

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JOHN J. GILLIES,

Petitioner,

v.

STATE OF FLORIDA AND JEB BUSH,

Respondents.  
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ORDER

00-C-719-C

This is a proposed civil action for injunctive relief, brought pursuant to 42 U.S.C. § 1983. Petitioner John Gillies seeks leave to proceed without prepayment of fees and costs or providing security for such fees and costs, pursuant to 28 U.S.C. § 1915. From the affidavit of indigency accompanying petitioner's proposed complaint, I conclude that petitioner does not qualify for in forma pauperis status. If he were to proceed on his complaint, he would have to pay the filing fee. Doing so would be futile, however, in light of petitioner's lack of standing to bring suit against the state of Florida and its governor. I will address the merits of his complaint.

The allegations in petitioner's complaint are as follows.

## ALLEGATIONS OF FACT

Petitioner John Gillies is a resident of Madison, Wisconsin. Respondent State of Florida is a state and respondent Jeb Bush is Governor of Florida.

The recount in Florida proceeded with no clear standard for counting the ballots. The lack of a standard allows two adjacent counties to have different standards by which ballots are counted. One of these standards must be incorrect. The inclusion of votes from ballots counted by the incorrect standard corrupts the system and dilutes the value of ballots counted by the correct standard.

The recount procedures allowed members of local canvassing boards to examine a ballot and count it as vote for a candidate based on their opinion of voter intent. This gave the members of the canvassing boards multiple opportunities to vote in the same statewide election for the same federal office.

There is a reasonable expectation that election laws will not be changed during an election. The recount was supposed to proceed only if there were allegations of voter fraud or voting machine malfunction; there were no such allegations. There were allegations of voter confusion because of the butterfly ballot. Although this allegation does not meet the standard for a recount set by Florida law, the manual recount was allowed to proceed.

The Supreme Court of Florida denied Florida Secretary of State Katherine Harris the

right to exercise her legal duty to certify the election. It is a reasonable expectation that legislators pass laws, executives carry out the law and judges resolve disputes about the law. It is unreasonable for a judicial body to inject itself into a process, change the underlying law and then oversee the process. The Supreme Court of Florida rendered the legislative and executive branches moot.

#### OPINION

Even if petitioner had paid the filing fee or had qualified for in forma pauperis status, his complaint would be dismissed because he lacks the requisite standing to bring such claims. Article III, § 2 of the United States Constitution limits the jurisdiction of the federal courts to cases and controversies. See Arizonans for Official English v. Arizona, 520 U.S. 43, 64 (1997). In accordance with this constitutional limitation, the Supreme Court has developed a series of “justiciability” doctrines that confine the arena of potential claims that federal courts may entertain. Federal courts cannot hear cases that are not yet ripe for decision or cases that no longer present an ongoing dispute. Moreover, a party bringing a suit must have standing, that is, a personal stake in the outcome of the case. To satisfy this requirement, it must appear from the allegations of fact that the petitioner has suffered an injury in fact, meaning an injury that is concrete and particularized and actual or imminent, not conjectural or hypothetical. Also,

a petitioner's factual allegations must be sufficient to suggest that there is a causal connection between petitioner's injury and the conduct complained of and that the injury will likely be redressed by a favorable decision. See Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992).

Petitioner is a resident of Wisconsin. He does not allege he voted in Florida. In fact, he asserts that "this action should be resolved in the plaintiff's home district because the plaintiff's voting rights are tied to his home district. The plaintiff further requests that this issue be resolved in his home district because of the plaintiff's financial status. Travel to another district would cause undo financial hardship." Petitioner cannot bring any claims against the State of Florida or Governor Bush based on irregularities in the counting of ballots in the recent presidential election when he is not a resident of Florida and did not vote in that state. Petitioner fails to satisfy Article III's case or controversy requirement as to any of his claims.

#### ORDER

IT IS ORDERED that petitioner John Gillies's request for leave to proceed in forma pauperis is DENIED. The clerk of court is directed to enter judgment for respondents and

close this case.

Entered this 20th day of December, 2000.

BY THE COURT:

BARBARA B. CRABB  
District Judge