

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS FILED-88
EASTERN DIVISION

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CLERK
U.S. DISTRICT COURT

ASSOCIATION OF COMMUNITY ORGANIZATIONS)
FOR REFORM NOW (ACORN); EQUIP FOR)
EQUALITY, INC.; JACQUELINE ANDRADE;)
GWENDOLYN COLEMAN; CHINETHA DIXON;)
and JOEY LEE WOODEN;)

Plaintiffs,)

v.)

JAMES R. EDGAR, in his official)
capacity as Governor of the)
State of Illinois; THE ILLINOIS STATE)
BOARD OF ELECTIONS; DAVID E. MURRAY,)
in his official capacity as Chairman)
of the Illinois State Board of)
Elections; RONALD D. MICHAELSON, in his)
official capacity as Executive Director)
of the State Board of Elections of)
Illinois; GEORGE H. RYAN, in his)
official capacity as the Secretary of)
the State of Illinois; ROBERT W.)
WRIGHT, in his official capacity as)
Director of the Department of Public)
Aid; JOHN R. LUMPKIN, in his official)
capacity as Director of the)
Department of Public Health; LYNN)
HANDY, in her official capacity as)
Acting Director of the Department of)
Mental Health; and AUDREY MCCRIMON,)
in her official capacity as Director)
of the Department of Rehabilitation)
Services;)

Defendants.)

95C 0174

JUDGE SHADUR

MAGISTRATE JUDGE GUZMAN

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Plaintiffs, Association of Community Organizations for
Reform Now; Equip for Equality, Inc.; Jacqueline Andrade;
Gwendolyn Coleman; Chinetha Dixon; and Joey Lee Wooden, by their
attorneys, for their complaint against defendants state the
following:

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1. This Court has subject matter jurisdiction over the allegations of this complaint pursuant to 28 U.S.C. §§1331 and 1343(a)(4); the National Voter Registration Act of 1993, 42 U.S.C. §1973gg, et seq.; and the Civil Rights Act of 1871, 42 U.S.C. §1983, in that plaintiffs are aggrieved by defendants' failure to implement the National Voter Registration Act of 1993 (hereinafter the "NVRA"), which requires the State of Illinois to provide voter registration opportunities for federal elections through the mail and at state agencies on the effective date of the NVRA, January 1, 1995. Plaintiffs seek injunctive and declaratory relief against defendants pursuant to 42 U.S.C. §1973gg-9(b), 42 U.S.C. §1983, and 28 U.S.C. §§2201 and 2202. Venue lies in this district pursuant to 28 U.S.C. §1391(b).

The Named Plaintiffs

2. Plaintiff Association of Community Organizations for Reform Now ("ACORN") is a membership-based, non-profit corporation organized under the laws of Arkansas and registered to do business in the State of Illinois. The purpose of ACORN is to advance the interests of its low and moderate income membership in every area of its interests and concerns, including the rights of its members and constituency to participate fully in the nomination and election of candidates for federal office. In furtherance of this purpose, ACORN, through its state chapter in Illinois, conducts non-partisan voter registration and education for low- and moderate-income residents. ACORN as an organization is aggrieved by the State of Illinois' failure to comply with the mandatory provisions of the NVRA by January 1,

1995, because such failure significantly impedes ACORN's ability to effectively promote voter registration which would be much enhanced by the NVRA's streamlined procedures for mail-in registration and agency-based registration at motor vehicle, public assistance, disability, and other designated offices. As a result, defendants' actions or omissions have harmed ACORN's ability to attract new members through these activities and to fulfill its purpose of advancing its members' interests in full participation in the electoral process.

