

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

Kerrie Dickson

Hugh Esco

Petitioners,

v.

The State of Georgia

Secretary of State of Georgia

The Superintendent of Elections for Rabun, Towns, Union and White Counties

Defendants

Civil Action #:

2000-CV-27164

**MOTION FOR LEAVE TO AMEND
AN APPLICATION FOR A WRIT OF MANDAMUS**

Plaintiffs move the Court for leave to file an amendment to their complaint in the above styled action. Plaintiffs desire to amend the style of these pleadings and to add the State of Georgia as a Defendant Party for the following reasons:

1. The original pleadings were drafted by pro-se litigants, as an Application for a Writ of Mandamus, because O.C.G.A 21-2-171(c) provides that a review from an adverse ruling of the Secretary of State on a ballot-access Nominating Petition required by O.C.G.A. 21-2-170 et seq is by that process.
2. Even so, the Defendants were given sufficient notice by the original pleadings that the relief sought was beyond that possible from a Mandamus.
3. The Georgia Supreme Court held in a unanimous opinion by Chief Justice Benham that "A Court examining a pro-se complaint should hold it to less stringent standards than those applied to pleadings drafted by attorneys." *Graham v Ault*, 266 Ga 367 (1996). And the Georgia Court of Appeals ruled: "A pro-se complaint . . . should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Johnson v. Jones*, 178 Ga. App. 346, 349 (1986).
4. The scope of the facts presented and the relief sought in the original pleadings in this action clearly are beyond the scope of a Mandamus action, and deal more appropriately with the demands of justice, not simply the performance of an official duty.

5. Plaintiffs now move that the State itself be included as a Defendant Party, for the reason that the unConstitutional barriers encountered by plaintiff Dickson in her efforts to obtain ballot access were a result not merely of the statutes themselves nor the manner in which Secretary Cox administered them. These barriers are actually a product of the totality of the circumstances, including: 1) a case law environment prohibiting petition gathering on private property to which the public has been invited, 2) a consistent pattern of *color of law* harrasment of First Amendment protected petition activities in traditional public venues, 3) the privatization of many formerly public gathering sites, and 4) a statutory ballot access regime which imposes on candidates for local office the most stringent ballot access requirements in the entire country.

Respectfully submitted, this _____ day of _____, 2000.

Kerrie Dickson, co-plaintiff, pro-se
1426 Abe Cove Road;
Hiawassee Georgia 30546

Hugh Esco, co-plaintiff, pro-se
1426 Abe Cove Road;
Hiawassee Georgia 30546

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

Kerrie Dickson

Hugh Esco

Petitioners,

Civil Action #:

2000-CV-27164

v.

The State of Georgia

Secretary of State of Georgia

The Superintendent of Elections for Rabun, Towns, Union and White Counties

Defendants

ORDER

Read and considered. Leave of Court is granted for plaintiffs to amend their pleadings filed on August 21st, 2000. The above and foregoing amendment is hereby allowed and ordered filed.

IT IS HEREBY ORDERED, this ____ day of _____, 2000.

Judge Constance C. Russell

Judge, Fulton Superior Court

Atlanta Judicial Circuit