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IN THE SUPREME COURT OF FLORIDA

Case No.: SC14-1899
L.T. No(s).: 4D-2739;CACE-14-012324

JENNIFER BRINKMAN,

Appellant,

vs.

TYRON FRANCOIS, DR. BRENDA SNIPES, in her official capacity as Supervisor of Elections of Broward County, and **MARK D. BOGEN**, Intervenor,

Appellees.

ANSWER BRIEF OF APPELLEE TRYON FRANCOIS

Appeal from Decision of the Fourth District Court of Appeal

KIM VAUGHAN & LERNER, LLP
ROBERT C.L. VAUGHAN
Florida Bar No.: 130095
One Financial Plaza
100 SE Third Avenue, Suite 2001
Ft. Lauderdale, FL 33394
Tel.: (954) 527-1115
Fax: (954) 527-1116

MESSER CAPARELLO, P.A.
MARK HERRON
Florida Bar No.: 0199737
ROBERT J. TELFER, III
Florida Bar No.: 128694
J. BRENNAN DONNELLY
Florida Bar No.: 268895
P.O. Box 15579
Tallahassee, Florida 32317
Telephone: (850) 222-0720
Facsimile: (850) 224-4359

Attorneys for Tyron Francois

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STATEMENT OF THE CASE AND FACTS

This appeal concerns the election for Broward County Commission, District 2, and more specifically, the Democratic Party primary election that was scheduled to be conducted on August 26, 2014 for that office. As alleged in the Complaint (Appendix, Tab 2), there are five candidates for this county commission seat whose name will appear on the Democratic Party primary ballot. There are no Republican candidates for this county commission seat.

At the close of the candidate qualifying period, on June 20, 2014, Appellee Tyron Francois ("Francois") submitted qualifying papers as a write-in candidate for Broward County Commission, District 2. In those papers, Francois indicated a mailing address of 4019 NW 37th Terrace, Lauderdale Lakes, Florida, which is outside of the boundaries of Broward County Commission District 2. Section 99.0615, Florida Statutes, provides that "[a]t the time of qualification, all write-in candidates must reside within the district represented by the office sought." *See* Brinkmann's "Second Motion for Judicial Notice" and exhibits (Appendix, Tab 3), "Candidate Oath – Write-In Candidate," "Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates" and "Full and Public Disclosure of Financial Interest."

Appellant Jennifer Brinkmann ("Brinkmann"), an individual voter residing within the boundaries of Broward County Commission District 2, and a registered

member of the Republican Party, brought suit for declaratory and injunctive relief to declare that Francois was not a qualified write-in candidate, to declare that she, and all other registered voters residing in Broward County, District 2, have the right to vote in the 2014 Democratic Primary for the office of Broward County Commissioner District 2, for injunctive relief consistent with these requests, and other additional relief. Brinkmann additionally filed an "Emergency Motion to Set Date and Time to Hear Plaintiffs' Complaint for Declaratory and Injunctive Relief," (Appendix, Tab 4) a Notice of Filing (concerning voter registration information of Francois) (Appendix, Tab 5) and "Plaintiff's, Jennifer Brinkmann's, Motion to Prevent Defendant, Dr. Brenda C. Snipes, in her Official Capacity as Supervisor of Elections, from Claiming Impossibility of Performance as a Result of Estoppel, Waiver, and Laches" (Appendix, Tab 6).[1]

Francois filed a "Motion in Opposition to Emergency Motion for Injunction," (Appendix Tab 8) in which he contended that Section 99.0615, Florida Statutes, violated the Florida Constitution and the United States Constitution.

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[1] Ken Detzner, as the Florida Secretary of State, and the Elections Canvassing Commission, who were named as Defendants in the trial court, filed an unopposed motion to dismiss the Complaint against them because neither the Secretary nor the Commission was a proper party. (Appendix, Tab 7). That motion was granted on July 17, 2014 *nunc pro tunc* July 10, 2014.

