

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT IN AND
FOR BROWARD COUNTY FLORIDA

IN RE: THE MATTER OF

CASE NO.: CACE 14-012324

JENNIFER BRINKMAN, an individual,

Plaintiffs,

v.

TYRON FRANCOIS, as candidate for Broward
County Commission District 2, and DR. BRENDA
C. SNIPES, in her official capacity as Supervisor of
Elections for Broward County, Florida,

Defendants.

ORDER

It is hereby ORDERED and ADJUDGED:

Based on the evidence, testimony, motions, and argument of Counsel, Plaintiff's motion for declaratory relief is granted.

This Court finds Tyron Francois is not a qualified write-in candidate for the office of Broward County Commissioner District 2. The Court further declares that Plaintiff and all registered voters residing in Broward County Commission District 2 have the right to vote in the 2014 Democratic Primary for the office of Broward County Commissioner for District 2.

Plaintiff's motion for injunctive relief is hereby granted as to a temporary injunction.

The Court finds the following:

- (1) That the Plaintiff will suffer irreparable harm if the temporary injunction is not entered in that she won't be able to vote in the Democratic Primary;
- (2) That the Plaintiff has no adequate remedy at law, in that the Broward County Supervisor of Elections will not invalidate a candidate unless mandated by the Court;

- (3) That the Plaintiff has a clear legal right to the relief granted and substantial likelihood of success on the merits, in that the candidate, Defendant Tyron Francois, has violated Section 99.0651, Florida Statutes, and therefore is not qualified; and
- (4) That a temporary injunction will serve the public interests to preserve the integrity of the election process. *See Citizens for Sunshine, Inc. v. School Bd. Of Martin Cnty.*, 125 So. 3d 184, 187 (Fla.4th DCA 2013); *Wexler v. Lepore*, 878 So. 2d 1276 (Fla. 4th DCA 2004).

Accordingly this Court enjoins the Defendants and any other party from preventing Plaintiff and all registered Broward County voters residing in District 2 who wish to vote by absentee ballot or in person from voting in the 2014 Democratic Primary for the office of Broward County Commissioner for District 2, regardless of party affiliation. The Court hereby directs the Defendants to open the 2014 Democratic Primary for the office of Broward County Commissioner for District 2 to all voters in District 2, including those participating by absentee ballot, or otherwise make available a reasonable alternative permitting them to cast a vote for that office.

Regarding the constitutionality of Section 99.0651, Florida Statutes, because the statute does not concern any suspect class or fundamental right to be a write-in candidate, the Court applies a rational basis test, which means the statute must be rationally related to a legitimate state interest. The Florida Supreme Court in *Pasco v. Heggen*, 314 So. 2d 1 (Fla. 1975), upheld the constitutionality of statutory restrictions on write-in candidates. The Florida Supreme Court in that case further held that legislative enactments regulating the conduct of elections come before this tribunal with an extremely strong presumption of validity, and only unreasonable or unnecessary restraints on the elective process are prohibited. The Florida Supreme Court further,

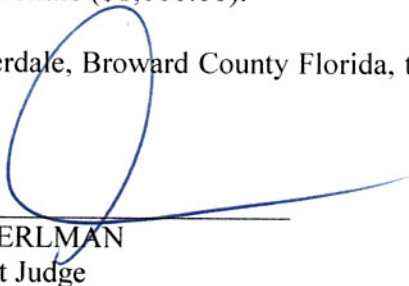
in *Smith v. Smathers*, 372 So. 2d 427 (Fla. 1979), upheld the constitutionality of write-in candidates stating that the write-in statute shall remain in force and effect to provide a procedure for write-in candidacies in future elections until properly changed by the legislature. Write-in candidates are not mandated by the constitution and are legislatively created. The Court hereby finds that Section 99.0651, Florida Statutes, is rationally related to a legitimate state interest.

The Court further finds that *State v. Grassi*, 532 So. 2d 1055 (Fla. 1988), is distinguishable because it does not address a write-in candidate.

In accordance with this Court's written order dated July 11, 2014, temporary injunction bond is set in the amount of One Thousand and No/100 Dollars (\$1,000.00).

DONE and ORDERED in Chambers at Fort Lauderdale, Broward County Florida, this 15th July, 2014.

Nunc pro tunc July 11, 2014



SANDRA PERLMAN
Circuit Court Judge

Copies furnished to:
William R. Scherer, Esq.
Burnadette Norris-Weeks, P.A.
Robert Vaughan, Esq.

**** FILED: BROWARD COUNTY, FL Howard C. Forman, CLERK 7/11/2014 11:01:32 AM ****

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT, IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.: CACE-14-012324

In re: Matter of
Jennifer Brinkman

Plaintiff,

vs.

Tyron Francois, et al.
Defendant.

ORDER

THIS CAUSE was considered by the Court on the following Motion(s) _____

Plaintiff's Complaint for Declaratory and Injunctive Relief

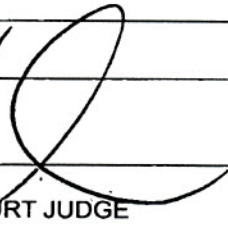
HEARING was held on July 11, 2014

THE COURT having considered the grounds for the Motion, taken testimony, heard argument and considered the applicable law, it is FOUND,

ORDERED AND ADJUDGED as follows:

Per reasons stated on the record,
Plaintiff's temporary injunction bond
is set for \$1,000.00

DONE AND ORDERED _____

7/11/2014

CIRCUIT COURT JUDGE

Copies furnished: In Open Court
 By Mail