

**IN THE UNITED STATES DISTRICT COURT  
FOR NORTHERN DISTRICT OF FLORIDA  
Tallahassee Division**

ROSEMARY OSBORNE MCCOY  
and SHEILA SINGLETON,  
individually and on behalf of those  
similarly situated,

Plaintiffs,

v.

RONALD DION DESANTIS, in his  
official capacity as Governor of  
Florida; LAUREL M. LEE, in her  
official capacity as Secretary of State  
of Florida; and MIKE HOGAN, in his  
official capacity as Supervisor of  
Elections for Duval County, Florida.

Defendants.

Civil Action No. 4:19-cv-304-RH/MJF

*(Consolidated with Case No. 4:19-cv-  
300-RH/MJF)*

**FIRST AMENDED COMPLAINT  
FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiffs bring this civil rights action pursuant to 42 U.S.C. § 1983, and  
allege as follows:

**PRELIMINARY STATEMENT**

1. ROSEMARY MCCOY and SHEILA SINGLETON, both registered  
voters in Duval County, Florida, challenge the State of Florida's concerted,  
unrelenting effort and latest endeavor to deny them the right to vote based purely  
on their low-income economic status. Plaintiffs maintain they lack the financial

resources to satisfy any and all outstanding legal financial obligations that are associated, but not a condition of, their criminal sentence. Plaintiffs contest the state's attempt through recently enacted Senate Bill 7066 to relegate them to second-class citizens who will never have a say in the political strength and future of their communities.

2. The State of Florida has a very long and storied history of denying poor people, racial minorities, and women the right to vote. Plaintiffs fit all three of those categories. They are low-income African American women who have lived most of their lives in Florida. They have children and grandchildren, pay taxes, and have built a community for themselves and their loved ones. They volunteer in their neighborhoods and work every day to address the very poverty-related issues that contributed to their own mistakes, and they focus their attention on encouraging young people to vote and avoid a similar fate.

3. On November 6, 2018, Floridians overwhelmingly voted in favor of the Voting Restoration Amendment (known as "Amendment 4"), which granted anyone sentenced for a felony offense, except for those convicted of murder or a felony sexual offense, the automatic right to vote upon completion of sentence, including parole and probation. The measure enjoyed bi-partisan support among the voters and passed with almost 65% of votes cast in the election.

4. In addition to drastically revamping and streamlining Florida's rights restoration scheme, Amendment 4 was a direct response to the Florida legislature's failure to address the growing condemnation of the bureaucratic, arbitrary, and subjective executive clemency process that individuals in Plaintiffs' situation would otherwise face.

5. Amendment 4 was widely celebrated all over the country for enfranchising the greatest number of people—an estimated 1.4 to 1.6 million—through a single law since the Voting Rights Act of 1965.

6. Within six months of Amendment 4's passage and effective date, the Florida legislature passed Senate Bill 7066, a measure specifically designed to confuse, complicate and reduce the number of people eligible to vote under Amendment 4. Specifically, Senate Bill 7066 requires individuals convicted of a felony, other than murder or a sexual felony offense, to satisfy all of their legal financial obligations (LFOs) as a precondition to getting their voting rights restored. This is in direct contravention of the clear and unambiguous language in Amendment 4 which mandates the automatic restoration of voting rights to those who have completed the term of their sentence. Florida legislators enacted Senate Bill 7066 despite oral testimony, letters, repeated phone calls to elected officials, and a massive public outcry in opposition to the bill.

7. By enacting Senate Bill 7066, the Florida legislature completely ignored and undermined the will of the people, including their own constituents who overwhelmingly supported Amendment 4.

8. This lawsuit seeks to vindicate Plaintiffs' rights and the rights of all similarly situated individuals who would be eligible to vote pursuant to Amendment 4 and who now, under Senate Bill 7066, face the loss of that fundamental right. Plaintiffs' claims for relief are brought under the Fourteenth, Twenty-Fourth, Nineteenth, and Eighth Amendments of the United States Constitution. They request an injunction against any effort by Defendants to remove them from the voter rolls. They also seek a declaratory judgment that Senate Bill 7066's requirement that they pay any and all legal financial obligations as a precondition to restoring their voting rights is unconstitutional and that they are and remain entitled to vote.

### **JURISDICTION**

9. Plaintiffs bring this action under 42 U.S.C. §§ 1983 and 1988 to redress the deprivation under color of state law of rights secured by the United States Constitution.

10. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1343(3) and (4) because the matters in controversy arise under the Constitution and laws of the United States, and because

Plaintiffs bring this action to redress the deprivation, under color of state law, of rights, privileges, and immunities secured by the Constitution of the United States and federal law.

11. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

### **VENUE**

12. Venue is proper in this District under 28 U.S.C. § 1391(b) because all Defendants reside in Florida.

13. This case is properly filed in the Tallahassee Division pursuant to Northern District of Florida Local Rule 3.1(A)–(B), because Defendants DESANTIS and LEE have their principal place of business in this Division.

### **THE PARTIES**

#### **Plaintiffs**

14. Plaintiff ROSEMARY MCCOY, is a resident of Duval County, Florida. In July 2015, she was convicted in the Fourth Judicial Circuit Court in Duval County, Florida of three felony offenses. None of these offenses involved a conviction for murder or a felony sexual offense. She was sentenced to serve a concurrent sentence for all three felony offenses as follows: 24 months of incarceration, including time served, and 18 months of probation. The court also ordered her to pay costs and fees in the amount of \$666, and assessed restitution, payable to the Duval County Clerk of Court

15. Plaintiff MCCOY completed her term of incarceration in March 2016 and completed probation in September 2017. She is no longer under the supervision of the Florida Department of Corrections.

16. In April 2019, following Amendment 4's passage, Plaintiff MCCOY registered to vote in Duval County. That same month, she received a voter registration card from the Duval County Supervisor of Elections office and has since voted in a countywide election. Upon information and belief, her ballot was counted.

17. On April 9, 2019, the Duval County Clerk of Court issued Plaintiff MCCOY a "Satisfaction of Judgment" as to any and all court-ordered costs, fines, and fees associated with her criminal sentence. However, the county clerk also informed her that she owed \$7,531.84 in victim restitution, which includes interest that continues to accrue on the principal amount owed.

18. As of April 2019, Plaintiff MCCOY owed \$6400 in victim restitution and \$1,131.84 in interest that has accrued since the original assessment of restitution. According to documentation received from the Duval County Clerk of Courts, the interest rate on Plaintiff MCCOY's restitution order as of April 2019, was 4.75%.

19. When Plaintiff MCCOY's order of restitution was assessed by the sentencing court, the sentencing court did not consider the amount of the loss

sustained by any victim as a result of the offense, as required by Fla. Stat. Ann. § 775.089 (6)(a). The sentencing court also did not consider Plaintiff MCCOY's financial resources or her present and potential future financial needs and earning ability at the time of assessing the restitution order, as required by Fla. Stat. Ann. § 775.089 (6)(b).

20. Because of Plaintiff MCCOY'S criminal history, it has been extremely difficult for her to obtain gainful employment. Therefore, she lacks the financial resources to pay off the victim restitution she owes. If Senate Bill 7066 is enforced, Plaintiff MCCOY is in jeopardy of being removed from the voter rolls and prosecuted if she attempts to re-register and vote in a future election.

21. Plaintiff SHEILA SINGLETON is a resident of Duval County, Florida. In April 2011, she was convicted in the Fourth Judicial Circuit Court in Duval County of one felony offense. This offense did not involve a conviction for murder or a felony sexual offense. She was sentenced to serve a term of imprisonment for this felony charge as follows: six months of incarceration, including time-served, and three years of probation. The court also ordered her to pay costs, fines, and fees in the amount of \$771, and assessed restitution, payable to the Duval County Clerk of Court.

22. Plaintiff SINGLETON completed her term of incarceration in June 2011 and completed probation in July 2014. She is no longer under the supervision of the Florida Department of Corrections.

23. Following Amendment 4's passage, Plaintiff SINGLETON registered to vote in Duval County. In February 2019, she received a voter registration card from the Duval County Supervisor of Elections office. She has since voted in a countywide election. Upon information and belief, her ballot was counted.

24. In May 2019, the Duval County Clerk of Court informed her that she owes \$987.64 in court-ordered costs, fines, and fees associated with her criminal sentence. The county clerk also informed her that she owes \$14,913.05 in victim restitution, which includes interest that continues to accrue on the principal amount owed.

25. As of May 2019, Plaintiff SINGLETON owed \$12,110.81 in victim restitution and \$2,802.24 in interest that has accrued since the original assessment of restitution. According to documentation received from the Duval County Clerk of Courts, the interest rate on Plaintiff SINGLETON's restitution order as of May 2019, was 4.75%. *See Fla. Stat. Ann. § 55.03* (providing that interest rates on judgments shall be adjusted annually).

26. Because of Plaintiff SINGLETON's criminal history, it has been extremely difficult for her to obtain gainful employment. Therefore, she lacks the



financial resources to pay off the victim restitution she owes. If Senate Bill 7066 is enforced, Plaintiff SINGLETON is in jeopardy of being removed from the voter rolls and prosecuted if she attempts to re-register and vote in a future election.

27. Upon information and belief, the Duval County Clerk of Courts does not allow individuals to set up a payment plan for satisfying outstanding restitution.

