even if it is, the Plaintiff has failed to state a claim upon which relief can be granted. The Court should dismiss the Amended Complaint in its entirety.

In support of this motion, the Defendant asserts as follows:

1. This Court should dismiss the Amended Complaint because Article 2, § 2 of the Indiana Constitution permits election regulations even if not specifically mentioned therein.
2. This Court should also dismiss the Amended Complaint because any “classes” of voters created by the Voter ID Law are not arbitrary or unreasonable but instead reasonably relate to self-evident inherent characteristics that distinguish the different classes, and all within

those classes are treated similarly; therefore, the Voter ID Law does not violate Article 1, § 23 of the Indiana Constitution.

3. This Court should also dismiss the Amended Complaint because, as a threshold matter, the Secretary of State, the lone defendant in this case, does not enforce the Indiana Voter Identification Law that is being challenged in this case, Indiana Code § 3-11-8-25.1. An injunction against him would do nothing to redress the Plaintiffs' alleged injuries. Accordingly, the case is not justiciable and must be dismissed under Rule 12(B)(1).

4. While all facts asserted in the Amended Complaint must be taken as true for purposes of this motion, the Defendant concedes no facts asserted in the Amended Complaint.

WHEREFORE, Defendant Todd Rokita, in his official capacity as Indiana Secretary of State, respectfully moves this Court to dismiss the Amended Complaint and to grant the Defendant such further relief as is just and equitable.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that on the 15th day of September, 2008, I caused the foregoing to be served by First-Class United States Mail, postage prepaid, on the following:

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