IN THE SUPREME COURT OF FLORIDA

HENRY W. COOK, etc. Petitioner, v. CITY OF JACKSONVILLE, et al. Respondents.	)	**Case No. SC 00-1745**

AMICUS CURIAE BRIEF OF THE SOLICITOR GENERAL ON BEHALF OF THE ATTORNEY GENERAL AND THE STATE OF FLORIDA IN SUPPORT OF RESPONDENTS

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INTEREST OF *AMICUS CURIAE*

The Solicitor General, on behalf of the Attorney General and the State of Florida, appears in this case as *amicus curiae* in support of Respondents. The issue on appeal is the validity of a county charter provision which provides a two-term limit on the clerk of court for the City of Jacksonville/Duval County. In resolving that issue, the district court relied primarily upon decisions of this Court involving qualifications established by general law for constitutional officers, see City of Jacksonville v. Cook, 765 So.2d 289, 292-93 (Fla. 1st DCA 2000), and, as a result, the Court's resolution of this case may implicate the Legislature's authority to establish qualifications for constitutional officers. Therefore, the Solicitor General appears to present the views of the State.

STATEMENT OF THE CASE AND FACTS

The State, as *amicus curiae*, accepts the statement of the case and facts presented by the parties. The State submits, however, that the Court should be aware of the following additional, judicially-noticeable circumstances which are pertinent to the issues presented in this brief and critical to the Court's disposition of this case:

- **Relevant History of the City of Jacksonville Charter**

The Charter of the City of Jacksonville was originally adopted by special act of the Legislature in 1967 pursuant to the authority in article VIII, section 9, Fla. Const. (1885, as amended). See ch. 67-1320, Laws of Fla. The Charter has been amended by the Legislature and the people of Jacksonville on numerous occasions since its adoption. In order to "facilitate the use, review, analysis, and other reference" to the Charter, the Legislature re-adopted the Charter, as amended, in its entirety through chapter 92-341, Laws of Florida. The Charter, as re-adopted by the Legislature in 1992, imposed a two-term limit on the mayor and members of the city council,[1] but it did not impose term-limits on the other county constitutional officers (e.g., sheriff, supervisor of elections, property appraiser, tax collector, clerk). A two-

[1] The two-term limit on the mayor was in the original Charter (see ch. 67-1320, Laws of Fla. at 1332) and was construed in Vieira v. Slaughter, 318 So.2d 490 (Fla. 1st DCA 1975), cert. denied 341 So.2d 293 (Fla. 1976). The two-term limit on the city council members appears to have been added by referendum in 1991.

term limit was imposed on each of those officers by referenda approved by the people of Jacksonville at the 1992 general election. Those term-limit provisions are codified at sections 8.04 (sheriff), 9.04 (supervisor of elections), 10.04 (property appraiser), 11.04 (tax collector), and 12.11 (clerk) of the Jacksonville Charter.[2] The provision at issue in this case, section 12.11, provides:

> **Two term limit.** No person elected and qualified for two consecutive full terms as Clerk of the Court shall be eligible for election as Clerk of the Court for the next succeeding term. The two-term limitation shall apply to any full term which began in 1992 or thereafter.

§ 12.11, Jacksonville Charter (emphasis original).

- **Relevant Events Occurring After the Issuance of the District Court's Opinion**

Petitioner Cook was the only Republican candidate who qualified for the 2000 election for the office of clerk of court.[3] Thus, the district court's decision in this case, which effectively declared Cook ineligible run for the office, created a vacancy in the Republican party nomination for the office. On August 29,

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[2] The complete text of the Jacksonville Charter, as amended, is available on-line through www.municode.com.

[3] Notwithstanding the term-limit provision, the trial court directed the supervisor of election to accept Cook's qualifying papers pending the City's appeal. See Order dated May 11, 2000 (lifting the "automatic stay" of the Final Judgment imposed by Fla. R. App. P. 9.310(b)(2)). That Order was provided to the district court by Cook along with his motion to expedite that court's consideration of this case after his suggestion that the appeal be "passed through" to this Court was denied.

2000, Governor Bush issued Executive Order No. 2000-275 which directed that a special primary election be held on October 3, 2000, to "fill the vacancy in nomination for a Republican candidate for Clerk of Court for Duval County, Florida." The Secretary of State, pursuant to section 100.111(4)(a), Fla. Stat., subsequently fixed the qualifying dates for the special primary election mandated by Executive Order No. 2000-275.

