

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Case No. \_\_\_\_\_

PASTOR MICHAEL DANIELSON,  
COLORADO CRIMINAL JUSTICE REFORM COALITION, and  
COLORADO-CURE,

Plaintiffs,

v.

GIGI DENNIS, in her official capacity as Secretary of State for the State of Colorado,

Defendant.

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**CLASS ACTION COMPLAINT**

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**INTRODUCTION**

1. This is a class action lawsuit challenging Section 1-2-103(4) of the Colorado Revised Statutes, which forbids persons on parole from voting or registering to vote. Plaintiffs seek declaratory and injunctive relief that will restore their right to vote, as guaranteed by the Colorado Constitution and the Equal Protection Clause of the United States Constitution.

**JURISDICTION AND VENUE**

2. This action arises under the Constitution and laws of the United States, including 42 U.S.C. § 1983. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

3. This Court has jurisdiction to issue the declaratory relief requested pursuant to the Declaratory Relief Act, 28 U.S.C. §§ 2201, 2202.

4. Venue is proper in the District of Colorado pursuant to 28 U.S.C. § 1391(b). All parties reside within the District of Colorado, and the events described in this Complaint occurred in the District of Colorado.

## **PARTIES**

### **A. Plaintiffs**

5. Pastor Michael Danielson is a resident of Fort Collins, Colorado, and a citizen of the United States. He was sentenced to the Colorado Department of Corrections for a felony conviction and is now on parole. He became an ordained minister while in prison, through the Christian Alliance Ministry, and he recently was ordained as a pastor in the Worldwide Church of Jesus Christ. He is the Director of the Church of the Remnant Ministries, a prison ministry that provides spiritual guidance and resource information to prisoners to use upon their release from jail or prison. Except for his status as a parolee, Pastor Danielson is an eligible elector of the State of Colorado. He wants to register to vote and to cast his ballot in local, state, and national elections. He cannot do so, however, because of the challenged statute.

6. Colorado Criminal Justice Reform Coalition (CCJRC) is a not-for-profit corporation incorporated in the State of Colorado. It is a statewide membership organization that promotes alternatives to incarceration and advocates re-entry policies that reduce or eliminate the barriers faced by former prisoners who are reintegrating back into society. CCJRC sues in a representative capacity on behalf of its members. The interests that CCJRC seeks to protect in this lawsuit are germane to the purposes of the organization. The membership of CCJRC includes Colorado citizens who are currently on parole and who would be eligible to vote except for the statute challenged in this case. The participation of CCJRC's individual members is not necessary for the claims asserted and the relief requested.

7. Colorado-CURE is a not-for-profit organization incorporated in the State of Colorado. It is a membership organization of families of prisoners, prisoners, former prisoners and other citizens concerned with reform of prisons and the criminal justice system. Colorado-CURE provides information and support to prisoners and former prisoners and their families and loved ones. It also engages in public education and advocacy on criminal justice issues, and, along with the national CURE organization with which it is affiliated, advocates that parolees as well as probationers should be entitled to vote. The interests that Colorado-CURE seeks to protect in this lawsuit are germane to the purposes of the organization. The membership of Colorado-CURE includes Colorado citizens who are currently on parole and who would be eligible to vote except for the statute challenged in this case. The participation of Colorado-CURE's individual members is not necessary for the claims asserted and the relief requested.

**B. Defendant**

8. Defendant Gigi Dennis is the Secretary of State for the State of Colorado. She is sued in her official capacity for declaratory and injunctive relief. Defendant Dennis is charged with interpreting and carrying out the Colorado Election Code, including the statute challenged in this case. She is empowered to make rules necessary for the administration and enforcement of the elections laws. The rules she adopts are binding on the county clerks and recorders and election commissions in each of Colorado's counties, including the City and County of Denver and the City and County of Broomfield.

9. The actions and threatened actions of the Defendant are all under color of state law.

## FACTUAL BACKGROUND

10. This lawsuit challenges the validity of Section 1-2-103(4) of the Colorado Revised Statutes, which provides that persons on parole are forbidden to vote or to register to vote. The challenged provision reads as follows: “No person while serving a sentence of detention or confinement in a correctional facility, jail, or other location for a felony conviction or while serving a sentence of parole shall be eligible to register to vote or to vote in any election.”

