

IN THE CIRCUIT COURT FOR
LEON COUNTY, FLORIDA
CIVIL DIVISION

ALBERT A. GORE,
Nominee of the Democratic Party
for President of the United States,

Plaintiff,

v.

CASE NO.: 00-2717

ELECTIONS CANVASSING COMMISSION
OF FLORIDA and FLORIDA SECRETARY
OF STATE KATHERINE HARRIS,

Defendants.

DAVE LANG
CLERK CIRCUIT COURT
LEON COUNTY, FLORIDA

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FILED

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

The Plaintiff, Albert A. Gore, Nominee of the Democratic Party for President of the United States, sues the Honorable Katherine Harris, Secretary of the State of Florida, and the Honorable Katherine Harris, Honorable Bob Crawford, and Honorable Lawrence C. Roberts, as the Elections Canvassing Commission.

Plaintiff, Albert A. Gore, Nominee of the Democratic Party for President of the United States, alleges as follows:

1. This is an action for declaratory judgment and injunctive relief. Section 86.011, Florida Statutes (2000) and Florida Rule of Civil Procedure 1.610, Florida Rules of Civil Procedure authorize granting the relief requested.

2. On November 7, 2000 the State of Florida conducted a general election, including an election for President of the United States. Plaintiff, Al Gore is one of the presidential candidates.

3. Pursuant to Florida law every county in the State of Florida conducted a recount of the votes cast.

4. As permitted by Florida law at least four counties, Volusia County, Palm Beach County, Broward County, and Dade County intend to conduct or are conducting manual recounts on their own initiative or pursuant to requests from the Florida Democratic Party. Section 102.166(4)(c), Florida Statutes (2000), authorizes the local canvassing boards to conduct a manual recount. In addition, overseas ballots will be received and counted up through November 17, 2000 pursuant to 42 U.S.C.A. Section 1973FF.

5. Section 102.112(1), Florida Statutes (2000) provides that if returns are not received by the Department of State by 5:00 p.m., November 14, 2000, the returns may be ignored. Nothing requires the returns to be ignored.

6. Section 102.111(1), Florida Statutes (2000) states that the Elections Canvassing Commission shall, as soon as the official results are compiled from all counties certify the returns of the election. It also says that the Department of State shall ignore those county returns not received by 5:00 p.m. of the seventh day following an election.

7. Section 102.112(1) is the later enacted statute and should control.

8. The counties conducting hand recounts will be unable to complete those recounts on or before November 14, 2000 although they will likely be able to conclude them within a reasonable period of time thereafter at a time determined by the court to be the final date to file the certified report of all votes cast in each county.

9. Section 102.112(2) establishes remedies for late filing of county returns. They do not include rejecting the votes of all citizens in the county.

10. The Defendants have announced that they intend to certify the statewide results of the presidential election at 5:00 p.m., November 14, 2000 regardless of whether they received all of the certifications from all counties, particularly those conducting manual recounts and all counties who will report overseas absentee ballots. They have further announced that they will not consider any results of the manual recounts and results certified by county canvassing boards if they are received after 5:00 p.m., November, 14, 2000.

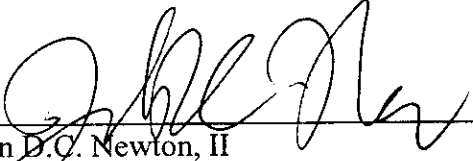
11. This preemptory and premature certification is not required by law and denies the voters in the counties conducting manual recounts as well as those voters residing overseas their fundamental right under Florida's Constitution and Statutes and the United States Constitution to vote.

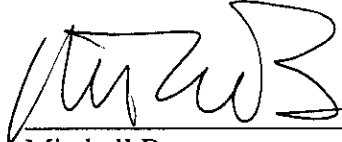
12. "If two equally reasonable constructions [of an election statute] might be found, this court in the past chose one which enhances the elective process by providing voters with the greater choice in exercising their democratic rights." *Republican State Executive Committee v. Graham*, 388 So. 2d 556, 558 (Fla. 1980). This advances the steadfast policy of the State to use the elective process to the maximum extent available so long as it is not expressly excluded. *Id.*

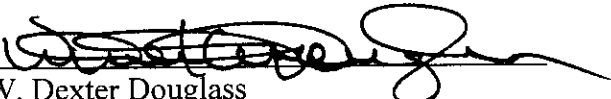
13. The reasonable construction of sections 102.111 and 102.112 requires the Secretary of State and the Canvassing Commission to withhold certification until all absentee results have been received and counted and until the manual recounts are included.

WHEREFORE, Al Gore petitions this court to issue a declaratory judgment stating that the Defendants cannot certify the state-wide presidential results until all absentee ballots timely received have been counted and all manual recounts by local canvassing boards have been completed and their results certified to the Secretary of State, Division of Elections.

Respectfully submitted this 13 day of November, 2000.


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original of foregoing has been furnished by hand delivery to the following on this 13 day of November, 2000:

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