### **Defendants**

28. Defendant RONALD DION DESANTIS is sued in his official capacity as Governor of the State of Florida. As Governor, Defendant DESANTIS is responsible for the enforcement of all laws of the State of Florida, including Amendment 4 (codified as Fla. Const., art. VI, § 4) and Senate Bill 7066 (amending Fla. Stat. § 98.075(5)). He also has a constitutional duty to protect Plaintiffs' fundamental right to vote. Fla. Const. art. IV, § 1.

29. Defendant LAUREL M. LEE is sued in her official capacity as Secretary of State of the State of Florida. As the Secretary of State, Defendant LEE is the "chief election officer" for the State and, therefore, ultimately responsible for the administration and supervision of all state election laws. Fla. Stat. § 15.13. It is her official duty to "[o]btain and maintain uniformity in the interpretation and implementation of the election laws, *id.* § 97.012(1); "enforce the performance of any duties of a county supervisor of elections . . . ." *id.* § 97.012(14); and to

“[p]rovide written direction and opinions to the supervisors of elections on the performance of their official duties with respect to the Florida Election Code or rules adopted by the Department of State.” *Id.* §§ 97.012(16). Senate Bill 7066 also directs Defendant LEE to identify all registered voters who have a felony conviction and have not completed their sentences, determine whether to grant or reject their voter registration applications, and remove all ineligible voters from the statewide voter registration list. *See* S.B. 7066, 2019 Leg. §§ 24, 25 (Fla. 2019) (amending Fla. Stat. § 98.075(5)).

30. Defendant MIKE HOGAN is sued in his official capacity as the Supervisor of Elections for Duval County and is responsible for conducting voter registration and elections in the county. Senate Bill 7066 requires Defendant HOGAN to “verify and make a final determination . . . regarding whether the person who registers to vote is eligible pursuant to [Amendment 4] . . . .” Fla. Stat. § 98.0751(3)(b). He is also responsible for maintaining the county’s voter registration rolls, which include removing from the voter rolls individuals deemed no longer eligible to vote under state law.

## **FACTUAL ALLEGATIONS**

### **Passage of Amendment 4**

31. Florida’s history of denying people with criminal convictions the right to vote dates back to its 1845 constitution. However, it was the expansion of its

criminal disfranchisement provision in 1868 that contributed in significant part to African Americans being disproportionately disenfranchised.

32. For years, legislation was introduced to streamline the state's rights restoration scheme, without any success. Moreover, in 2018, the state's clemency process was found to be "fatally flawed." *Hand v. Scott*, 315 F. Supp. 3d 1244, 1248 (N.D. Fla. 2018). As a result, Floridians turned to the state constitution which allows for citizens to amend the constitution by way of a ballot initiative.

33. The Florida constitution requires that, in order for a ballot initiative to be successful, (1) sufficient petitions must be signed and verified; (2) the state supreme court must approve the language upon a specific finding that the ballot initiative's language is clear, unambiguous, and provides sufficient detail so that voters know exactly what they are voting for; and (3) passage by at least 60% of all those who voted in a general election. Fla. Const. art. IV, § 10; art. XI, §§ 3, 5.

34. On April 20, 2017, the Florida Supreme Court ruled that "the chief purpose of [Amendment 4] is to automatically restore voting rights to felony offenders, except those convicted of murder or felony sexual offences, upon completion of all terms of their sentence." Advisory Opinion to the Attorney Gen. Re: Voting Restoration Amendment, 215 So. 3d 1202, 1208 (Fla. 2017).

35. The Florida Supreme Court has held that there is a presumption that provisions of the state constitution are self-executing. *Browning v. Fla. Hometown*

*Democracy, Inc.*, 29 So. 3d 1053, 1064 (Fla. 2010) (“[C]onstitutional provisions are presumed self-executing to prevent the Legislature from nullifying the will of the people as expressed in their Constitution.”); *Fla. Hosp. Waterman v. Buster*, 984 So. 2d 478, 485–86 (Fla. 2008) (“[I]n the absence of such presumption the legislature would have the power to nullify the will of the people expressed in their constitution, the most sacrosanct of all expressions of the people.”).

36. Amendment 4 became effective on January 8, 2019, and Florida’s felony disenfranchisement law and restoration scheme now provide that: “(a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon *completion of all terms of sentence including parole or probation*. (b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights.” Fla. Const. art. VI, § 4 (italics added).

37. Social scientists estimated that 1.4 to 1.6 million people would be eligible to vote upon Amendment 4’s passage. *See, e.g.*, The Sentencing Project, 6 *Million Lost Voters: State-Level Estimates of Felony Disenfranchisement*, 2016, available at <https://www.sentencingproject.org/publications/6-million-lost-voters->

*state-level-estimates-felony-disenfranchisement-2016/*. The estimated number also included people who still owe court costs, fines, fees, and/or restitution.

