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The amended charter requires the Shelby County Election Commission to implement IRV, and directs it to adopt regulations consistent with the procedures outlined in the charter amendment to facilitate IRV's implementation. *Id.* This past November, Memphis voters decisively rejected an attempt by the Memphis City Council to repeal RCV through two different referenda. Greg Akers, *Memphis Rejects Referenda*, MEMPHIS BUSINESS JOURNAL, Nov. 7, 2018, available at

<https://www.bizjournals.com/memphis/news/2018/11/07/memphis-rejects-referenda-germantown-vote-has.html>.

2. As acknowledged by the State Coordinator of Elections in his Notice of Hearing in the administrative proceeding previously brought by the Shelby County Election Commission (SCEC) on this identical issue, the Shelby County Administrator of Elections (AOE) Linda Phillips has determined that Shelby County's current voting machines are technically capable of implementing IRV. *See* Notice Of Hearing, *In Re Shelby County Election Commission v. Tennessee Coordinator Of Elections*, Case No. 20.04-152916A (June. 18, 2018), at 1. The SCEC itself has acknowledged in the same administrative proceedings that as a result of the AOE's determination that RCV implementation is technically feasible, "pursuant to the City Charter, the SCEC must implement IRV at the next....municipal elections for the City." SCEC Amended Petition For Declaratory Order, Case No. 20.04-152916A (SCEC Administrative Petition), at 3. Phillips has indicated her intent to implement IRV in the next Memphis City Council election. *Id.* This is required by the plain language of the 2008 Memphis Charter amendment. *See* 2008 Charter Amendment, Sections 7(1), 7(3).

3. Because of legal questions about IRV raised by State Coordinator of Elections Mark Goins, a group of Memphis residents intending to run for City Council in the October 2019 election filed an administrative petition with the State Coordinator of Elections pursuant to Tenn. Code Ann. § 4-5-223(a)(1) and Tenn. Comp. R. & Regs. 1360-04-01-.05(1). *See* Petition of Erika Sugarmon et al., Case No.

20.04-1584129A (Sugarmon Petition). These petitioners requested a ruling that would permit and require the SCEC to implement RCV in the October 2019 election, 11 years after Memphis voters first amended the city charter to provide for its use in the next municipal election. *Id.*

4. The Administrative Law Judge in this matter has set a deadline of May 31, 2019 for interested parties to move to intervene in this matter.

#### Applicants

5. Applicant Britney Thornton is a Memphis resident, registered to vote in Memphis, and regularly votes and pays taxes in Memphis. She is currently running for City Council in the next regularly scheduled Memphis City Council election in October 2019 in a district that would use IRV. She has announced her candidacy, held public events, advertised her candidacy, and raised and spent money on the campaign. She will run for City Council regardless of whether RCV is implemented in the October 2019 election. *See* Affidavit of Britney Thornton.

6. As a Memphis voter and taxpayer, applicant Thornton has an interest in seeing that the City Charter as amended is properly implemented, with the anticipated benefits of RCV, including the cost savings involved. As a candidate, she has an interest in ensuring the use of RCV. RCV will cut down on campaign costs, because she would not have to run both a regular election campaign and a runoff campaign in order to win. This is of particular importance to her, as she anticipates she will not be among the most well-funded of candidates in this race. She will also benefit from the opportunities RCV creates for lesser-known, non-incumbent candidates to run without fear of being dismissed as “throwing away your vote.” This is also of particular concern to her, as she is a first-time, relatively lesser-known candidate. Additionally, she will benefit from the opportunities for cooperative campaigning created by a Ranked Choice Voting system. For these reasons, Thornton believes she will be burdened if Memphis returns to the old two-round runoff system which Memphis voters have rejected in two different referendum elections. *See id.*

7. Applicant Ranked Choice Tennessee is a Tennessee organization dedicated to election reform in Memphis and Tennessee, including, *inter alia*, advocating for the use of RCV, educating voters about how to vote in RCV elections, and working with local officials and other stakeholders to ensure the smooth implementation of RCV. It has an advisory board, a staff, and citizen members. The membership is made up of Tennessee residents, all of whom are registered to vote in Tennessee and regularly vote in Tennessee elections. Many of these members are Memphis residents. Most of them voted in the 2008 referendum and/or 2018 referendum, and voted for RCV.

8. Applicant Ranked Choice Tennessee has an interest in ensuring that the 2008 referendum and the City Charter are respected, and that RCV is given a chance to prove itself. If RCV is declared illegal in Tennessee, or if implementation in Memphis is delayed past 2019, it could jeopardize grant funding for the organization, and possibly cause the organization to shut down. Ranked Choice Tennessee has already spent time and money on preparing for October 2019 RCV implementation in Memphis, which would be wasted if such implementation did not occur.

#### Motion To Intervene

9. Pursuant to T.C.A. §4-5-310(b), Applicants move to intervene in this administrative proceeding.

10. Applicants do not dispute that the current petitioners have palpable interests in seeing that the 2008 charter amendment is adhered to this October and beyond. But the current Applicants have interests just as palpable, and distinct from the current petitioners.

11. Upon information and belief, no plaintiff currently involved in this proceeding is both running in a single-member district which would use RCV this October, and also plans to run even if RCV is not implemented. Applicant Thornton thus has interests which differ from the existing petitioners.

12. As an organization with institutional interests which spends staff time and money on public education about how to vote in RCV elections, and an overall mission to further RCV separate and apart

from any one individual political campaign, applicant Ranked Choice Tennessee has interests distinct from those of the current petitioners.

13. Thus, Applicants will contribute to a full airing of views on the important question of whether IRV can be legally implemented under Tennessee state law. Thus, intervention "is in the interests of justice." See T.C.A. §4-5-310(b).

14. Counsel for Applicants represent that they will conduct themselves in such a way as to facilitate the speedy and orderly progress of the proceeding. Applicants do not intend to take discovery, because they view the current dispute as a purely legal one. They will also cooperate promptly with any discovery requests placed on them by another party. Thus, intervention will not impair the "orderly and prompt conduct of the proceedings." *Id.* To assure that this is the case, Applicants would consent to having the above representations be made conditions of intervention pursuant to Tenn. Comp. R. & Regs. §1360-04-01-.12 (3).

15. The current petitioners do not object to this intervention. Undersigned counsel has made attempts to obtain the consent of the State but has been unsuccessful.

#### Conclusion

For the reasons stated below, Applicants pray that the Administrative Law Judge grant this motion for intervention.

Respectfully Submitted,

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*Counsel for Applicants Thornton &  
Ranked Choice Tennessee*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by mail upon the Secretary of State, Administrative Procedures Division, 312 Rosa L. Parks Avenue, Snodgrass Tower, 8<sup>th</sup> Floor, Nashville, Tennessee 37243; and also upon the Public Interest Division, Office of the Attorney General, P.O Box 20207, Nashville, TN 3702. Copies of the foregoing have also been served upon the Sugarmon petitioners through counsel.

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