

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

PEOPLE FIRST OF ALABAMA, et al.,)
)
Plaintiffs,)
)
v.) **CASE No.: 2:20-cv-00619 -AKK**
)
JOHN MERRILL, in his official capacity)
as Secretary of State of Alabama, et al.,)
)
Defendants.)

DEFENDANTS JACQUELINE ANDERSON-SMITH AND KAREN DUNN
BURKS RESPONSE TO PLAINTIFF’S MOTION FOR PRELIMINARY
INJUNCTION

Defendants, Jacqueline Anderson-Smith, in her official capacity as Circuit Clerk of Jefferson County, Alabama, and Karen Dunn Burks, in her official capacity as Deputy Circuit Clerk of the Bessemer Division of Jefferson County, Alabama (Jefferson County Clerks), respond¹ to Plaintiff's Motion for Preliminary Injunction and its supporting brief. *See* [Docs. 15, 20-1]. The Jefferson County Clerks in support of this position states the following unto this court:

1. The Jefferson County Clerks view themselves accountable to the rules of law that governs Alabama Circuit Clerks as well as our democratic society.

¹ Jefferson County Clerks file this response reserving all defenses, substantive and procedural, they may have to the underlying suit, including issues of proper parties, standing, immunity, capacity, and joinder.

2. All county clerks that serve in the capacity of Absentee Elections Manager (AEM), or the appointed absentee election manager, thereby appointed by the appointing board, *See* Ala. Code § 17-11-2, are mandated to carry out their duties pursuant to Ala. Code § 17-1-1, *et seq.*

3. The Jefferson County Clerks are entitled to sovereign immunity. As state officers² who do not have responsibility for enforcing the challenged provisions, they cannot be stripped of sovereign immunity. *Summit Med. Assocs. v. Pryor*, 180 F.3d 1326, 1341 (11th Cir. 1999) (citation omitted).

4. Jefferson County Clerks acknowledge the sensitivity surrounding the information that is before this Honorable Court. After great deliberation the Jefferson County Clerks elect to be a nonparticipant in the present preliminary injunction and will abide by all laws of this state as well as all orders rendered by this Honorable Court to ensure the fundamental right to vote for all qualified citizens of Jefferson County.

5. Jefferson County Clerks have a long history of supporting and ensuring the right to vote amongst all citizens of Jefferson County, by providing every possible legal accommodation and assistance to voters.

² *See* Ala. Const. § 160(b).

6. The Jefferson County Clerks recognize that the evolution of fair and equitable voting practices represents the shoulders upon which they stand and will continue to uphold all laws related thereto.

Respectfully submitted,

/s/ T. A. Lawson

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/s/ Donald McKinley Carroll

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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2020, I provided the foregoing to the parties below through electronic mail and/or through U.S. Mail:

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