11. The Colorado Constitution provides that persons who lose the right to vote because they are sentenced to prison regain that right automatically when they are released after completing their sentence of imprisonment:

**Disfranchisement during imprisonment.** No person while confined in any public prison shall be entitled to vote; but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of a pardon, or by virtue of having served out his full term of imprisonment, shall without further action, be invested with all the rights of citizenship, except as otherwise provided in this constitution.

Colorado Constitution, Article VII, Section 10.

12. Pastor Danielson, and members of CCJRC and Colorado-CURE, lost their right to vote at some time in the past, because they were serving sentences of imprisonment in the Colorado Department of Corrections as a result of a felony conviction. They have completed their full terms of imprisonment. See, e.g., Martin v. People, 27 P.3d 846, 858 (Colo. 2001) (“Once an offender is granted release to parole supervision by the state board of parole, he will be deemed to have discharged his sentence to imprisonment in the same manner as if he had been discharged pursuant to law.”). Pursuant to Article VII, Section 10, of the Colorado Constitution, their right to vote is automatically restored. They are fully-eligible electors under

Colorado law except for the provision of the challenged statute that purports to disenfranchise persons serving sentences of parole.

### **CLASS ACTION ALLEGATIONS**

13. Pastor Danielson brings this action on behalf of himself and all others similarly situated, pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure. The class is defined as follows:

All Colorado residents who are at least eighteen years old, are United States citizens, and are currently serving sentences of parole after completing a sentence of imprisonment in the Colorado Department of Corrections.

14. There are more than 6,000 persons currently on parole in Colorado. The proposed class is so numerous that joinder of all members would be impractical and impossible. Joinder is also impractical because members of the class lack the knowledge and financial means to maintain individual actions.

15. The claims of Pastor Danielson are typical of the claims of the members of the class.

16. The challenged Colorado statute and Defendant's enforcement of it presents questions of law and fact that are common to all members of the Plaintiff class.

17. Pastor Danielson will fairly and adequately protect the interests of the class. Pastor Danielson has no interest that is now or may be potentially antagonistic to the interests of the class. He is represented by attorneys employed by and working in cooperation with the American Civil Liberties Union Foundation of Colorado, which has extensive experience in litigating class actions raising issues of constitutional rights and civil liberties.

18. The State of Colorado and the Defendant have acted and refused to act on grounds generally applicable to the class, and final injunctive and declaratory relief with respect to the class as a whole is appropriate.

### **DECLARATORY RELIEF**

19. An actual and immediate controversy exists between Plaintiffs and Defendant. Plaintiffs contend that the challenged policies and practices violate their statutory and constitutional rights. Defendant contends that the challenged policy and practice complies with the law.

20. Plaintiffs are therefore entitled to a declaration of rights with respect to this controversy. Without such a declaration, Plaintiffs will be uncertain of their rights and responsibilities under the law.

### **INJUNCTIVE RELIEF**

21. Plaintiffs are entitled to injunctive relief. Defendant has enforced and threatened to continue enforcing the challenged statute. Defendant has acted and is threatening to continue acting under color of state law to deprive Plaintiffs of their statutory and constitutional rights. Plaintiffs are suffering irreparable injury and will continue to suffer a real and immediate threat of irreparable injury as a result of the existence, operation, and implementation of the challenged statute. Plaintiffs have no plain, adequate or speedy remedy at law.

### **FIRST CLAIM FOR RELIEF**

(42 U.S.C. § 1983, Equal Protection Clause)

22. Pursuant to Article VII, Section 10 of the Colorado Constitution, Pastor Danielson, and parolee-members of CCJRC and Colorado-CURE, are qualified electors under Colorado law.

23. The challenged statute deprives these otherwise-qualified electors of their right to vote and to register to vote.

24. The challenged statute violates the Equal Protection Clause of the United States Constitution.

25. Wherefore, plaintiffs seek declaratory and injunctive relief, and an award of reasonable attorney's fees.

**PRAYER FOR RELIEF**

Wherefore, plaintiffs seek declaratory and injunctive relief, an award of reasonable attorney's fees, and such other relief as the Court deems just.

Respectfully submitted,

/s/ Norman R. Mueller

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