38. It is estimated that over 2,000 formerly incarcerated Floridians registered to vote between January and March 2019, about 44 percent of whom were Black people. See Kevin Morris, *Thwarting Amendment 4*, Brennan Ctr. for Justice (May 9, 2019), available at [https://www.brennancenter.org/sites/default/files/analysis/2019\\_05\\_FloridaAmendment\\_FINAL-3.pdf](https://www.brennancenter.org/sites/default/files/analysis/2019_05_FloridaAmendment_FINAL-3.pdf).

39. Florida’s voter registration form requires an applicant to affirm that the person is not a convicted felon or has had their voting rights restored. Beyond completing and signing the voter registration form, Florida’s election code does not require an applicant to supply any further information or documentation to the supervisor of elections’ office. In fact, Florida’s election code specifically provides that voter registration forms are: “designed so that convicted felons whose civil rights have been restored . . . are not required to reveal their prior conviction or adjudication.” Fla. Stat. § 97.052(2)(t).

40. A voter registration application shall be deemed complete, and the supervisor of elections must approve it, once “all information necessary to establish the applicant’s eligibility pursuant to § 97.041 is received by a voter

registration official,” and (b) when that information is “verified pursuant to [§ 97.053(6)].” *Id.* § 97.053(2).

41. Once a voter registration application is submitted, an election official must enter it into the statewide voter registration database within 13 days of receiving the application and then it must be immediately forwarded to the proper county election office. *Id.* § 97.053(7).

42. After the county supervisor of elections receives the voter registration application, the county “must notify [the] applicant of the disposition of the . . . application within 5 business days after voter registration information is entered into the statewide voter registration system.” *Id.* § 97.073(1). The notice should “inform the applicant that the application has been approved, is incomplete, has been denied, or is a duplicate of a current registration.” *Id.* “If the application is incomplete, the supervisor must request that the applicant supply the missing information using a voter registration application signed by the applicant.” *Id.*

43. Plaintiffs MCCOY and SINGLETON registered to vote—and voted—following Amendment 4’s January 8, 2018 effective date. Because they have satisfied all the conditions of their felony sentences, and because Amendment 4 is self-executing, Plaintiffs are legally entitled to vote pursuant to Fla. Const. art. VI § 4.

### **Passage of Senate Bill 7066**

44. Even though almost 65% of Floridians voted in favor of Amendment 4, members of the Florida legislature immediately began plans to dismantle the new law.

45. At the start of Florida's legislative session, there were several bills introduced to complicate the otherwise automatic rights registration scheme Amendment 4 created. Senate Bill 7066 was eventually approved by both houses and signed by the Governor on June 28, 2019.

46. During the hearings on the anti-Amendment 4 bills, legislators who supported these bills acknowledged that Florida lacks a centralized database that shows whether a person owes LFOs, the total amount of LFOs owed, and what, if any, of the total amount has been paid.

47. Representative James Grant and Senator Keith Perry refused to investigate or commission a study to determine the full impact Senate Bill 7066 would have on the 1.4 to 1.6 million individuals newly enfranchised under Amendment 4.

48. Community members, grassroots organizations, legislators, and impacted persons testified in opposition to Senate Bill 7066. Upon information and belief, their testimony included personal stories of people who had completed their sentences and already registered to vote and stories from lower income

individuals who owed thousands of dollars in LFOs and would probably never be able to satisfy them, certainly not in time to vote in any upcoming elections in the foreseeable future.

49. Upon information and belief, proponents of Senate Bill 7066 both in the House and Senate failed to obtain the necessary information to document how the legislation would still protect estimated 1.4-1.6 million people eligible to vote.

50. Senate Bill 7066 requires “[f]ull payment of fines or fees ordered by the court as a part of the sentence or that are ordered by the court as a condition of any form of supervision.” Fla. Stat. § 98.0751(2)(a)(5)(b). These financial obligations “include only the amount specifically ordered by the court as part of the sentence and do not include any fines, fees, or costs that accrue after the date the obligation is ordered as a part of the sentence.” *Id.* § 98.0751(2)(a)(5)(c).

51. Senate Bill 7066 also defines “[f]ull payment of restitution ordered to a victim by the court as part of the sentence.” *Id.* § 98.0751(2)(a)(5)(a).

52. Amendment 4 automatically restores one’s voting rights upon completion of sentence. By contrast, Senate Bill 7066 redefines “completion of sentence” to include the full payment of all financial obligations associated with one’s sentence, even when a court has converted those financial obligations to a civil judgment. *Id.* § 98.0751(2)(a)(5)(e)(III).