Lisa K. Aronson, a candidate for nomination and election for the office of Broward County Commission, District 2, has filed a motion to intervene in this proceeding in this Court. To date, the Court has not ruled on that motion.

Francois also provided a "Notice of Constitutional Challenge to Florida Statute 99.0615" as required under Rule 1.071, Florida Rules of Civil Procedure. (Appendix, Tab 9). Appellee Dr. Benda Snipes, the Broward County Supervisor of Elections, also filed a response in opposition to the Plaintiff's Request for Injunctive Relief (Appendix, Tab 10). Brinkmann thereafter filed a "Memorandum of Law on Tryon Francois's Constitutional Claims." (Appendix, Tab 11).

The trial court issued its Order in open court on July 11, 2014 and the order was rendered the Order on July 15, 2014 (nunc pro tunc to July 11, 2014), granting Brinkmann's motion for declaratory relief. (Appendix, Tab 12). The trial court found that Francois was not a qualified write-in candidate for the office of Broward County Commission District 2, and declared that Brinkmann "and all registered voters residing in Broward County Commission District 2 have the right to vote in the 2014 Democratic Primary for the office of Broward County Commissioner for District 2." The trial court further granted a temporary injunction, enjoining Defendants below from preventing Plaintiff and all registered voters residing in District 2 from voting in the 2014 Democratic Primary for the office of Broward County Commissioner for District 2, regardless of party affiliation.

With respect to the constitutional challenge to Section 99.0615, the trial court ruled as follows:

> Regarding the constitutionality of Section 99.0651 [sic], Florida Statutes, because the statute does not concern any suspect class or

> fundamental right to be a write-in candidate, the Court applies a rational basis test, which means the statute must be rationally related to a legitimate state interest. The Florida Supreme Court in *Pasco v. Heggen*, 314 So. 2d 1 (Fla. 1975), upheld the constitutionality of statutory restrictions on write-in candidates. The Florida Supreme Court in that case further held that legislative enactments regulating the conduct of elections come before this tribunal with an extremely strong presumption of validity, and only unreasonable or unnecessary restraints on the elective process are prohibited. The Florida Supreme Court further, in *Smith v. Smathers*, 372 So. 2d 427 (Fla. 1979), upheld the constitutionality of write-in candidates stating that the write-in language shall remain in force and effect to provide a procedure for write-in candidacies in future elections until properly changed by the legislature. Write-in candidates are not mandated by the constitution and are legislatively created. The Court hereby finds that Section 99.0651, Florida Statutes, is rationally related to a legitimate state interest.
>
> The Court further finds that *State v. Grassi*, 532 So. 2d 1055 (Fla. 1988), is distinguishable because it does not address a write-in candidate.

Francois appealed the order of the trial court declaring that he was not a qualified write-in candidate for the office of Broward County Commission, District 2, and opening the Democratic Primary for that office to all registered District 2 voters to the Fourth District Court of Appeal.

On September 10, 2104, the date of primary election having passed with no primary election for the office of Broward County Commission, District 2, having been conducted, the Fourth District held "that section 99.0615, Florida Statutes (2014), is facially unconstitutional because the timing of its residency requirement conflicts with the timing of the residency requirement for county commission

candidates as established by Article VIII, section 1(e) of the Florida Constitution." *Francois v. Brinkmann et al.*, --- So. 3d ---, 2014 WL4426359 (Fla. 4th DCA Sept. 10, 2014), at p. 3. As a result, the Fourth District "reverse[d] the circuit court's order disqualifying Francois as a valid write-in candidate for office … [and] also reverse[d] the injunction entered by the trial court opening the primary election to all voters." The Fourth District's determination was grounded in this Court's decision in *State v. Grassi*, 532 So. 2d 1055 (Fla. 1988) in which the provisions of Article VIII, Section 1(e) of the Florida Constitution – the residency provision applicable to county commissioners – was construed to require residency at the time of election.

It is from this decision of the Fourth District that Brinkmann appeals to this Court. (Appendix, Tab 1).