On October 3, 2000, the special primary election was held, and former state representative Jim Fuller won the Republican nomination by defeating Bill Clark by a vote margin of 8,259 (63.8%) to 4,688 (36.2%). On November 7, 2000, Fuller defeated Democrat Terry Wood in the general election by a vote margin of 139,375 (54.3%) to 117,487 (45.7%). Fuller was sworn in as Clerk of Court on January 2, 2001.

SUMMARY OF THE ARGUMENT

In 1992, the people of the City of Jacksonville amended their charter and imposed a two-term limit on the office of clerk of court. The district court's decision respects and implements the will of the people by upholding the term-limit provision against a challenge by the then-incumbent clerk (Petitioner Cook) who was "term-limited" out of office in 2000 by the charter provision. This Court should similarly give effect to the people's will by dismissing this case or affirming the district court's decision.

This case should be dismissed because the 2000 election for the office of clerk of court has been held and a new clerk has been elected and sworn in. The Petitioner has not, and now cannot, contest the validity of that election. Thus, the original (and only) dispute in this case – whether the term-limit provision was valid so as to bar Petitioner from qualifying for reelection in 2000 – is moot. Petitioner is not barred from running for the office in 2004. The term-limit provision will not operate again until 2008 and then only if the current clerk is reelected in 2004 and if he seeks to qualify for reelection in 2008 and if no changes are made to the term-limit provision by the people of Jacksonville or the Legislature in the interim. In light of these circumstances, there is no longer any bona fide, actual, present need for a declaration regarding the validity of the term-limit provision and this case should be dismissed.

If, however, the Court decides to reach the merits, it should affirm the decision below. The district court properly harmonized the various constitutional provisions implicated in this case as well as this Court's precedent in upholding the validity of the term-limit provision in the Jacksonville Charter. The Florida Constitution provides no qualifications for "county officers" such as the clerk of court, and the Legislature has provided no qualifications for the office by general law. Accordingly, the City of Jacksonville, as the consolidated government of a charter county, was free to amend its charter to impose qualifications such as a term-limit on the office of clerk of court.

ARGUMENT

I. THIS CASE SHOULD BE DISMISSED BECAUSE THE 2000 ELECTIONS HAVE BEEN HELD AND A NEW CLERK OF COURT HAS BEEN ELECTED AND HAS TAKEN OFFICE IN DUVAL COUNTY, AND THERE IS NO LONGER A BONA FIDE, ACTUAL, PRESENT NEED FOR A DECLARATION REGARDING THE VALIDITY OF THE TERM-LIMIT PROVISION IN THE JACKSONVILLE CHARTER.

This case should be dismissed because Petitioner Cook effectively received the affirmative relief sought in the complaint, and he is no longer entitled to the declaratory relief sought in the complaint. Cook effectively received the affirmative relief he sought – a writ of mandamus requiring the supervisor of elections to accept his qualifying papers for the 2000 election – when the trial court lifted the "automatic stay" of the Final Judgment during the pendency of the City's appeal to the district court. See footnote 3 supra. Cook is no longer entitled to the declaratory relief he sought – invalidation of the term-limit provision in the Jacksonville Charter – because as result of the intervening 2000 elections, Cook is no longer affected by the provision any more than the public at large and there is no longer a bona fide, actual, present need for the declaration.

The district court expedited its consideration of this case and issued its decision on August 22, 2000, two and a half months before the November 7 general election.[4] Accordingly, there was

[4] No primary elections were scheduled because Cook was the only Republican candidate who qualified for election to the office

plenty of time for this Court to resolve this case prior to the election; however, it does not appear from the record that Cook made any effort to obtain expedited, pre-election review of the district court's opinion.[5] As a result, the election was held and former state representative Jim Fuller (not a party to this case) was elected and has been sworn in as Clerk of Court for Duval County. Accordingly, this case is moot. See, e.g., Gill v. City of North Miami Beach, 156 So.2d 182 (Fla. 3rd DCA 1963) (dismissing as moot suit to enjoin municipal election based upon allegations of improper denial of the right to qualify as candidate because the election had been held). And cf. Butler v. Harris, Case No. SC 00-2403 (order dated Jan. 24, 2001) (dismissing as moot a residual challenge to the manual recount provisions in the Florida Statutes presumably because the controversy giving rise to the challenge, the 2000 Presidential Election, had been resolved).

At this point, the only remedy that the Court could fashion is the prospective invalidation of the term-limit provision of the Charter. However, that remedy would be tantamount to the issuance of an advisory opinion because the intervening election has

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and only one Democrat had qualified. See pages 3-4 supra.