ACORN also brings suit on behalf of its individual members in Illinois, who have been aggrieved by defendants' failure to comply with the NVRA and would have standing to sue in their own right. These members' individual interests in fully participating in the electoral process are germane to ACORN's organizational purpose, and neither the claims asserted nor the relief requested herein requires the participation of ACORN's members in order to vindicate their individual rights. A significant number of ACORN members are registered to vote, but have not voted in the two preceding calendar years because of a lack of candidates addressing their needs or for other reasons. These members wish to remain registered to vote and would be significantly harmed by being purged from the voting registration rolls, including being deprived of their rights to serve as jurors in federal cases. A significant number of ACORN members are not registered to vote, are not registered at their current residence addresses, or are likely to change their addresses in the foreseeable future. A significant number of ACORN members go to motor vehicle departments to obtain or renew drivers'

licenses, or go to state offices to receive public assistance or disability services. These members would likely register to vote or have their addresses upgraded on their current voter registration if the registration procedures were implemented at these offices in the manner required by the NVRA. ACORN's principal place of business in Illinois is in Cook County.

3. Equip for Equality, Inc. is an Illinois not-for-profit corporation designated by the Governor of Illinois, pursuant to 42 U.S.C. §6041 et seq. and §10801 et seq.; and 29 U.S.C. §794e et seq., as the protection and advocacy system for individuals with mental or physical disabilities residing in the State of Illinois. Equip for Equality has broad statutory powers to assist individuals with mental or physical disabilities in securing their human and civil rights, including authority to pursue legal and other appropriate remedies in its own name (42 U.S.C. §6042(2)(A); §10805(a)(1)(B); and 29 U.S.C. §794e(f)(2)). A significant portion of the population Equip for Equality serves are either registered voters or are otherwise qualified to be registered voters, but may not be registered at their current addresses, or are likely to change their addresses in the foreseeable future. A significant portion of the population Equip for Equality serves goes to state offices to receive public assistance or disability services. These members would likely register to vote or have their addresses upgraded on their current voter registration if the registration procedures were implemented at the offices in the manner required by the NVRA. Equip for Equality's principal place of business is in Cook County.

4. Plaintiff Jacqueline Andrade is a United States citizen, is a resident of Chicago, Illinois, and is over the age of 18. She is not registered to vote. On January 5, she attempted to register to vote at an Illinois Department of Public Aid office located at 724 W. 64th St., Chicago, Illinois. Ms. Andrade was told that she could not register at said public aid office.

5. Plaintiff Gwendolyn Coleman is a United States citizen, is a resident of Chicago, Illinois, and is over the age of 18. She is not registered to vote. On January 5, she attempted to register to vote at an Illinois Department of Public Aid office located at 724 W. 64th St., Chicago, Illinois. Ms. Coleman was told that she could not register at said public aid office.

6. Plaintiff Chinetha Dixon is a United States citizen, is a resident of Chicago, Illinois, and is over the age of 18. She is not registered to vote. On January 5, she attempted to register to vote at an Illinois Department of Public Aid office located at 724 W. 64th St., Chicago, Illinois. Ms. Dixon was told that she could not register at said public aid office.

7. Plaintiff Joey Lee Wooden is a United States citizen, is a resident of Chicago, Illinois, and is over the age of 18. He is not registered to vote. On January 5, he attempted to register to vote at an Illinois Department of Public Aid office located at 839 W. 79th St., Chicago, Illinois. Mr. Wooden was told that he could not register at said public aid office.

The Defendants

8. Defendant James R. Edgar is Governor of the State of Illinois, and in that capacity is responsible for ensuring

compliance by the State of Illinois with the NVRA, and is being sued in his official capacity.

9. Defendant Illinois State Board of Elections is the agency statutorily charged by Illinois statute, 10 ILCS 5/1A-1 et seq., with the duty and responsibility, inter alia, of administering the election laws of the State of Illinois governing the conduct of federal and state elections, and preparing registration forms for use throughout the State of Illinois.

10. Defendant David E. Murray is Chairman of the Illinois State Board of Elections, and in that capacity is charged with presiding over the Board in carrying out its duties, including implementation of the NVRA. He is sued in his official capacity.

11. Defendant Ronald D. Michaelson is Executive Director of the State Board of Elections of Illinois, and in that capacity is charged with the duty and responsibility of administering the election laws of the State of Illinois governing the conduct of federal and state elections, and preparing and processing registration forms for use throughout the State of Illinois, as directed by the State Board of Elections. He is sued in his official capacity.

12. Defendant George H. Ryan is Secretary of the State of Illinois and in that capacity is charged, inter alia, with the duty and responsibility of administering the applicable procedures in state drivers' license offices, including the preparing and processing of voter registration forms for use in such state offices throughout the State of Illinois. He is sued in his official capacity.

