

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

CIVIL DIVISION
Case No.: 2010 CA 1824
Judge: Jackie Fulford

CORRINE BROWN and MARIO DIAZ-BALART,

Plaintiffs,

vs.

DAWN K. ROBERTS, in her capacity as Interim
Secretary of State of the State of Florida,

Defendant.

MOTION OF BOB GRAHAM TO INTERVENE AS A DEFENDANT

Intervenor, BOB GRAHAM, moves to intervene as a defendant in this action, with the right to litigate all matters arising therein. In support of this motion, Intervenor states:

Facts Supporting Intervention

1. Plaintiffs, CORRINE BROWN and MARIO DIAZ-BALART, have initiated this action seeking a declaration by this Court that the ballot summary of Amendment 6 - designated in their complaint as the "Congressional Amendment" - is misleading and violates Section 101.161(1), Florida Statutes, and an injunction prohibiting the Defendant from directing that Amendment 6 be placed on the 2010 general election ballot.

2. The "Congressional Amendment" is the product of a citizen initiative, which was placed on the ballot following review of the ballot summary and ballot title by the Florida Supreme Court and the submission of in excess of 681,000 signatures of Florida electors.

3. On January 29, 2009, the Florida Supreme Court held that the "Congressional Amendment" met the legal requirements of Article XI, Section 3, Florida Constitution, and that its ballot title and summary complied with Section 101.161, Florida Statutes. *Advisory Opinion to the Attorney General Re: Standards for Establishing Legislative District Boundaries*, 2 So. 3d 175 (Fla. 2009).

4. Defendant DAWN K. ROBERTS is the Interim Secretary of State of the State of Florida. She is the chief election officer of the state and the head of the DEPARTMENT OF STATE. Pursuant to Section 100.371(4), Florida Statutes, it was determined that the "Congressional Amendment" had received the requisite number of signatures for placement on the ballot and Secretary of State Kurt Browning, the predecessor in office of Defendant DAWN K. ROBERTS issued a certificate of ballot position and designated the "Congressional Amendment" as Amendment 6.

5. Intervenor, BOB GRAHAM, is a resident of Miami-Dade County, Florida, and a registered voter and taxpayer. He has regularly voted in Florida general elections and on ballot proposals and intends to vote in the November 2010 general election. He has supported and continues to support Amendment 6

which establishes standards for the Florida Legislature in establishing congressional districts following the decennial census.

6. Plaintiffs, CORRINE BROWN and MARIO DIAZ-BALART, seek to nullify BOB GRAHAM's constitutional right to seek to amend the State Constitution through the initiative process set forth in Article XI, Section 3, Florida Constitution.

7. Accordingly, Intervenor, BOB GRAHAM, has an interest in this pending action and should be permitted to intervene as a matter of right.

Standards for Granting the Motion to Intervene

8. Rule 1.230, Florida Rules of Civil Procedure, provides as follows:

Anyone claiming an interest in pending litigation may at any time be permitted to assert a right by intervention, but the intervention shall be subordinate to, and in recognition of, the propriety of the main proceeding, unless otherwise ordered by the court in its discretion.

See Williams v. Nussbaum, 419 So. 2d 715, 717 n. 1 (Fla. 1st DCA 1982)(stating that an intervenor "may avail himself of any and all arguments which relate to derivation and extent of his own interests, whether or not these matters have been previously asserted by the original parties.").

9. Furthermore, Florida courts hold that the right to intervene should be liberally construed. As the Florida Supreme Court has stated:

It is generally been held that the interest which will entitle a person to intervene under this provision must be in the matter in litigation, and of such a direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment. In other words, the interest must be that created by a

claim to the demand in the suit or some part thereof, or a claim to, or lien upon the property or some part thereof, which is the subject matter of the litigation.

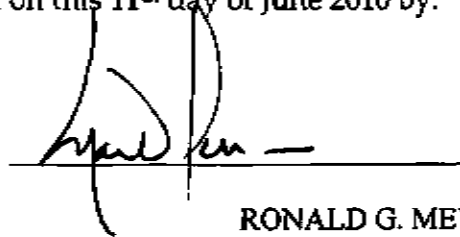
Miracle House Corporation v. Haige, 96 So. 2d 417, 418 (Fla. 1957)(citations and internal quotes omitted).

10. Intervenor, BOB GRAHAM, has such an interest. To the extent that Plaintiffs, CORRINE BROWN and MARIO DIAZ-BALART, seek to remove Amendment 6 from the 2010 general election and nullify his constitutional right to seek the State Constitution through the initiative process set forth in Article XI, Section 3, Florida Constitution, he has a direct and immediate interest in this litigation and he will gain or lose by the direct legal operation and effect of any judgment entered by this Court.

Prayer

WHEREFORE, Intervenor, BOB GRAHAM, respectfully asks this Court to enter an order granting this motion to intervene as a defendant in this action with the right to litigate all matters arising therein.

Respectfully submitted on this 11th day of June 2010 by:



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CERTIFICATE OF SERVICE

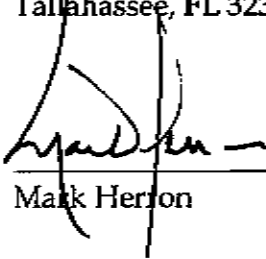
I HEREBY CERTIFY that a copy has been provided to the following by United States Postal Service on this 11th day of June, 2010:

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