

IN THE CIRCUIT COURT OF THE 11TH  
JUDICIAL CIRCUIT IN AND FOR DADE  
COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION

CASE NO.: 20-\_\_\_\_\_

CITY OF MIAMI, FLORIDA,

Plaintiff,

vs.

MIAMI-DADE COUNTY, and  
CHRISTINA WHITE, in her official  
capacity as MIAMI-DADE COUNTY  
SUPERVISOR OF ELECTIONS,

Defendants.

\_\_\_\_\_ /

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiff, the City of Miami (“City”), brings this action against Defendants Miami-Dade County and Christina White, in her official capacity as Miami-Dade County Supervisor of Elections (collectively, “County”), for declaratory and injunctive relief stemming from the County’s refusal to provide for adequate early voting sites in the City’s predominantly Hispanic-American neighborhoods, and alleges as follows:

**NATURE OF THE CASE**

1. This is an action brought to vindicate the rights of Hispanic-American voters in the City, whose ability to engage in early voting in the upcoming 2020 primary election has been severely abridged by the County’s decision not to designate the Hispanic Branch or Shenandoah Branch Libraries as early voting sites in the City, or to reopen the West Flagler Branch Library as an early voting site, or to designate any other early voting site in the City’s Little Havana, Flagami,

or Allapattah neighborhoods, where a substantial majority of Hispanic-American voters in the City reside. Instead, the County has opened only three early voting sites in the entire City, all in predominantly white or African-American neighborhoods.

2. The City has a ballot question being considered as part of a concurrent special election on the August 18, 2020 primary election ballot, which asks:

Would you support requiring the Miami-Dade County Mayor who has authority over the Miami-Dade County Aviation Department to start a program to screen all passengers arriving at Miami International Airport for the COVID-19 virus?

The City was charged approximately \$100,000.00 by the County to place this ballot question.

3. The County mayoral race is also at issue, as well as a number of county commission, judicial, and other elections that will impact the many City residents in the Little Havana, Flagami, and Allapattah neighborhoods.

4. The City has repeatedly asked the County to open the Hispanic Branch, Shenandoah Branch, and West Flagler Branch Libraries, or some other suggested library branches in the area, as additional early voting sites to accommodate Hispanic-American voters in the City. The County has refused.

5. The County's decision not to open any early voting site that is reasonably accessible to the majority of Hispanic-Americans in the City violates Article I, Sections 2 & 4 of the Florida Constitution and Section 101.657 (1)(a), Florida Statutes ("Early Voting Statute"). The City seeks preliminary and permanent injunctive relief requiring the County to designate the Hispanic Branch, Shenandoah Branch, and West Flagler Branch Libraries as early voting sites, or some other venues geographically situated to provide the Hispanic-American voters in the City an equal opportunity to cast an early ballot in the upcoming primary election.

6. Early voting sites must be designated by the County by July 19, 2020, or in less than two weeks. § 101.657 (1)(b), Fla. Stat. Accordingly, the City also respectfully requests an expedited hearing and determination of its claims at the earliest possible date.

### **THE PARTIES**

7. The City is a municipality established pursuant to Article VIII, Section 2(a) of the Florida Constitution and is authorized to exercise home rule powers pursuant to Article VIII, Section 2(b) of the Florida Constitution. The City has an interest in this litigation by virtue of its placement of a ballot question at a special election coinciding with the August 2020 primary election, the question for which will appear on City residents' ballots in the upcoming primary. The City therefore has an interest in assuring that its residents are not disenfranchised and prevented from voting on its ballot question, as well as other issues presented on this primary election ballot.

8. The County is a political subdivision of the State of Florida.

### **JURISDICTION AND VENUE**

9. This is an action for declaratory and injunctive relief, pursuant to Chapter 86, Florida Statutes, because the City seeks to declare the County's refusal to provide the requested additional early voting sites within the City constitutes a violation of the Florida Constitution. The Court has jurisdiction to grant declaratory relief. *See* §§ 86.011, 86.021, 86.101, Fla. Stat; *see also Martinez v. Scanlan*, 582 So. 2d 1167, 1170 (Fla. 1991).

10. Venue is proper in this Court pursuant to Section 47.011, Florida Statutes, because the County resides in Miami-Dade County and the claims asserted here arose within the County.

### **FACTUAL BACKGROUND AND LAW**

11. Following the disastrous 2012 general election, in which voters across Florida encountered unconscionably long lines when attempting to vote during the early voting period and on Election Day, the Florida Legislature amended the State's election laws to expand the availability of early voting. First, the Legislature expanded the early voting period from a maximum of eight days to a maximum of fourteen days and expanded the minimum number of hours each early voting site must be open daily from six to eight hours. Second, the Legislature expanded the types of locations that may permissibly serve as early voting locations.

12. Before 2013, Florida supervisors of elections were only required to offer early voting in their main or branch office and only permitted to designate a "city hall or permanent public library facility" as additional early voting sites. But, when the Legislature amended the law in 2013, supervisors of elections were also given the power to designate "any . . . fairground, civic center, courthouse, county commission building, stadium, convention center, government-owned senior center, or government-owned community center as [an] early voting site[]." § 101.657 (1)(a), Fla. Stat.

13. Under the Early Voting Statute, however, "if so designated, the sites must be geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, insofar as is practicable, and must provide sufficient nonpermitted parking to accommodate the anticipated amount of voters." *Id.*

14. The Hispanic Branch, Shenandoah Branch, and West Flagler Branch Libraries are located within the City's predominantly Hispanic-American neighborhoods. The West Flagler Branch Library has served as an early voting site in past primary elections.