[5] The Court's pre-election review of this case would not have disrupted the election. Even if the Court approved the district court's decision thereby causing a vacancy in the Republican nomination closer in time to the election, the Election Code sets forth the procedures for filling a vacancy in such circumstances. See § 100.111(4)(b), Fla. Stat.

eliminated the bona fide, present need for the declaration which Cook had when this suit was filed. See Martinez v. Scanlan, 582 So.2d 1167, 1170 (Fla. 1991) (discussing elements necessary to bring a declaratory judgment action); Santa Rosa County v. Administration Comm'n, 661 So.2d 1190, 1193 (Fla. 1995) (same). That Cook had sufficient grounds to bring this suit for declaratory relief does not mean that he can maintain the suit when those grounds are no longer present. See generally Arizonans for Official English v. Arizona, 520 U.S. 43, 72 (1997). Here, the insecurity and uncertainty which the term limit provision caused Cook as the incumbent Clerk of Court when he sought to qualify for reelection in 2000 no longer exists. Indeed, there is nothing to preclude Cook (or any other elector in Duval County including the current clerk) from running for the office of clerk of court in 2004 because the term-limit provision only applies to "the next succeeding term" which, for Cook, was the term beginning in 2000. Accordingly, this case should be dismissed. Id.; Santa Rosa County, 661 So.2d 1193 (courts will not render a declaratory judgment on the basis of "facts which have not arisen and are only contingent, uncertain and rest in the future").

The State recognizes that there is authority for the proposition that the Court can retain jurisdiction over a moot case to resolve a "matter of great public importance in the administration of the law [which] is of general interest to the

public." See Sadowski v. Shevin, 345 So.2d 330, 331-32 (Fla. 1977) and cases cited therein. This authority is not grounded in the Florida Constitution which grants the Court very limited jurisdiction to issue advisory opinions. See art. V, § 3(b)(10); art. IV, § 1(c), Fla. Const. Moreover, Justice Hatchett criticized the "dangerous practice" followed in Sadowski in his concurring opinion in Plante v. Smathers, 372 So.2d 933 (Fla. 1979):

> I concur specially to point out that the court is drifting into the dangerous practice of exercising its jurisdiction whenever it feels a matter "is of great public importance" or "of general public interest," even though legal issues are moot. We should retreat from this practice and leave "politically hot" issues to the political arena.

Id. at 938 (Hatchett, J., concurring specially) (emphasis supplied). Justice Hatchett's admonition is sound and should be followed here by dismissing this case.

It appears that the "great public importance" and "general public interest" standards are alternatives to the "capable of repetition, but evading review" standard typically used to justify review of a moot case. See generally Godwin v. State, 593 So.2d 211, 212 (Fla. 1992) (summarizing the three instances in which a moot case might not be dismissed). Justice Hatchett's comments in Plante and the limited authority given to the Court to issue advisory opinions renders the first ground inapplicable or, at least, inappropriate in this case.

The second ground is also inapplicable.[6] While the issue on appeal is capable of repetition, the earliest it will arise again is 2008 and then only if the current clerk is reelected in 2004 and if he seeks to qualify for reelection in 2008 and if no intervening changes to the term-limit provision in charter are made by the people of Jacksonville or the Legislature. Such attenuated circumstances do not warrant the Court retaining jurisdiction in this case. See Santa Rosa County, 661 So.2d at 1193. And see Bryant v. Gray, 70 So.2d 581 (Fla. 1954), where the Court dismissed a suit for a declaratory decree which was founded on the following contingencies:

> If he [appellant Bryant] decides to run for Governor in the 1954 primaries for the Democratic nomination for the unexpired term of the late Dan T. McCarty, and if he is nominated and elected in November, 1954, and if he lives until January, 1955 and becomes Governor and if he serves out the unexpired term, and if in the meantime there has been no constitutional amendment affecting the questions proposed, and if he decides to become a candidate for the Democratic nomination in the primaries of 1956, and if he should be nominated and then lives to be elected, may he succeed himself and serve for a full four-year term?

Id. at 584 (emphasis supplied). By contrast, in Plante, the Court

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[6] The third ground the Court has recognized for retaining jurisdiction over a moot case – "if collateral legal consequences that affect the rights of a party flow from the issue to be determined" (Godwin, 593 So.2d at 212) – is not implicated in this case because the 2000 elections have been held and Cook is not precluded (with or without the term-limit provision) from qualifying for election to the office of clerk in 2004.

retained jurisdiction to construe a provision of the Sunshine Amendment because the issue "will probably recur in the next general election". Plante, 372 So.2d at 935.