SUMMARY OF THE ARGUMENT

Article VIII, Section 1(e) of the Florida Constitution governs the requirements for the office of county commission, and, *inter alia,* requires that a successful candidate for the office county commissioner be a resident of the district he or she represents at the time of election. Section 99.0615, Florida Statutes, however, requires that "[a]t the time of qualification, all write-in candidates must reside within the district represented by the office sought." Several Florida courts, including the Florida Supreme Court, have held that "[n]o statute can add to or take from the qualifications for office set forth in the Constitution . . . ." *Norman v. Ambler,* 46 So. 3d 178, 183 (Fla. 1st DCA 2010) (citing *Miller v. Mendez,* 804 So. 2d 1243, 1246 (Fla. 2001), *State v. Grassi*, 532 So. 2d 1055, 1056 (Fla. 1988)). As the Fourth District held that Section 99.0615's residency requirement for write-in candidates conflicts with Article VIII, Section 1(e)'s residency requirement for candidates seeking election to the office of county commission, this Court should affirm the Fourth District's holding that Section 99.0615 is unconstitutional.

The provisions of Article VI, Section 5(b) of Florida Constitution – the Universal Primary Amendment – do not compel a different result. Contrary to Brinkmann's assertion that a write-in candidate does not constitute "opposition" for the purposes of the Universal Primary Amendment, at least two courts have concluded otherwise, namely, that a write-in candidate is "opposition in the general

election" as that term is used in Article VI, Section 5(b) of Florida Constitution. Florida's election code, likewise, specifically provides that a write-in candidate constitutes opposition in the general election.

Because Section 99.0615, Florida Statutes, is unconstitutional, the district court's reversal of the temporary injunction entered by the trial court which opened the 2014 Democratic Party for the office of Broward County Commissioner, District 2, to all voters residing in District 2, regardless of party affiliation, was proper and should be affirmed.

Finally, Francois properly provided notice of his constitutional challenge to Section 99.0615, Florida Statutes (2014), in accordance with the requirements of Rule 1.071, Florida Rules of Civil Procedure. Thus, Brinkmann's assertions to the contrary are without merit.

ARGUMENT

Standard of Review: It is well established that appellate courts review questions of constitutional interpretation under the *de novo* standard of review. *See Browning v. Fla. Hometown Democracy, Inc.*, 29 So. 3d 1053, 1063 (Fla. 2010).

I. THE DISTRICT COURT DID NOT ERR IN DECLARING SECTION 99.0615, FLORIDA STATUTES (2014) UNCONSTUTUTIONAL.

Article VIII, Section 1(e) of the Florida Constitution, provides as follows:

> (e) COMMISSIONERS. Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five or seven members serving staggered terms of four years. After each decennial census the board of county commissioners shall divide the county into districts of contiguous territory as nearly equal in population as practicable. *One commissioner residing in each district shall be elected as provided by law.*

(emphasis added). In *State v. Grassi*, 532 So. 2d 1055, 1056 (Fla. 1988), this Court, construing the language emphasized above, held "[w]e construe this provision as requiring residency at the time of election." Thus, the Florida Constitution's residency requirement for the office of county commission, as construed by this Court, is that the commission candidate be a resident of the district at the time of election. Finding *Grassi* controlling, the Fourth District held that

> Section 99.0615, Florida Statutes (2014), is facially unconstitutional because the timing of its residency requirement for write-in candidates conflicts with the timing of the residency requirement for county commission candidates as established by Article VIII, Section 1(e) of the Florida Constitution.

Francois v. Brinkmann et al., --- So. 3d ---, 2014 WL4426359 (Fla. 4th DCA Sept. 10, 2014), at p. 3.

In 2007, the Florida Legislature adopted Section 99.0615, Florida Statutes, which states that "[a]t the time of qualification, all write-in candidates must reside within the district represented by the office sought." This statutory provision applies to "all" write-in candidates, including candidates for county commission. Section 99.0615's requirement that a write-in candidate reside within the district sought *at the time of qualification* differs from Article VIII, Section 1(e)'s requirement that a commissioner be a resident of the district *at the time of election*.

