

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA**

DSCC a/k/a DEMOCRATIC  
SENATORIAL CAMPAIGN  
COMMITTEE; and BILL NELSON FOR  
U.S. SENATE,

Plaintiff,

v.

KENNETH W. DETZNER, in his official  
capacity as the Florida Secretary of State,

Defendant.

Case No. 4:18-cv-526

**ORDER GRANTING PLAINTIFF'S EMERGENCY MOTION FOR  
TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE**

For good cause appearing, Plaintiffs' Motion is GRANTED and the court hereby finds and orders the following relief:

1. Florida Administrative Code Rule 1S-2.027(4)(b)'s requirement that a voter must have marked each contest on a ballot "in the same manner" in order for an overvote or undervote to constitute a valid vote violates the First and Fourteenth Amendments to the U.S. Constitution;
2. Florida Administrative Code Rule 1S-2.027(4)(c)(15) violates the First and Fourteenth Amendments to the U.S. Constitution to the extent it requires that a voter who inadvertently marks the names of two or more

candidates for a race can only correct her mistake by writing certain words on the ballot;

3. Defendant, and his officers, employees, and agents, and all persons acting in active concert or participation with Defendant, or under Defendant's supervision, direction, or control, and all other persons within the scope of Federal Rule of Civil Procedure 65, including all supervisors of elections and canvassing boards, is enjoined from enforcing Rule 1S-2.027(4)(b)'s Consistency Requirement and Rule 1S-2.027(4)(c)(15)'s Magic Words Requirement as an exclusive means of cancelling out an erroneous overvote;
4. Defendant, and his officers, employees, and agents, and all persons acting in active concert or participation with Defendant, or under Defendant's supervision, direction, or control, and all other persons within the scope of Federal Rule of Civil Procedure 65, including all supervisors of elections and canvassing boards, is required to count a vote as valid if the voter has clearly indicated her definite choice for the race at issue as provided in Rule 1S-2.027(4)(c), even if the voter did not mark her definite choice for each contest on the ballot "in the same manner;"
5. Defendant, and his officers, employees, and agents, and all persons acting in active concert or participation with Defendant, or under Defendant's

supervision, direction, or control, and all other persons within the scope of Federal Rule of Civil Procedure 65, including all supervisors of elections and canvassing boards, is required to count a vote as valid if the voter selected more than one choice for the race at issue but corrected her erroneous overvote by crossing out, striking through, or scribbling out one of those candidates, even if she did not use written words to communicate the cancellation;

6. Defendant is ordered to issue revised guidance consistent with this order to county canvassing boards performing manual recounts in Florida's U.S. Senate race; and
7. The November 18, 2018, canvassing deadline under Fla. Stat. § 102.141(7)(c), by which all manual recounts must be completed, is hereby tolled and restrained to provide each county with sufficient time to count over- and under-voted ballots that would otherwise have been rejected on the basis of Rules 1S-2.027(4)(b) and 1S-2.027(4)(c)(15).

SO ORDERED on November \_\_, 2018.

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Hon.