15. Hispanic Branch, Shenandoah Branch, and West Flagler Branch Libraries have not been designated as an early voting locations by the County for the upcoming August 2020 primary election.

16. City residents in these predominantly Hispanic-American neighborhoods, many of whom are low income and elderly, would avail themselves of these particular early voting sites if they were made available.

17. Additionally, the current pandemic calls for the provision of early voting locations that would not require these residents, many of whom are at high risk for contraction of COVID-19, to venture too far to participate in early voting.

18. The City has requested that the County include the Hispanic Branch, Shenandoah Branch, and West Flagler Branch Libraries as early voting sites for the upcoming primary election, or another suitable early voting location that would serve these predominantly Hispanic-American neighborhoods within the City, but the County has refused to do so. Instead, the County has provided just three early voting sites within the boundaries, all located in the eastern or southeastern areas of the City, which are predominantly white or African-American neighborhoods.

19. The County's implementation of the Early Vote Statute discriminatorily denies equal access to this increasingly popular means of voting to a significant segment of the City's electorate. The County's position makes it more difficult, and in some cases impossible, for thousands of City voters—particularly those low-income, elderly Hispanic-American voters living in the City's Little Havana, Flagami, and Allapattah neighborhoods—to participate in early voting in the communities in which they live.

20. As such, the County's actions are disparately impacting these predominantly Hispanic-American residents of this City neighborhood, and the City brings this action challenging the County's refusal to provide a suitable early voting site to its residents as a violation of the Early Voting Statute and unconstitutional under the Florida Constitution.

**COUNT I – DECLARATORY & INJUNCTIVE RELIEF –  
VIOLATION OF EARLY VOTING STATUTE**

21. The City realleges and incorporate herein by reference each and every allegation contained in paragraphs 1-20.

22. Under the Early Voting Statute, if a County elects to provide early voting sites, "the sites must be geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, insofar as is practicable." § 101.657 (1)(a), Fla. Stat.

23. Based on the totality of the circumstances, as a result of the actions alleged in this Complaint, the early voting process in Miami-Dade County is not equally open to participation by Hispanic-American voters within the City, and Hispanic-American voters in City have less opportunity than other members of the City and County electorate to participate in early voting and to elect representatives of their choice and to vote on the City's referendum question.

24. The County has therefore violated the Early Voting Statute.

**COUNT II – DECLARATORY & INJUNCTIVE RELIEF –  
VIOLATION OF FLORIDA CONSTITUTION**

25. The City realleges and incorporate herein by reference each and every allegation contained in paragraphs 1-20.

26. Under the Article I, Section 2 of the Florida Constitution, a state cannot utilize election practices that unduly burden the right to vote. While Florida does not have a constitutional obligation to provide early voting, having adopted early voting, Florida may not "by later arbitrary

and disparate treatment, value one person's vote over that of another." *Obama For Am. v. Husted*, 888 F. Supp. 2d 897, 910 (S.D. Ohio 2012), *aff'd*, 697 F.3d 423 (6th Cir. 2012) (citing *Bush v. Gore*, 531 U.S. 98, 104-05 (2000)).

27. The County's refusal to provide an early voting site within the City's predominantly Hispanic-American neighborhoods does not treat City voters equally regarding access to early voting. To the contrary, it mandates an inequality, because the lack of such a location means that all voters in the County do not have an equal opportunity to cast an early ballot.

28. In a case such as this, the Court must carefully balance the character and magnitude of injury to the rights that the plaintiffs seek to vindicate against the justifications put forward by the State for the burdens imposed by the rule. *See Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983). "However slight th[e] burden may appear, . . . it must be justified by relevant and legitimate state interests sufficiently weighty to justify the limitation." *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 191 (2008) (Stevens, J., controlling op.) (quotation marks omitted).

29. Here, the County's decision not to include the Hispanic Branch, Shenandoah Branch, and West Flagler Branch Libraries as early voting sites, or any other location in the City's predominantly Hispanic-American neighborhoods, clearly burdens the rights of City residents in those neighborhoods to vote.

30. The Florida legislature has confirmed that equal protection applies to the Early Voting Statute, which clearly requires that the County select early voting sites to give all voters an equal opportunity to early vote. As alleged above, the County has failed to do so and has failed to remedy its mistake when brought to its attention.

31. Further, under Article I, Section 4 of the Florida Constitution, the right of all City residents to exercise freedom of expression through voting in local elections is protected. The County's actions, as alleged herein, have impermissibly burdened the ability of residents of Miami's Little Havana, Flagami, and Allapattah neighborhoods to exercise that right.

32. The County, through its actions as described in this Complaint, has deprived the City and its residents of the rights secured for them under Article I, Sections 2 and 4 of the Florida Constitution.

WHEREFORE, the City prays that this Court:

(a) Enter a judgment declaring and determining that the County's refusal to designate the Hispanic Branch, Shenandoah Branch, and West Flagler Branch Libraries, or another suitable site located in the City's Little Havana, Flagami, and Allapattah predominantly Hispanic-American neighborhoods as early voting sites for the August 2020 primary election violates the Early Voting Statute, Article I, Section 2 of the Florida Constitution, and Article I, Section 4 of the Florida Constitution;

(b) Grant preliminary and permanent injunctive relief by ordering the County to designate early voting sites at the Hispanic Branch, Shenandoah Branch, and West Flagler Branch Libraries, or some other early voting site reasonably convenient to the Hispanic-American community the City's Little Havana, Flagami, and Allapattah neighborhoods, and provide published notice that such sites are available for early voting in a newspaper of general circulation in the County; and

(c) Grant the City such other relief as may be just.

Dated: July 13, 2020

Respectfully submitted,

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