53. Therefore, Senate Bill 7066 constitutes a poll tax because it requires the payment of a fee as a precondition to exercising the right to vote, and failure to pay this fee can serve as the sole basis for rejecting a person's voter registration application or removing them from the voter rolls.

54. Moreover, Senate Bill 7066 denies Plaintiffs their right to vote without requiring an inquiry into Plaintiffs' ability to pay and a determination that nonpayment of LFOs was willful and not based on indigence. Senate Bill 7066 thereby punishes individuals like Plaintiffs MCCOY and SINGLETON who are unable to pay off their LFOs and deprives them of their fundamental right to vote solely because "through no fault of [their] own, [they] cannot pay the fine." *Bearden v. Georgia*, 461 U.S. 660, 673 (1983).

55. For individuals like Plaintiffs MCCOY and SINGLETON who owe thousands of dollars in LFOs and lack the means to satisfy those payments, Senate Bill 7066 imposes an excessive fine and punitive burden on their ability to vote. Based on their inability to pay off their outstanding LFOs, Plaintiffs will most likely never be able to vote again.

56. Senate Bill 7066 also requires county supervisors of elections to "verify and make a final determination . . . regarding whether the person who registers to vote is eligible pursuant" to Amendment 4, Fla. Stat. § 98.0751(3)(b) (2019), but the bill does not set forth any standard, guidelines, or other clear

directive to county supervisors of elections for how to carry out this broad delegation of authority.

57. Meanwhile, Florida’s supervisors of elections are publicly known to adopt varying internal policies and practices when it comes to the enforcement of election laws, most recently highlighted in the varying treatment of vote-by-mail ballots in different counties. *See e.g., Vote-by-Mail Ballots Cast in Florida*, ACLU of Florida & Prof. Daniel A. Smith (Sept. 19, 2018), [https://www.aclufl.org/sites/default/files/aclufl\\_-\\_vote\\_by\\_mail\\_-\\_report.pdf](https://www.aclufl.org/sites/default/files/aclufl_-_vote_by_mail_-_report.pdf).

**Senate Bill 7066’s Impact on Communities of Color and Lower Income People**

58. Racial bias is prevalent in Florida’s criminal justice system. In addition, people experiencing poverty are over-represented at every level of the system and often exit prison and complete parole or probation further in debt than when they were arrested and convicted.

59. In the past 15 years, Florida has increased the number of criminal offenses for which courts are statutorily mandated to impose LFOs. Moreover, many of these LFOs are imposed regardless of whether a criminal defendant can afford to satisfy those obligations. *See, e.g., id.* § 938.27(2)(a) (imposing on defendant costs of prosecution and investigation “notwithstanding the defendant’s present ability to pay”); § 938.29(1)(b) (requiring defendant to pay attorneys’ fees and costs in full “notwithstanding the defendant’s present ability to pay”).

60. Florida law enforcement officials are notorious for engaging in racial profiling which has resulted in the disproportionate number of police stops, arrests, prosecution, conviction, and increased sentencing of people of color.

61. In November 2016, over 10% of Florida's entire voting age population was barred from voting based on a felony conviction. *See, e.g., The Sentencing Project, 6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement, 2016, <https://www.sentencingproject.org/publications/6-million-lost-voters-state-level-estimates-felony-disenfranchisement-2016/>.* However, 21% of Florida's African American population could not vote due to a felony conviction. *Id.*

62. In terms of poverty levels, 2,889,506 people in Florida are living in poverty (14% of the population). *See Talk Poverty, Florida 2018, <https://talkpoverty.org/state-year-report/florida-2018-report/>.* Twenty-one percent of the people living below the poverty line in Florida are African American (compared to 12% of the white population that lives in poverty). *Id.*

63. The unemployment rate for returning citizens is five times higher than that of the general population. *See Lucius Couloute & Daniel Kopf, Prison Policy Initiative, Out of Prison and Out of Work: Unemployment Among Formerly Incarcerated People (July 2018), <https://www.prisonpolicy.org/reports/outofwork.html>.*

64. Senate Bill 7066's requirement that all of one's LFOs must be fully satisfied before being eligible to vote will have a disparate and disproportionate effect on racial minorities and lower income people. The Florida legislature presumptively knew that Senate Bill 7066 would cause this harm when it decided to pass the bill.

### **Senate Bill 7066's Impact on Lower Income Women**

65. Between 1978 and 2015, the rate of growth of the incarceration of women in state prisons has vastly outstripped that of men. Women's incarceration grew 834%, more than twice the rate of growth for their male counterparts. See Wendy Sawyer, *The Gender Divide: Tracking Women's State Prison Growth*, (Jan. 2018), [https://www.prisonpolicy.org/reports/women\\_overtime.html](https://www.prisonpolicy.org/reports/women_overtime.html).