13. Defendant Robert W. Wright is Director of the Department of Public Aid, and in that capacity is charged with the duty and responsibility of administering the applicable procedures in state offices which, inter alia, provide public assistance, including the preparing and processing of voter registration forms for use in such state offices throughout the State of Illinois under the NVRA. He is sued in his official capacity.

14. Defendant John R. Lumpkin is Director of the Department of Public Health, and in that capacity is charged with the duty and responsibility of administering the applicable procedures in state offices which, inter alia, provide health-related public assistance, including the preparing and processing of voter registration forms for use in such state offices throughout the State of Illinois. He is sued in his official capacity.

15. Defendant Lynn Handy is Acting Director of the Department of Mental Health and Developmental Disabilities, and in that capacity is charged with the duty and responsibility of administering the applicable procedures in state offices which, inter alia, provide public assistance and services to persons with mental health and developmental disabilities, including the preparing and processing of voter registration forms for use in such state offices throughout the State of Illinois under the NVRA. She is sued in her official capacity.

16. Defendant Audrey McCrimon is Director of the Department of Rehabilitation Services, and in that capacity is charged with the duty and responsibility of administering the applicable procedures in state offices which, inter alia, are primarily

engaged in providing services to persons with disabilities, including the preparing and processing of voter registration forms for use in such state offices throughout the State of Illinois under the NVRA. She is sued in her official capacity.

COUNT I -- THE NATIONAL VOTER REGISTRATION ACT VIOLATION

17. The NVRA is a federal statute codified at 42 U.S.C. §1973gg, et seq., signed by the President into law on or about May 20, 1993, which the State of Illinois was required to implement by January 1, 1995. The NVRA was enacted to force the states to end discriminatory and unfair registration laws and procedures which, Congress found, depress voter participation in federal elections, including participation by racial minorities. 29 U.S.C. §1973gg. To that end, the NVRA required the State of Illinois by January 1, 1995, to implement procedures:

- (a) to maintain voter registration rolls and not remove voters' names from the registration rolls by not voting except upon their request or by reason of criminal conviction or mental incapacity;
- (b) to conduct a systematic program to maintain accurate and current voting lists by reason of death or change of address which must be completed at least 90 days before any federal election;
- (c) to accept and use the mail-in voter registration form developed by the Federal Election Commission (FEC) or design and use their own registration forms which meet the criteria of the NVRA, and make those forms available for public and private distribution;
- (d) to provide voter registration opportunities through the State of Illinois' driver licensing procedures by requiring that applications for or renewals of drivers' licenses also serve as a voter registration application; and

- (e) to offer voter registration services in conjunction with applications for services or assistance, recertifications, renewals or changes of address; offices providing public assistance, offices providing state-funded programs for persons with disabilities, in armed forces recruitment offices, and in-state or local government offices including public schools and libraries.

18. Illinois' existing voter registration system does not comply with the NVRA and many current Illinois statutes relating to voter registration and voter purging procedures are in conflict with the requirements of the NVRA. Defendants currently lack the statutory authority which would permit them to implement many of the procedures required by the NVRA.

19. The Illinois General Assembly has failed to enact legislation to conform Illinois' statutes with the procedures required by the NVRA by January 1, 1995. On September 27, 1994, Senate President James "Pate" Philips stated his unwillingness to pass legislation to conform Illinois statutes with the NVRA. (See Exhibit A, attached hereto.) On or about December 1, 1994, the Illinois Senate passed a resolution urging Congress to extend the deadline for implementation of the NVRA. (See Exhibit B, attached hereto.)

20. As a result of the Illinois General Assembly's failure to enact legislation to conform Illinois' laws with the procedures required by the NVRA, the Illinois State Board of Elections decided not to adopt rules under §1A-8 of the Illinois Election Code (10 ILCS 5/1A-8(12)) that would bring state election laws into compliance with the NVRA. (See Exhibit C, attached hereto.) Defendant Ronald Michaelson publicly acknowledged that because of the State Board of Elections'

inaction, the State of Illinois would not be in compliance with the NVRA on January 1, 1995.