The courts of this state have long held that "[n]o statute can add to or take from the qualifications for office set forth in the Constitution . . . ." *Norman v. Ambler*, 46 So. 3d 178, 183 (Fla. 1st DCA 2010) (citing *Miller v. Mendez*, 804 So. 2d 1243, 1246 (Fla. 2001), *State v. Grassi*, 532 So. 2d 1055, 1056 (Fla. 1988)). In *Norman*, the First District reviewed Article III, Section 15 of the Florida Constitution, which establishes requirements for state legislators, and stated that this provision "establishes as the only criteria for state senators (and other legislators) that they be at least twenty-one years of age and have resided in the

state for a period of two years prior to the election; and that each be an elector in and resident of the district from which elected at the time office is assumed." *Norman,* 46 So. 3d at 183. The First District held that the winning candidate in that case met those requirements. *See id.*

In *State v. Grassi*, 532 So. 2d 1055 (Fla. 1988), defendant Grassi presented qualifying papers to the Broward County Supervisor of Elections to run for county commissioner for District 4. Upon learning that the seat was not open, he changed his papers to run for District 3, even though he was a resident of District 4. Defendant Grassi was then charged with knowingly and unlawfully qualifying as a candidate for District 3 without being a resident thereof, in violation of what was then Section 99.032, Florida Statutes. *See id.* at 1055. At that time, Section 99.032 required that a "candidate for the office of county commissioner, shall, *at the time he qualifies*, be a resident of the district from which he qualifies." § 99.032, Fla. Stat. (1983) (emphasis added). Violation of this section was a first degree misdemeanor.

The trial court granted defendant Grassi's motion to dismiss, holding that Section 99.032 was inconsistent with Article VIII, Section 1(e), and was thus unconstitutional. *See Grassi,* 532 So. 2d at 1055-56. The Fourth District affirmed, and this Court, on review, quoted its previous opinion in *State ex rel. Askew v. Thomas*, 293 So. 2d 40, 42 (Fla. 1974):

> We have consistently held 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.

Grassi, 532 So. 2d at 1056. This Court analyzed the relationship between Section 99.032 and Article VIII, Section 1(e) and concluded that Section 99.032's requirement that a candidate be a resident of the district at the time of qualifying was unconstitutional as follows:

> Because article VIII, section 1(e) provides requirements for office of county commissioner, the legislature may not impose additional requirements. The Florida Constitution requires residency at the time of election. Therefore, section 99.032, Florida Statutes, imposes the additional qualification for the office of county commissioner of residency at the time of qualifying for election.

Id. Therefore, this Court expressly held in *Grassi* that the statutory requirement for residency at the time of qualifying for a Broward County Commission seat was an unconstitutional additional qualification, improperly imposed by the legislature.

In *Miller v. Mendez*, 804 So. 2d 1243 (Fla. 2001), this Court considered the issue of whether the residency requirement for judicial candidates referred to the time of assuming office or the time of qualifying by taking the oath of candidate. Article V, Section 8 of the Florida Constitution provides that "[n]o person shall be eligible for office of justice or judge of any court unless he is an elector of the state and resides in the territorial jurisdiction of the court." The oath of candidate under Section 105.031(4)(b), Florida Statutes, requires candidates to "attest that he or she

is an elector of both the State and the territorial jurisdiction of the court to which he or she seeks election." *Miller*, 804 So. 2d at 1246. This Court held that the "statutory requirement of filing an oath cannot impose additional eligibility requirements for judicial office to those set out in the Florida Constitution. Therefore, as the Florida Constitution provides, a judicial candidate need only be an elector of the state" and not the territorial jurisdiction of the court. *Id.* (internal citation omitted). This Court further construed the residency requirement of Article V, Section 8 to mean the date the candidate assumed office. *See id.*