Moreover, even if the foregoing contingencies occur and the validity of the term-limit provision of the Jacksonville Charter is challenged in the future, judicial review (expedited, as necessary) would then be available to resolve the challenge. Cf. Ray v. Mortham, 742 So.2d 1276 (Fla. 1999) (determining on an expedited basis the validity of term-limit provision impacting state legislators well before the 2000 elections when the provision would first operate to bar incumbents from running for reelection); and cf. Pinellas County v. Eight is Enough in Pinellas, 775 So.2d 317 (Fla. 2nd DCA 2000), rev. granted case no. SC 00-1908 (involving term-limit provision impacting Pinellas County officials for the first time in the 2004 election). Because Petitioner did not make any effort to expedite the Court's review of the district court's opinion prior to the election,[7] the State submits that under these circumstances, it is inappropriate and unnecessary for the Court to

[7] By contrast, the Court expedited its review of other cases involving the 2000 elections. See, e.g., Miller v. Gross, 25 Fla. L. Weekly D2485 (Fla. 4th DCA Aug. 30, 2000) (declaring that sitting County Court Judge in Dade County could not qualify to run for judgeship in Broward County), rev. denied 770 So.2d 159 (Fla. Sept. 1, 2000). And cf. Kainen v. Harris (original action filed Aug. 14, 2000; denied 770 So.2d 158 (Fla. Sept. 12, 2000) (table); opinion reported at 769 So.2d 1029 (Fla. Oct. 3, 2000))(rejecting challenge to ballot question for local-option vote on merit selection and retention of trial judges).

issue a post-election advisory opinion on the validity of the term-limit provision in the Jacksonville Charter. Cf. Kainen v. Harris, 769 So.2d 1029, 1035 (Fla. 2000) (Pariente, J., concurring) (recognizing that pre-election review of issues on the ballot is preferable to post-election review); Armstrong v. Harris, 773 So.2d 7, 31-32 (Fla. 2000) (Lewis, J., dissenting) ("I am troubled that challenges to matters that are to be submitted to the people for determination fall victim to strategies that produce judicial reversals in matters that have already been submitted to the electorate, when any challenge or controversy could and should have been submitted for judicial determination in a timely manner, providing sufficient time for full review and resolution prior to the day of decision for Florida voters.").

Finally, it is unnecessary for the Court to use this case to opine on the validity of a charter provision establishing term-limits for the office of clerk of court. The same issue is presented in Pinellas County v. Eight is Enough in Pinellas, Case No. SC 00-1908, which involves term-limits imposed by charter amendment on the sheriff and tax collector as well as the clerk of court. If the Court were to use this case, rather than Pinellas County where the term-limit provisions will not impact incumbents until the **2004 elections**, to determine the validity of term limits on the clerk of court it might call into question the validity of the Duval County Clerk's election in 2000. If, on the other hand,

the Court dismisses this case and decides the issue in Pinellas County, that decision will preserve the sanctity of the 2000 elections in Duval County but will provide authoritative guidance as to whether the term-limit provision in the Jacksonville Charter may be applied in future elections.

II. THE LEGISLATURE MAY PRESCRIBE QUALIFICATIONS FOR A CONSTITUTIONAL OFFICE WHEN THE CONSTITUTION DOES NOT SET FORTH QUALIFICATIONS FOR THE OFFICE AND, WITH RESPECT TO THE ENUMERATED COUNTY OFFICERS, CHARTER COUNTIES MAY PRESCRIBE QUALIFICATIONS WHICH ARE NOT INCONSISTENT WITH GENERAL LAW.

This case, like the other cases involving term-limits decided by the Court,[8] should not turn on the question of whether term-limits are good or bad; instead, it turns on the question of whether the people (here, the people of the City of Jacksonville) have the power to amend their governing document (here, the Jacksonville Charter) to impose term-limits on their elected officials (here, the clerk of court). Nothing in the Florida Constitution or general law precludes the people of Jacksonville from imposing term-limits on the clerk; indeed, the broad "home rule" powers vested in charter counties such as Jacksonville/Duval County by the Florida Constitution explicitly contemplate charter provisions affecting the election of local constitutional officers

[8] Advisory Opinion to the Attorney General– Limited Political Terms in Certain Elective Offices, 592 So.2d 225 (Fla. 1992); Ray v. Mortham, 742 So.2d 1276 (Fla. 1999).

such as the clerk. See art. VIII, § 1(d), Fla. Const; and cf. art. I, § 1, Fla. Const. ("All political power is inherent in the people."). The Court should give effect to the will of the people of Jacksonville by approving the district court's decision which upholds the term-limit provision in the Charter.

