

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

JERRY YOUNG and CHRISTY COLLEY

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:08cv567 TSL-JCS

DELBERT HOSEMANN, in his official capacity as the Secretary of State of Mississippi; KRISTIN BUSE, DEBBY McCAFFERTY, JOHN M. WAGES, HARRY GRAYSON, JR., and JOHN H. EDWARDS, in their official capacities as Election Commissioners of Lee County; and VIVIAN BURKLEY, JULIUS HARRIS, JIMMY HERRON, BONNIE G. LAND, and RONALD McMINN, in their official capacities as Election Commissioners in Panola County

DEFENDANTS

DEFENDANT’S MOTION TO DISMISS

COMES NOW the Defendant, Secretary of State Delbert Hosemann, in his official capacity (referred to collectively as “the State” or the “State Defendants,” as the arguments presented are applicable to the election commissioners as arms of the state), and file this Motion to Dismiss pursuant to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure. Pursuant to the Memorandum of Authorities accompanying this Motion, the State Defendants respectfully request that this Court grant this Motion.

Wherefore, premises considered, the State Defendants respectfully request that this Court GRANT the present Motion to Dismiss.

Respectfully submitted, this the 2nd day of October 2008.

By: JIM HOOD, ATTORNEY GENERAL

s/ Shawn S. Shurden

SHAWN S. SHURDEN, MSBN 99678

SPECIAL ASSISTANT ATTORNEYS GENERAL

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CERTIFICATE OF SERVICE

This is to certify that I, Shawn S. Shurden, a Special Assistant Attorney General for the State of Mississippi, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Kristy L. Bennett
AMERICAN CIVIL LIBERTIES UNION
OF MISSISSIPPI
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This 2nd day of October, 2008.

s/ Shawn S. Shurden

SHAWN S. SHURDEN