66. Prior to incarceration, 72% of women made less than \$23,000 annually, compared to only 57% of men for whom the same was true. See Bernadette Rabuy & Daniel Kopf, *Prison Policy Initiative, Prisons of Poverty: Uncovering Pre-Incarceration Incomes of the Imprisoned* (2015), <https://www.prisonpolicy.org/reports/income.html>.

67. In Florida, 14.8% of working-age women have incomes below the poverty line as compared to 11.6% of men. See Talk Poverty, Florida 2018, <https://talkpoverty.org/state-year-report/florida-2018-report/>.

68. 25.2% of Black women in Florida are living in poverty as compared to 11.9% of white women. See Julie Anderson, M.A., et al., Institute for Women's Policy Research, *The Status of Women in Florida by County: Poverty & Opportunity* 13 (Dec. 2016), <https://tinyurl.com/y4omvhf4>.

69. Post incarceration, women are more likely to be unemployed than men. The unemployment rate among formerly incarcerated people between the ages of 35-44 was 43.6% among Black women (compared to 35.2% of Black men) and 23.2% among white women (compared to 18.4% of white men). See Lucius Couloute & Daniel Kopf, *Out of Prison and Out of Work: Unemployment among Formerly Incarcerated People* (2018), <http://www.prisonpolicy.org/reports/outofwork.html>.

70. Senate Bill 7066's requirement that all of one's LFOs must be fully satisfied before being eligible to vote will have a disparate and disproportionate effect on lower income women because of the gender-based disparities both in the criminal justice system and in the labor force.

71. Plaintiffs have no adequate remedy at law other than this action for declaratory and injunctive relief.

## **CAUSES OF ACTION**

### **COUNT ONE**

#### **Violation of Fourteenth Amendment's Equal Protection Clause (Wealth-based discrimination)**

72. Plaintiffs hereby reallege and incorporate by reference each allegation contained in the preceding paragraphs as though fully set forth herein.

73. The Fourteenth Amendment's Equal Protection Clause provides: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; [ ] nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

74. "[A] citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction." *Dunn v. Blumstein*, 405 U.S. 330, 336 (1972).

75. Wealth "is not germane to one's ability to participate intelligently in the electoral process." *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663, 668 (1966). A state "violates the Equal Protection Clause of the Fourteenth Amendment whenever it makes the affluence of the voter or payment of any fee an electoral standard." *Id.* at 666.

76. Florida's constitution allows a person convicted of a felony, other than murder or a sexual felony offense, to obtain automatic restoration of their voting rights upon completion of their sentence, including parole and probation.

77. Plaintiffs have completed their terms of incarceration and probation. Plaintiffs MCCOY and SINGLETON had their rights restored by operation of the Florida constitution, registered to vote, and have since voted in an election.

78. Plaintiff MCCOY owes \$7,531.84 in outstanding victim restitution, not including continuing accruing interest. Senate Bill 7066 thus requires that Plaintiff MCCOY pay at least \$7,531.84 to be eligible to vote in Florida. Otherwise, there is no other barrier to her ability to register and vote in Florida.

79. Plaintiff SINGLETON owes \$987.64 in court costs, fines, and fees, and \$14,913.05 in restitution, including accruing interest. Senate Bill 7066 thus requires that Plaintiff Singleton pay over \$15,000 to be eligible to vote in Florida. There is no other barrier to her ability to register and vote in Florida.

80. Neither Plaintiff MCCOY nor Plaintiff SINGLETON have the financial means to satisfy their monetary obligations as a precondition to being eligible to vote pursuant to Senate Bill 7066.

81. Under Senate Bill 7066, Plaintiffs' eligibility to vote is based entirely on their financial status.

82. Lower income women of color represent a disproportionate and growing number of people in the criminal justice system. Women of color also continue to be paid less than their male and white female counterparts. When they also have a criminal record, their employment opportunities greatly diminish.

Thus, Senate Bill 7066 has an even more harmful impact on Plaintiffs MCCOY and SINGLETON as low-income women of color.

83. If Plaintiffs were wealthy and had the financial means to fully satisfy their LFOs, they would be eligible to vote under Senate Bill 7066. Therefore, Senate Bill 7066 discriminates against and/or disproportionately impacts Plaintiffs based solely on their level of economic wealth, or lack thereof. Thus, Senate Bill 7066 violates the Fourteenth Amendment's Equal Protection Clause.

84. There is no compelling governmental interest or rational basis for denying Plaintiffs the right to vote solely based on their lower income status.

85. In addition to violating the Equal Protection Clause's plain language, public policy favors a finding that Senate Bill 7066 is unconstitutional.