Petitioner bases his argument against the term-limit provision in the Jacksonville Charter almost exclusively on Thomas v. State ex rel. Cobb, 58 So.2d 173 (Fla. 1952). In so doing, Petitioner calls into question the authority of the **Legislature** to establish qualifications for a constitutional office even if (as is the case here) the Constitution sets forth no qualifications for the office. Petitioner's arguments are misplaced; as discussed below, the principle in Cobb relied upon by Petitioner has been refined by the Court in State ex rel. Askew v. Thomas, 293 So.2d 40 (Fla. 1974), and Holley v. Adams, 238 So.2d 401 (Fla. 1970), such that it is inapplicable in this case.

In Askew, the Court upheld and applied a residency requirement imposed by statute on school board members. See 293 So.2d at 42. The Court quoted the general rule from Cobb that "statutes imposing additional qualifications for office are unconstitutional where the basic document of the constitution itself has already undertaken to set forth those requirements." Id. The Court then stated that it must first look to the Constitution to determine if the "basic predicate for invoking the rule" – i.e., qualifications specified

for the office – is present; and, if the applicable constitutional provision has not undertaken to set forth qualifications for the office, the rule in Cobb does not apply. Id. No qualifications were mentioned in the constitutional provision at issue in Askew (article IX, section 4); therefore, the rule in Cobb did not apply. Id. Similarly, the constitutional provisions relating to the clerk of court – article V, section 16 and article VIII, section 1(d) – do not mention qualifications; they only establish a four-year term of office.[9] Accordingly, the general rule in Cobb is inapplicable and reasonable qualifications for the office may be provided by statute or charter.

The State submits that Askew refined Cobb and clarified the Legislature's authority to provide reasonable qualifications for an office when the Constitution does not set forth qualifications for that office. This aspect of Askew is not, as suggested by Petitioner, dependent upon the fact that the constitutional provision in Askew included the phrase "as provided by general law." See Pet. Br. at 35-37. The Court in Askew found Cobb inapplicable because the Constitution did not set forth qualifications for school board members, not because the relevant

[9] Petitioner's expert witness, former Supreme Court Justice Alan Sundberg, opined that the 4-year term of office in article VIII, section 1(d) is not a "qualification." See Pet. Br. App. 7 at 58. That opinion is in accord with Askew, 293 So.2d at 42 (holding that article IX, section 4(a) "does NOT address itself to Qualifications of the school district members" where it provides only for staggered 4-year terms of office) (emphasis original).

constitutional provision included the phrase "as provided by general law." See Askew, 293 So.2d at 42 ("No Qualifications are mentioned; **therefore**, the constitutional principle urged by respondent and mentioned above is not invoked.") (all emphasis supplied). Even if the phrase "as provided by general law" was critical to Askew, the constitutional provision at issue in this case includes similar language which contemplates variations in the manner of choosing county officers such as the clerk of court. Compare art. VIII, § 1(d) (". . . except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be **chosen** in another manner therein specified, ...") with Askew, 293 So.2d at 42 (paraphrasing the pertinent constitutional language "as simply saying that such school board members shall be '**chosen** . . . as provided by law'") (all emphasis supplied).

In Holley, the Court rejected a challenge to the Resign-to-Run Law, section 99.012, Fla. Stat., which was based upon the same grounds argued by Petitioner in this case. See 238 So.2d at 404. The Court expressly rejected the argument that general disqualifications in article VI, section 4 precluded the Legislature from establishing additional eligibility requirements for office. Id. at 405 (rejecting appellant's reliance on Cobb). And cf. id. at 409 (Ervin, C.J., dissenting) (arguing that the Resign-to-Run law "imposes a disqualification in addition to those

set forth in [article VI, section 4] and thus collides with the constitutional maxim in [Cobb] . . . .”). Not unlike the majority in Holley, Petitioner characterizes the term-limit provision in the Jacksonville Charter as a “disqualification” from office rather than a “qualification” for office.[10] In light of Petitioner’s characterization of the term-limit provision, this case is controlled by Holley and Askew, not Cobb. Indeed, if the Court were to find Cobb controlling, the validity of the Resign-to-Run Law would be called into question. The Court should avoid that result by reaffirming Holley and rejecting Petitioner’s challenge to the term-limit provision of the Jacksonville Charter.