Thus, numerous courts have consistently held that no statute can add to or take from the qualifications set forth in the Florida Constitution. *See also Wilson v. Newell*, 223 So. 2d 734, 735-36 (Fla. 1969) (holding, under a previous version of the Florida Constitution, that a statute imposing an additional residency qualification for candidates for county commission was facially "unconstitutional, invalid and ineffective because it prescribes qualifications for the office of County Commission in addition to those prescribed by the Constitution."); *Stack v. Adams*, 325 F. Supp. 1295, 1298 (N.D. Fla. 1970) (holding that "the Florida statute here does violate this section of the United States Constitution, in that it does provide an additional qualification not provided for by the Constitution for election to

Congress.").[2] Yet, Section 99.0615, Florida Statutes, does exactly that – in that it purports to change the residency requirement for write-in candidates from being measured at the time of the election or assumption of office set forth in Article VIII, Section 1(e).

As noted by the Fourth District in its opinion, as well as in numerous other decisions, the imposition of residency requirements in addition to those prescribed in Article VIII, Section 1(e), is facially unconstitutional. The only constitutionally allowed residency requirement for the office of county commissioner is that the commissioner reside in the district at the time of election. The Fourth District's conclusion that *Grassi* is controlling is correct. As expressed, by the Fourth District: "In view of the supreme court's decision in *Grassi*, we are 'convinced beyond a reasonable doubt that the act contravenes the superior law.' (citation omitted)." *Francois v. Brinkmann et al.*, --- So. 3d ---, 2014 WL4426359 (Fla. 4th DCA Sept. 10, 2014), at p. 3.

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[2] The First District Court of Appeal issued opinions on October 16, 2014 in two cases in which the constitutionality of Section 99.0615, Florida Statutes (2014) was at issue. In *Adams v. Bray, et al.,* Case No. 1D14-3260 (Fla. 1st DCA Oct. 16, 2014), the First District affirmed *per curiam* the decision or the trial court which declared Section 99.0615, Florida Statutes (2014) unconstitutional as to the residency provisions of the Article III, Section 15(c) of the State Constitution applicable to members of the state legislature. In *Matthews v. Steinberg et al*, Case No. 1D14-3477 (Fla. 1st DCA Oct. 16, 2o14), the First District reversed with opinion of the trial court upheld the constitutionality of Section 99.0615, Florida Statutes (2014) with the respect to the residency provisions of the Article III, Section 15(c) of the State Constitution applicable to members of the state legislature.

"Fundamental to our system of government is the principle that the right to be a candidate for public office is a valuable one and no one should be denied this right unless the Constitution or an applicable valid law expressly declares him to be ineligible." *Levey v. Dijols*, 990 So. 2d 688, 692 (Fla. 4th DCA 2008) (citations omitted). Accordingly, Francois respectfully requests that this Court affirm the decision of the Fourth District which declared Section 99.0615, Florida Statutes, unconstitutional under Article VIII, Section 1(e) of the Florida Constitution and *Grassi*.

II. THE DISTRICT COURT DID NOT ERR IN CLOSING THE DEMOCRATIC PRIMARY, BECAUSE A WRITE-IN CANDIDATE CONSTITUTES OPPOSITION IN THE GENRAL ELECTION.

Contrary to Brinkmann's assertion that a write-in candidate does not constitute "opposition" for the purposes of the Universal Primary Amendment, Article VI, Section 5(b) of Florida Constitution, at least two courts have held just the opposite, namely, that a write-in candidate is "opposition in the general election" as that term is used in that provision of the State Constitution. Florida's election code, likewise, specifically provides that a write-in candidate constitutes opposition in the general election.

Article VI, Section 5(b) of Florida Constitution provides as follows:

> If all the candidates for the same party affiliation and the winner will have no opposition in the general election, all qualified electors,

> regardless of party affiliation, may vote in the primary elections for that office.

