

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
CENTRAL DIVISION

**FILED**  
AUG 12 2011  
*[Signature]*  
CLERK

CONSTITUTION PARTY OF SOUTH  
DAKOTA, JOY HOWE, MARVIN  
MEYER, and MARK PICKENS,

Plaintiffs,

vs.

CHRIS NELSON, in his official capacity  
as Secretary of State of South Dakota,

Defendant.

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CIV 10-3011-RAL

ORDER DISMISSING COUNT II  
WITHOUT PREJUDICE FOR  
LACK OF JURISDICTION

On August 4, 2010, this Court issued a Judgment of Dismissal (Doc. 34) in this case based on this Court's Opinion and Order Granting Defendant's Motion for Summary Judgment and Denying Plaintiffs' Motion for Preliminary Injunctive Relief (Doc. 33). The United States Court of Appeals for the Eighth Circuit affirmed in part and vacated in part the Judgment and remanded with instructions to dismiss Count II without prejudice for lack of standing. For the reasons stated in the Eighth Circuit's opinion, it is hereby

ORDERED that, consistent with the opinion of the Eighth Circuit, Count II is dismissed without prejudice.

Dated August 12, 2011.

BY THE COURT:

*[Signature]*

ROBERTO A. LANGE  
UNITED STATES DISTRICT JUDGE