Because the constitution is silent as to the qualifications for the office of clerk of court and, therefore, the “basic predicate” for applying the rule in Cobb is not present in this case, the Legislature could have provided term-limits or other qualifications for the office by general (or special[11]) law. The Legislature has not done so, perhaps in recognition of the fact that the Constitution recognizes the clerk as a county officer. See Art. VIII, § 1(d), Fla. Const.

In the absence of general law addressing term-limits on the

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[10] See Pet. Br. at Point I.A.; id. at 25 n.14 (defining “disqualification” as something “which renders the person unfit or otherwise incapable of holding office (e.g., incapacity)”). Accord Holley, 238 So.2d at 405 (defining “eligible”).

[11] See art. III, § 11(a)(1), Fla. Const. (permitting special laws pertaining to the election of officers of charter counties).

office of clerk of court, the Constitution gives charter counties authority to establish term-limits in their charters. This authority is derived from two sources: article VIII, § 1(d) ("Section 1(d)") and article VII, § 1(g) ("Section 1(g)"). See Cook, 765 So.2d at 293 (relying primarily on Section 1(d)); Pinellas County, 775 So.2d at 320 (relying primarily on Section 1(g)).

Section 1(d) provides that county officers, including the clerk of court, shall be elected for four-year terms "except, when provided by county charter or special law approved by vote of the electors of that county, any county officer may be **chosen in another manner therein specified** . . . ." (all emphasis supplied). This language clearly contemplates local variations in the manner of choosing county officers including the clerk of court. The term-limit provision in the Jacksonville Charter, like the residency requirement in Askew, is part of the manner of choosing the officer. Therefore, it is permissible.

Section 1(g) specifies that charter counties have those powers "not inconsistent with general law." Petitioner has not suggested that the term-limit provision in the Jacksonville Charter is inconsistent with any provision of general law relating to the clerk of court. Indeed, the State could find nothing in chapter 28, Fla. Stat. (relating to clerks of court), or elsewhere with

which the term-limit provision might be inconsistent.[12] Accordingly, the charter provision is permissible.

Nothing in Article V compels a different result. Indeed, article V, section 16 titled "clerk of the circuit courts" provides further support for the district court's decision. That section expressly provides that the clerk ". . . **shall be selected pursuant to the provisions of Article VIII section 1**." Art. V, § 16, Fla. Const (emphasis supplied). By contrast, the prior constitutional language relating to the office of the clerk of court provided that the clerk "shall be elected . . . in the same manner as other state and county officials, ..." Art. V, § 6, Fla. Const. (1885, as amended in 1956) (emphasis supplied). By replacing the underscored language with a specific cross-reference to article VIII, section 1, the 1972 revision of Article V undermines, rather than supports Petitioner's position that because clerks are Article V quasi-judicial officers, state and local governments are precluded from establishing qualifications for the office. Indeed, this Court recently noted that clerks are not judicial officers for all purposes even though they are referenced in Article V. See Frankenmuth Mutual Insurance Co. v. Magha, 769 So.2d 1012, 1019 (Fla. 2000) (clerk of the circuit court is under the control of the judicial branch in some circumstances and under the control of the

[12] Cf. § 28.08, Fla. Stat. (requiring the clerk or a deputy to "reside at the county seat or within 2 miles thereof").

Legislature in other circumstances) (citing Times Publishing Co. v. Ake, 660 So.2d 255 (Fla. 1995)). And cf. Berkson & Hays, The Forgotten Politicians: Court Clerks, 30 U. Miami L.Rev. 499 (1976) (listing the myriad of non-judicial administrative duties assigned to clerks of court). Accord R. 10-23 (Exhibit A to Complaint).

In sum, the district court's decision is consistent with Section 1(d) and Section 1(g) and it is not inconsistent with anything in Article V. Therefore, if the Court reaches the merits in this case, it should affirm the district court's decision.

CONCLUSION

Because the election for the office for which Petitioner Cook sought to qualify has been held, this case should be dismissed as moot or dismissed because of the absence of a bona fide, actual, present need for a declaration regarding the validity of the term-limit provision in the Jacksonville Charter. Alternatively, the decision of the district court should be affirmed because it properly harmonizes the various constitutional provisions implicated in this case and is consistent with this Court's precedent.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of March, 2001, a true and correct copy of the foregoing was provided by **U.S. Mail**, postage prepaid, to the following:

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