In *Lacasa v. Townsley,* 883 F.Supp. 1231 (S.D. Fla. 2012), the United States District Court for the Southern District of Florida concluded that write-in candidates are candidates under Florida law who, in the general election, will oppose the winner of primary election. In its decision, the court concluded as follows:

> First, in finding that the language of the Amendment is unambiguous, the Court notes again that the write-in candidates are considered "candidates" by Florida Statute, *see* Fla. Stat. § 97.021(5)(b), and that they met all qualifying requirements to be considered write-in candidates. *See* Fla. Stat. § 99.061. Thus, it is strikingly clear to the Court that Ms. Samaroo and Mr. Malone are candidates who, in the general election, will oppose the winner of the August 14, 2012, Democratic Primary. Plaintiffs ask the Court to review figures and statistics showing the scant support write-in candidates have ever received in the general election in Florida. However, these figures are simply beside the point. The Court will not consult a crystal ball to determine when and whether a given write-in candidate constitutes "real" or mere illusory opposition. The question is not whether Ms. Samaroo and Mr. Malone *will likely* prevail in the general election over the winner of the Democratic Primary (or even garner a significant percentage of the vote), but whether, under the current framework set forth by the Florida Constitution, they *could*. The current statutory and constitutional framework in Florida allows for write-in candidates to have the opportunity to prevail in the general election, and the Court today will not declare that these candidacies are futile.
>
> Further, Plaintiffs' argument that the write-in candidates do not constitute "opposition" justifying the closed election is inconsistent with the structure of Florida's election laws. If a candidate in a general election is unopposed, meaning that if there are no other candidates, whether write-in candidates or party-supported candidates, "the

> candidate [is deemed] to have voted for himself or herself" and thus "the names of [the] unopposed candidates shall not appear on the general election ballot." Fla. Stat. § 101.151(7). It is this type of primary that is, by definition, a *de facto* general election because there will actually be no opportunity to vote *at all* in the general election—the election for the office of Miami–Dade State's Attorney will be absent from the general election ballot. In contrast, the situation Plaintiffs decry here is much different. In the November general election, all Miami–Dade County voters will have the opportunity to vote for the either the winner of the Democratic Primary (Ms. Fernandez Rundle or Mr. Vereen), Ms. Samaroo, or Mr. Malone. While Plaintiffs may claim that the write-in candidates are not "real" or legitimate candidates, their presence does not diminish Plaintiffs' and all other duly registered voters' right to cast a vote in the general election.

883 F.Supp. at 1242-1243 (emphasis in text).

The Fourth District, in *Telli v. Snipes*, 98 So. 3d 1284 (Fla. 4th DCA 2012), rejected the identical argument that write-in candidates do not constitute opposition in the general election for the purposes of Article VI, Section 5(b) of Florida Constitution. The District Court concluded that write-in candidates, as qualified candidates, constitute opposition at the general election.

> Current election laws also effectuate the stated purpose of the UPA by giving all registered voters an opportunity to participate in the electoral process. *See* Comments to Art. VI, § 5, Fla. Const. (commenting the amendment was drafted to address the concern that "[m]embers of the minority party, as well as members of minor parties and those with no party affiliation, *would not have the opportunity to participate in the electoral process*") (emphasis added). Come November 6th, all duly-registered voters will have the opportunity to participate in the electoral process by voting for either the winner of the Democratic Primary or one of the write-in candidates; and the candidate receiving the most votes in the general election will be elected to the office of Broward County Commissioner.

> The viability of the candidates for the office of Broward County Commissioner will be decided by the voters, not by this court. The UPA's clear and unambiguous language, as well as the comments thereto, dictate that it is not the role of this court to declare the futility of these (or any) candidacies for elected office. That role is reserved by the voters who will cast ballots in the coming general election. This court is also not prepared to proclaim that any duly-qualified candidate, write-in or otherwise, constitutes "no opposition" for the purposes of the Florida Constitution. For this court to hold that it has the authority to decide which duly-qualified candidates do (or do not) constitute "opposition in the general election" would be contrary to the electoral process. Accordingly, the trial court's order dismissing Mr. Telli's complaint with prejudice is affirmed.