21. The NVRA, 42 U.S.C. §1973gg-9(b), authorizes private parties, including individual citizens, to sue for declaratory or injunctive relief against states which timely fail to implement the requirements of the NVRA. This section of the statute also includes a provision for private parties to provide written notice to the chief state election official who has been designated by the state to implement the NVRA before initiating litigation.

22. The state has failed to designate such a chief state election official. Nevertheless, on November 14, 1994, plaintiff ACORN notified defendants Edgar, Michaelson, and the State Board of Elections that Illinois election law was not in compliance with the NVRA, and informed the defendants of ACORN's intention to file suit should the state fail to implement the NVRA by January, 1995. (See Exhibit D, attached hereto.) Further pre-litigation notice under the Act is impossible given that Illinois has not designated an official to be notified pursuant to 42 U.S.C. 1973gg-8. Moreover, such notification would be an empty and futile gesture given defendants conceded unwillingness to implement the NVRA, and would unnecessarily delay and further postpone the institution of court-ordered measures necessary to ensure compliance with the NVRA as soon as possible.

23. Plaintiffs are suffering, and will continue to suffer, irreparable injury absent court intervention. Since January 1, 1995, counties have been able to initiate procedures for purging hundreds of thousands that are in direct violation of the NVRA.

In addition, for each week that goes by without full compliance with NVRA, Illinois residents who go to motor vehicle, public assistance, disability, and other designated state offices will miss the opportunity to register under the streamlined procedures set forth in the NVRA. Attempts to trace and register these potential voters at a later time would be costly and, most likely, ineffective for the precise reasons that Congress found it necessary in the NVRA to require convenient, agency-based registration. Finally, organizations such as ACORN that engage in non-partisan voter registration and education will be deprived of the federal mail-in forms or equivalent and streamlined agency-based procedures called for by the NVRA in reaching the substantial numbers of non-registered registers in the state.

24. Plaintiffs have no adequate remedy at law.

25. Granting a preliminary injunction mandating defendants' immediate compliance with the NVRA would be in the public interest.

COUNT II -- §1983 VIOLATION

26. Plaintiffs repeat and reallege each of the foregoing paragraphs as if set forth fully herein.

27. In doing the things complained of herein, defendants act and have acted under color of state law.

28. In doing the things complained of herein, defendants deny and have denied plaintiffs' rights secured by the laws of the United States, 42 U.S.C. §1983.

29. Plaintiffs are entitled to a declaration that the State of Illinois and its designated agencies are in violation of the

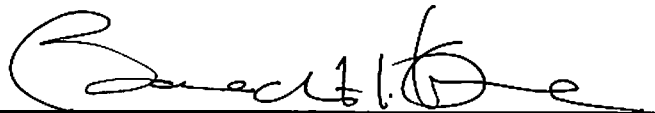
NVRA, and are further entitled to a preliminary and permanent injunction against the use of forms and procedures that are not in compliance with the NVRA.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray that this Court:

- (a) enter a declaratory judgment that defendants are not and will not be in compliance with the NVRA unless this Court exercises its equitable jurisdiction to mandate such compliance;
- (b) advance this case on the Court's calendar as provided by Rule 57 of the Federal Rules of Civil Procedure because of the importance of this case to the voters of the State of Illinois and the important public policies which the NVRA was enacted to protect;
- (c) mandatorily enjoin defendants to initiate any and all measures necessary to immediately insure that the voter registration procedures mandated by the NVRA will be in place, and require them to present a plan to the Court not later than February 1, 1995 outlining the steps defendants intend to take to insure that those procedures are in place on March 1, 1995
- (d) suspend the operation of any Illinois statutes which are in conflict with the NVRA or which impair or preclude defendants' ability to have in place the voter registration procedures mandated by the NVRA;
- (e) award plaintiffs their costs, expenses and attorneys' fees pursuant to 42 U.S.C. §§19731, 1973gg-9(c), and 1988; and
- (f) grant plaintiffs any other or further relief to which the Court may deem them entitled.

Respectfully submitted,



Barack Obama
One of the Attorneys for Plaintiffs

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