

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC00-2431

ALBERT GORE, JR., Nominee of the
Democratic Party of the United States
For President of the United States, *et al.*,

Appellants,

v.

KATHERINE HARRIS, as Secretary
of State, State of Florida, *et al.*,

Appellees.

**BRIEF OF THE APPELLEES,
CHARLES BURTON, CAROL ROBERTS, and THERESA LEPORE,
PALM BEACH COUNTY CANVASSING BOARD
and THERESA LEPORE, Supervisor of Elections**

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CERTIFICATE OF TYPE SIZE AND STYLE

Undersigned counsel certifies that the type size and style used in this brief is
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ARGUMENT

THE TRIAL COURT DID NOT ERR IN RULING THAT THE PALM BEACH COUNTY CANVASSING BOARD COMPLIED WITH APPLICABLE LAW IN ITS REVIEW AND RECOUNTING PROCESS.

At all times relevant to this case, the Palm Beach County Canvassing Board has operated consistent with applicable Florida law. When faced with doubt over how to proceed, the Board sought and received guidance from this Court, *see Palm Beach County Canvassing Board v. Harris*, ___So.2d___, 2000 WL 1725434 (Fla. 2000), *cert. granted sub nom., Bush v. Palm Beach County Canvassing Board*, Nov. 24 (No. 00-836), *vacated and remanded for further proceedings*, 531 U.S. ___, (December 4, 2000). The Canvassing Board operated in conformity with this Court's Interim Order and ultimate opinion, and with the Orders of the Fifteenth Judicial Circuit Court in *Florida Democratic Party v. Palm Beach County Canvassing Board*, Case No. CL-00-011078-AB, as it undertook and finally completed the manual recount. Along the way, each decision of the Canvassing Board was the product of careful deliberation.

In the trial below, the court correctly determined based on the evidence before it that the Palm Beach County Canvassing Board and the Supervisor of Elections acted in conformity with statutory law and orders of this Court and the Fifteenth Judicial Circuit Court. Accordingly, this Court should affirm that portion of the lower court's order which states that the Canvassing Board acted properly and did not abuse its discretion. *See Broward County Canvassing Board v. Hogan*, 607 So.2d 508, 510 (Fla. 4th DCA 1992)("Although section 102.168 [Florida Statutes] grants the right of contest, it does not change the discretionary aspect of the review procedures outlined in section 102.166.").

Neither the Canvassing Board nor the Supervisor of Elections take any position as to the remaining issues on appeal. As set forth in chapter 102, Florida Statutes, the Palm Beach County Canvassing Board's responsibilities are generally limited to canvassing returns, considering and administering protest of election returns, and certifying election results. As such, the Canvassing Board is a neutral, ministerial body. *See Morse v. Dade County Canvassing Board*, 456 So. 2d 1314 (Fla. 3d DCA 1984). Similarly, the Supervisor of Elections is charged generally

with the administration of elections, *see generally ch. 98, Florida Statutes*. With regard to the remaining issues on appeal, therefore, Appellees take no position.

Respectfully Submitted,

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