98 So. 3d at 1287 (emphasis in text).

By statute, a write-in candidate has a place on the general election ballot. *See* § 101.151(2)(b), Fla. Stat. (2014) ("In a general election, in addition to the names printed on the ballot, a blank space shall be provided under each office for which a write-in candidate has qualified…."). The names of unopposed candidates do not appear on the ballot. *See id.* ("[T]he names of unopposed candidates shall not appear on the general election ballot. Each unopposed candidate shall be deemed to have voted for himself or herself."). A write-in candidate is "opposition in the general election" pursuant to Florida's elections laws.

Thus, the District Court did not err in its conclusion that the Democratic Primary should remain closed, by reversing the injunction of the trial court which opened the primary election to all voters.

III. FRANCOIS COMPLIED WITH FLORIDA RULE OF CIVIL PROCEDURE 1.071.

Despite Brinkmann's contentions to the contrary, Francois properly effectuated his constitutional challenge to Section 99.0615 by complying with Rule 1.071, Florida Rules of Civil Procedure. As evidenced in the Appendix, Tab 9, Francois appeared in the lower tribunal and filed and served his "Motion in Opposition to Emergency Motion for Injunction" as well as a "Notice of Constitutional Challenge to Florida Statute 99.0615" on the State Attorney of the Seventeenth Judicial Circuit, by certified mail, on July 11, 2014, pursuant to Rule 1.071(a) and (b). Francois did so "promptly." Rule 1.071 does not require joinder of the state attorney. Brinkmann did not raise this issue in the trial court; regardless, Francois fully complied with Rule 1.071.

Accordingly, Brinkmann's assertion that Francois did not properly provide notice of his constitutional challenge to Section 99.0615, Florida Statutes (2014), is without merit.

CONCLUSION

The decision of the Fourth District should be affirmed. Section 99.0615, Florida Statutes (2014), is unconstitutional, because it provides an additional qualification for write-in candidates for county commission in addition to those prescribed in the state constitution. As a qualified write-in candidate for the office of Broward County Commission, District 2, Francois' candidacy constitutes

opposition at the general election. Thus, the Democratic primary for the office of Broward County Commission, District 2, should remain closed. The winner of the Democratic primary election will face Francois in the general election to determine who will be elected to the office of Broward County Commission from District 2.

Respectfully submitted,

/s/ Mark Herron
MARK HERRON
Florida Bar No. 0199737
ROBERT J. TELFER
Florida Bar No. 128694
J. BRENNAN DONNELLY
Florida Bar No.: 268895
MESSER CAPARELLO P.A.
P.O. Box 15579
Tallahassee, Florida 32317
(850) 222-0720 Telephone
(850) 224-4359 Facsimile

ROBERT C.L. VAUGHAN
Florida Bar No. 130095
KIM VAUGHAN & LERNER, LLP
One Financial Plaza
100 SE Third Avenue, Suite 2001
Ft. Lauderdale, FL 33394
Telephone: (954) 527-1115
Fax No. (954) 527-1116

ATTORNEYS FOR APPELLEE,
TYRON FRANCOIS

CERTIFICATE OF FONT COMPLIANCE

I HEREBY CERTIFY that the foregoing brief complies with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

/s/ Mark Herron
MARK HERRON

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy has been provided to the following by United States Postal Service and by electronic mail on this 17th day of October, 2014:

William R. Scherer, Esquire
Conrad & Scherer, LLP
P.O. Box 14723
Fort Lauderdale, FL 33302
wscherer@conradscherer.com
eservice@conradscherer.com
medpleadings@conradscherer.com
cstrohm@conradscherer.com

Mark D. Bogen, Esquire
Michael D. Bogen, Esquire
Bogen Law Group, P.A.
1900 Glades Road, Suite 300
Boca Raton, FL 33431
mark@condolaw.com
Michael@condolaw.com

Burnadette Norris-Weeks, Esquire
The Law Office of Burnadette Norris-Weeks, P.A.
401 North Avenue of the Arts
Fort Lauderdale, FL 33311
bnorris@bnwlegal.com
paralegal@bnwlegal.com

Nicholas T. Steffens, Esquire
6810 S.R. 7, Second Floor
Coconut Creek, FL 33073
nick@ntslaw.com

/s/ Mark Herron
MARK HERRON