

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

DONNA BAKER, et al.,

Plaintiffs,

v.

BETH CHAPMAN, et al.,

Defendants.

Civil Action No.

03-CV-2008-900749.00

MOTION FOR CLASS CERTIFICATION

For reasons stated below and in the supporting memorandum of law, Plaintiffs—residents of Alabama who have been disfranchised by the state because of their felony convictions, but who seek the right to register to vote—request that the Court certify this proceeding as a Class and Subclass action pursuant to Ala. Code § 6-5-641 and Ala. R. Civ. P. 23. The Putative Plaintiff Class to be maintained in this action consists of all unregistered persons otherwise eligible to register to vote in Alabama who have been convicted of one or more felonies, but who have not been convicted of any felonies that appear in Ala. Code § 15-22-36.1(g). The Putative Plaintiff Subclass consists of all unregistered persons otherwise eligible to register to vote in Alabama who have been convicted of one or more felonies, but who have not been convicted of any felonies that either appear in Ala. Code § 15-22-36.1(g) or the 2005 Attorney General Opinion, No. 2005-092. The Putative Plaintiff Subclass is by definition a subset of the broader proposed Plaintiff Class. The Putative Defendant Class consists of all voter registrars in the State of Alabama.

In support of this motion, and as explained in greater detail in the attached memorandum of law in support of this motion, Plaintiffs state the following:

1. The Putative Plaintiff Class and Plaintiff Subclass meet all the requirements of Rule 23(a) of the Alabama Rules of Civil Procedure:

a. The Putative Plaintiff Class and Plaintiff Subclass are so numerous that joinder of all members is impracticable. Thousands of individuals are part of this class and subclass, and the membership is constantly changing as new individuals enter the criminal justice system. Accordingly, joinder would be impracticable and the numerosity requirement of Rule 23(a)(1) is satisfied.

b. The relevant questions of law and fact are common to the Putative Plaintiff Class as a whole, and therefore the commonality requirement of Rule 23(a)(2) is satisfied. The relevant questions of law and fact are also common to the Putative Plaintiff Subclass as a whole, and therefore the commonality requirement of Rule 23(a)(2) is satisfied.

c. Lead Plaintiffs Baker's and Hall's claims are typical to the Putative Plaintiff Class as a whole, and therefore the typicality requirement of Rule 23(a)(3) is satisfied. Lead Plaintiff McWashington Pruitt's claims are typical to the Putative Plaintiff Subclass as a whole, and therefore the typicality requirement of Rule 23(a)(3) is satisfied.

d. Lead Plaintiffs Baker and Hall will fairly and adequately represent the Putative Plaintiff Class, and Lead Plaintiff McWashington Pruitt will fairly and adequately represent the Putative Plaintiff Subclass, as required by Rule 23(a)(4).

2. The Putative Defendant Class meets all the requirements of Rule 23(a):

a. The Putative Defendant Class of approximately 200 county registrars is so numerous that joinder would be impracticable and the numerosity requirement of Rule 23(a)(1) is satisfied.

b. The relevant questions of law and fact are common to the Putative Defendant Class as a whole, and therefore the commonality requirement of Rule 23(a)(2) is satisfied.

c. Lead Defendants Hunter's, Kirkland's, Rogers', and Jordan's defenses are typical to the class as a whole, and therefore the typicality requirement of Rule 23(a)(3) is satisfied.

d. Lead Defendants Hunter, Kirkland, Rogers, and Jordan will fairly and adequately represent the Putative Defendant Class, as required by Rule 23(a)(4).

3. Plaintiffs seek declaratory and injunctive relief against a systemic statewide policy of unlawful disfranchisement. No money damages are being sought. As such, certification is proper under Rule 23(b)(2).

For the reasons set forth in this motion and the supporting memorandum of law, Plaintiffs request this Court to certify this action pursuant to Ala. Code § 6-5-641(e) and Ala. R. Civ. P. 23 as a class action.

Date: July 21, 2008

Respectfully submitted,

s/ Allison E. Neal

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**Pro hac vice motions to follow*

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on this the 21st day of July, 2008, an accurate and complete copy of the Motion for Class Certification was mailed via pre-paid First Class U.S.P.S. mail to the following individuals:

Beth Chapman, Alabama Secretary of State, P.O. Box 5616, Montgomery, Alabama 36103-5616;

Office of the Attorney General, Alabama State House, 11 South Union Street, Third Floor, Montgomery, AL 36130;

Nell Hunter, Registrar for Jefferson County, 716 Richard Arrington Jr Blvd N Ste A-410, Birmingham, Alabama 35203-0115;

M. David Barber, Jefferson County District Attorney, 801 Richard Arrington Jr. Boulevard North, Suite L-01, Birmingham, AL 35203;

Jean Kirkland, Registrar for Monroe County, P.O. Box 972, Monroeville, Alabama 36461-0972;

Beatrice Rogers, Registrar for Monroe County, P.O. Box 972, Monroeville, Alabama 36461-0972;

Donna Jordan; Registrar for Monroe County, P.O. Box 972, Monroeville, Alabama 36461-0972; and

Tommy Chapman, Monroe County District Attorney, P.O. Box 397, Monroeville, AL 36461-0397.

s/ Allison E. Neal

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