

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

TATI ABU KING and TONI HEATH JOHNSON,

Plaintiffs,

v.

JOHN O'BANNON, *in his official capacity as Chairman of the State Board of Elections for the Commonwealth of Virginia*; ROSALYN R. DANCE, *in her official capacity as Vice Chair of the State Board of Elections for the Commonwealth of Virginia*; GEORGIA ALVIS-LONG, *in her official capacity as Secretary of the State Board of Elections for the Commonwealth of Virginia*; DONALD W. MERRICKS, *in his official capacity as a member of the State Board of Elections for the Commonwealth of Virginia*; MATTHEW WEINSTEIN, *in his official capacity as a member of the State Board of Elections for the Commonwealth of Virginia*; SUSAN BEALS, *in her official capacity as Commissioner of the Department of Elections for the Commonwealth of Virginia*; ERIC SPICER, *in his official capacity as the General Registrar of Fairfax County, Virginia*; and SANDY C. ELSWICK, *in her official capacity as the General Registrar of Smyth County, Virginia*,

Defendants.

Case No. 3:23-cv-00408 (JAG)

**DECLARATION OF PLAINTIFF TONI JOHNSON IN SUPPORT OF  
PLAINTIFFS' MOTIONS FOR CLASS CERTIFICATION AND SUMMARY  
JUDGMENT**

I, Toni Johnson, declare as follows:

1. I am one of the named plaintiffs in the above-captioned action. I submit this declaration in support of Plaintiffs' Motion for Class Certification. I have personal knowledge of the facts set forth in this declaration. If called upon to do so, I could and would competently testify to these facts.

2. I am a U.S. citizen and over the age of 18. I reside in Marion in Smyth County, Virginia. Prior to my most recent convictions, I was convicted of other offenses but had my voting rights restored. I was then convicted of the following related felony offenses in 2021, as a result of which I am currently not permitted to vote: possession with intent to distribute a controlled substance, Va. Code § 18.2-248, distribution of a controlled substance, *id.*, and neglect of a child (for presence of a teen-aged minor in the vicinity of such substances), Va. Code § 18.2-371.1. My voting rights have not been restored since my most recent convictions.

3. I am mentally competent and have not registered to vote in another state. I do not plan to vote in another state.

4. I would have exercised my right to vote previously and would in the future do so, if not for my current ineligibility and the threat of prosecution if I were to register or attempt to register while disqualified. I would register to vote in Virginia if eligible to do so.

5. I understand that this lawsuit alleges that the Virginia Readmission Act ("VRA") prohibits Defendants from enforcing Art. II, § 1 (the "Felony Disenfranchisement Provision") of the Virginia Constitution to cancel or deny the voter registration of any Virginian convicted of any felony. Specifically, I understand that this lawsuit alleges that contrary to the VRA, Defendants enforce the Felony Voting Provision to deny the fundamental right to vote for any Virginian who

has a felony conviction, including conviction of a crime that was not a felony at common law at the time the VRA was passed.

6. I understand that this lawsuit is brought as a class action. I seek to be appointed as Class Representative on behalf of the Class of Virginians who have been disenfranchised as a result of Defendants' enforcement practices. I understand that Plaintiff Tati King is also seeking to be a Class Representative.

7. I understand that if appointed as a Class Representative, I would represent not only myself, but I would also represent the entire proposed Class. I understand that if appointed as a Class Representative, I have a fiduciary duty to act in the interests of all other members of the Class. As such, I am committed to vigorously prosecuting this Action on behalf of the Class, and to at all times exercise my good faith and sound judgment to seek a remedy that is fair and beneficial for the Class. I believe that I have the ability to fairly and adequately represent the interests of all Virginians who, like me, have been convicted of a felony that was not a felony at common law in 1870 and therefore have been disenfranchised by Defendants' enforcement of the Felony Voting Provision.

8. I have supervised and monitored the progress of this litigation, and regularly communicate with counsel. For example, among other efforts to supervise and participate in this action, I have: (a) received updates about the progress of the litigation from counsel; (b) participated in discussions with counsel concerning significant developments in the litigation; (c) reviewed court filings; and (d) produced my personal information to assist counsel in preparing pleadings and discovery requests related to my background and current voting status.

9. I am committed to continuing to supervise, monitor, and participate in the ongoing prosecution of this action. Should I be appointed Class Representative, I will fulfill my fiduciary

duty to all members of the proposed Class to provide fair and adequate representation. I intend to continue to provide fair and adequate representation by, among other things, remaining aware of the progress of the litigation in consultation with my lawyers, ACLU of Virginia, Protect Democracy, and Wilmer, Cutler, Pickering, Hale & Dorr LLP (“WilmerHale”); appropriately supervising the efforts of my lawyers; communicating with my lawyers about the status of the case; and, if necessary, testifying at trial.

10. Based on my involvement in this Action, I believe ACLU of Virginia, Protect Democracy, and WilmerHale possess the necessary expertise and financial and human resources to prosecute this case effectively as Class Counsel. I believe that the proposed Class Counsel have done well to this point by, for example, defeating Defendants’ efforts to dismiss this action and successfully defending that decision on appeal to the Fourth Circuit Court of Appeals. Should I be appointed as a Class Representative, I will continue to work with counsel to make sure the Class continues to receive the best possible representation to ensure the success of this lawsuit.

11. Should I be appointed as a Class Representative, I will continue to participate in the litigation and to keep informed of the status and progress of the Action. I will continue to consult with counsel with respect to significant developments in the Action, including important motions, trial preparation, and trial. I will perform all of these duties keeping in mind my responsibility of serving what I, in good faith and in consultation with counsel, believe to be the best interests of the Class.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 18th day of July 2025 in Marion, Virginia.

*Toni H. Johnson*

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Toni Heath Johnson