

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

MYRNA COLÓN MARRERO, ET AL

Plaintiffs

v.

HÉCTOR CONTY PÉREZ, ET AL

Defendants

CIVIL NO. 12-1749 (CCC)

RESPONSE IN OPPOSITION TO “SUPPLEMENTAL MOTION FOR
EMERGENCY ORDER” and “FURTHER INFORMATIVE MOTION FOR
EMERGENCY ORDER” ECF #73 and 75

COMES NOW defendant Edwin Mundo-Rios, as Electoral Commissioner of the New Progressive Party (“NPP”), through the undersigned counsel and respectfully **ALLEGE and PRAY:**

1. Today, the First Circuit Court of Appeals for the First Circuit issued *Per Curiam* decision that denies plaintiffs the remedy they are trying to obtain through ECF #69, 71, 73 and 75. *See, Myrna Colon Marrero v. Hector Conty-Perez*, Slip Op. 11/02/12.

2. The Circuit Court clearly stated that plaintiffs requested remedy is unwarranted for the 2012 General Elections even under HAVA. To that effect the Circuit Court held;

... the procedures plaintiff challenges have existed in some form since at least the 1970’s. Additionally, HAVA itself was adopted nearly a decade ago, and two federal election cycles have been completed since then. Yet plaintiff did not file her complaint until September 12, 2012, less than two months before a general election that had long been scheduled for November 6.

Thus, plaintiff here is in a similar position to the plaintiffs in Respect Main PAC v. McKee, 622 F.3d 13 (1st Cir. 2010), . . . Here, as well, on the eve of a major election plaintiff seeks to disrupt long-standing election procedures, which large portion of the electorate have used. . .

3. It is evident that plaintiffs last minute move to ask this Honorable Court for an order that will have the same effect that a mandatory preliminary injunction allowing them to vote on the 2012 General Elections is just an impermissible attempt to get a second bite at the apple and obtain the remedy that was already denied.

4. It is undeniable that the purpose of using the inactive voters lists on Election Day is to maintain “. . . [un]disrupt[ed] long-standing election procedures, which large portion of the electorate have used” and avoid conflictive instructions and illegal behavior on the part ineligible voters. Colon Marrero, supra.

5. Today the Circuit Court of Appeals also issued its mandate, which clearly requires this Honorable Court to abstain from granting plaintiffs’ requests for an “Emergency Order” allowing inactive voters to vote on the 2012 General Elections.

6. We are also hereby adopting the expressions contained in ECF #71 and 72, filed by the appearing defendant in response to plaintiffs’ temerarious pretentions.

WHEREFORE, defendant Edwin Mundo-Rios, as Electoral Commissioner of the New Progressive Party respectfully requests the Court to deny any request by plaintiffs contrary to the clear denial of their voting exercise on November 6, 2012 General Elections determined by this Honorable Court, which was affirmed by the First Circuit Court of Appeals.

I HEREBY CERTIFY that on this same date this document was filed electronically through the CM/ECF system which will send notification to the parties to their registered email addresses.

Respectfully submitted in Guaynabo, Puerto Rico, this November 2, 2012.

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