**COUNT TWO**  
**Violation of Twenty-Fourth Amendment**  
**(Unconstitutional Poll Tax)**

86. Plaintiffs hereby reallege and incorporate by reference each allegation contained in the preceding paragraphs as though fully set forth herein.

87. The Twenty-Fourth Amendment to the U.S. Constitution states: “[t]he right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the



United States or any State by reason of failure to pay any poll tax or other tax.”

U.S. Const. amend. XXIV, § 1.

88. In passing the Twenty-Fourth Amendment, Congress enacted a permanent prohibition on a state’s use of wealth as a qualification to vote. See *Harman v. Forssenius*, 380 U.S. 528, 540-41 (1965) (“[T]he Twenty-fourth [Amendment] nullifies sophisticated as well as simple-minded modes of impairing the right guaranteed.” (internal quotation marks omitted)).

89. The term “poll tax” in the Twenty-Fourth Amendment was never intended to apply to a narrow category of fees imposed on a person in order to vote. See *U.S. v. State Tax Comm’n of Miss.*, 421 U.S. 599, 606 (1975) (noting that the “standard definition of a tax” is any “enforced contribution to provide for the support of government”). The term “poll tax” expressly and implicitly covers Senate Bill 7066’s requirement that Plaintiffs satisfy all of their financial obligations as a precondition to vote.

90. Senate Bill 7066 is a modern day “poll tax” that, in operation, denies people the right to vote based on their economic status.

91. There is no compelling governmental interest or rational basis for denying individuals the right to vote solely based on their lower income status.

92. In addition to violating the Twenty-Fourth Amendment’s plain language, public policy favors a finding that Senate Bill 7066 is unconstitutional.

**COUNT THREE**  
**Violation of Nineteenth Amendment**  
**(Denial of vote based on sex)**

93. Plaintiffs hereby reallege and incorporate by reference each allegation contained in the preceding paragraphs as though fully set forth herein.

94. The Nineteenth Amendment to the U.S. Constitution states: “[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.” U.S. Const. amend. XIX, § 1.

95. Since passage of the Nineteenth Amendment, women have become a growing percentage of the electorate. In some jurisdictions, women have surpassed men in voter registration and voter turnout.

96. Women are also the fastest growing group in terms of those who are arrested and incarcerated for committing a criminal offense, many of whom live in Florida.

97. Women who complete prison and probation have fewer employment opportunities and, therefore, lack the same economic resources and ability to satisfy LFOs as their male counterparts.

98. Women of color who complete prison and probation have fewer employment opportunities and, therefore, lack the same economic resources and ability to satisfy LFOs as their male and white female counterparts.

99. The intersection between gender-based disparities in the labor force and pay inequities, both before and after incarceration, lead to women being far less likely than their male counterparts to fully satisfy LFOs in order to vote as required under SB 7066.

100. The intersection between gender-based and race-based disparities in the labor force and pay inequities, both before and after incarceration, lead to women of color being far less likely than their male and white female counterparts to fully satisfy LFOs in order to vote as required under SB 7066.

101. Plaintiffs are low-income African American women who have struggled, oftentimes with little to no success, to find regular, consistent gainful employment that pays a livable wage.

102. Plaintiffs also struggle to meet their household and other daily living expenses. Therefore, requiring them to divert any modest financial support they do receive towards the full and complete satisfaction of their LFOs as required under SB 7066 will result in their permanent disenfranchisement.

103. The denial of voting rights to Plaintiffs and other similarly situated women based solely on their inability to pay LFOs will result in their exclusion from the electorate and significantly impact women's access to the ballot. In Plaintiffs' case, that exclusion would be permanent.

104. The diminishment of women from the electorate will have a direct impact on the ability of women to exercise their political rights and to influence governmental decisions regarding the very issues that affect their daily lives.

105. SB 7066 will have an unlawful disparate impact on women, especially women of color.

106. The passage of the Nineteenth Amendment granted women the fundamental right to vote.

107. There is no compelling governmental interest for denying Plaintiffs and similarly situated women the right to vote solely based on their lower economic status.

108. The denial of voting rights to Plaintiffs and similarly situated women is not related to any substantial or important governmental interest.

**COUNT FOUR**  
**Violation of Fourteenth Amendment's Equal Protection  
& Due Process Clauses**  
**(Failure to consider Plaintiffs' ability to pay  
& violation of fundamental fairness)**

109. Plaintiffs hereby reallege and incorporate by reference each allegation contained in the preceding paragraphs as though fully set forth herein.

110. The Fourteenth Amendment's Due Process Clause prohibits states from "depriv[ing] any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1. The Due Process Clause and Equal Protection

Clause of the Fourteenth Amendment further prohibit states from imposing punishment based on nonpayment of LFOs without first determining that the individual was able to pay and willfully refused to do so. *See Bearden*, 461 U.S. at 660; *Tate v. Short*, 401 U.S. 395 (1971); *Williams v. Illinois*, 399 U.S. 235 (1970); *see also Turner v. Rogers*, 564 U.S. 431 (2011); *Bell v. Burson*, 402 U.S. 535, 539 (1971).

111. “[T]he right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights.” *Reynolds v. Sims*, 377 U.S. 533, 562 (1964).

112. A state cannot deprive someone of a fundamental right without notice and a meaningful opportunity to be heard.

113. Plaintiffs lack the financial resources to satisfy their financial obligations as a precondition to vote.

114. Senate Bill 7066 deprives Plaintiffs of their fundamental right to vote without, at the very least, requiring the state first determine—at a hearing where Plaintiffs have notice and an opportunity to be heard—whether Plaintiffs have the ability to pay and willfully refused to do so prior to depriving them of their right to vote.

115. Therefore, Senate Bill 7066 deprives Plaintiffs’ of notice and a meaningful opportunity to be heard and violates the fundamental fairness

requirements of the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

**COUNT FIVE**  
**Violation of Fourteenth Amendment's Due Process Clause**  
**(Void for Vagueness)**

116. Plaintiffs hereby reallege and incorporate by reference each allegation contained in the preceding paragraphs as though fully set forth herein.

117. The Fourteenth Amendment's Due Process Clause requires laws that impose penalties to define the offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement. *See Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972). "It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined." *Id.* at 108.

118. Plaintiffs are eligible to vote under Amendment 4 and registered to vote in Duval County. Defendant HOGAN'S office concluded Plaintiffs were eligible to vote and approved their voter registration applications. The process was straightforward, efficient, and easily administered.

119. In contrast, Senate Bill 7066 creates confusion regarding the proper interpretation and enforcement of Amendment 4.

120. Senate Bill 7066’s delegation of authority to county supervisors of elections is also so extensive that it will lead to arbitrary and inconsistent decisions as to a person’s eligibility to vote.

121. As a result, Senate Bill 7066 is void for vagueness under the Fourteenth Amendment’s Due Process Clause.

**COUNT SIX**  
**Violation of the Eighth Amendment**  
**(Prohibition on excessive fines)**

122. Plaintiffs hereby reallege and incorporate by reference each allegation contained in the preceding paragraphs as though fully set forth herein.

123. The Eighth Amendment to the U.S. Constitution provides: “Excessive bail shall not be required, *nor excessive fines imposed*, nor cruel and unusual punishments inflicted.” U.S. Const. amend. VIII (emphasis added).

124. Senate Bill 7066 requires Plaintiff MCCOY to pay at least \$7,531 to be eligible to vote in Florida and requires Plaintiff SINGLETON to pay over \$15,000 to be eligible to vote in Florida. These amounts are excessive by any means, but especially as a precondition to one’s voter eligibility. Further at least a portion of Plaintiffs MCCOY and SINGLETON’s LFOs are payable to—and meant to generate revenue for—Duval County or other government entities.

125. Requiring payment of LFOs—many of which generate revenue for the government—as a precondition to voting is excessive, particularly where neither

the requirement to pay off LFOs nor the amounts required to be paid have any relation to the person's criminal culpability and there has been no consideration of the person's ability to pay.

126. Therefore, Senate Bill 7066 violates the Eighth Amendment's prohibition on excessive fines.

**REQUEST FOR RELIEF**

WHEREFORE Plaintiffs respectfully ask this Court to:

a) Declare Fla. Stat. §§ 98.0751(1)–(2)(a), as amended by Senate Bill 7066, unconstitutional in violation of the Fourteenth, Twenty-Fourth, Nineteenth, and Eighth Amendments of the United States Constitution;

b) Temporarily, preliminarily, and permanently enjoin Defendants from enforcing Fla. Stat. §§ 98.0751(1)–(2)(a);

c) Award Plaintiffs' their costs of suit and attorneys' fees in this action pursuant to 42 U.S.C. § 1988(b); and

d) Grant Plaintiffs such other and further relief as this Court deems just and proper.

Dated: October 28, 2019

Respectfully submitted,

/s/ Nancy G. Abudu

Nancy G. Abudu (Fla. Bar No. 111881)

Caren E. Short\*

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*\*Admitted pro hac vice*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 28, 2019, I electronically filed the foregoing with the Clerk of Court by using CM/ECF, which automatically serves all counsel of record for the parties who have entered an appearance.

/s/ Nancy G. Abudu

Nancy G. Abudu (Fla. Bar No. 111881)

Caren E. Short

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