

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ACORN, et al.,
Plaintiffs,

v.

JIM EDGAR, et al.,
Defendants,

UNITED STATES OF AMERICA,
Plaintiff,

v.

STATE OF ILLINOIS, et al.,
Defendants.

Civil Action No. 95 C 0174
Judge Milton I. Shadur

Civil Action No. 95 C 0433
Judge Milton I. Shadur

RULE 12 (M) STATEMENT OF UNCONTESTED FACTS OF PLAINTIFF UNITED STATES OF AMERICA

In conjunction with the motion of the plaintiff, the United States, for summary judgment against the defendant the State of Illinois, et al., and in compliance with Local Rule 12(M), Local Rules of the United States District Court for the Northern District of Illinois the plaintiff contends that there is no genuine issues as to the following material facts:

I.

The Attorney General of the United States, hereinafter ("The United States") is charged with enforcing The National Voter Registration Act of 1993 ("NVRA" or "Act"), 42 U.S.C. 1973gg. 42 U.S.C. 1973gg-9(a). (Answer, Ex. 1, ¶ 1; text of NVRA, Ex. 2.)

II.

This Court has subject matter jurisdiction over the parties.
(Answer, Ex. 1, ¶ 2.)

III.

The State of Illinois is one of the fifty states of the United States and is in violation of the NVRA. (Answer, Ex. 1, ¶ 3, ¶ 13, ¶ 15, ¶ 17, ¶ 21, ¶ 23; Affidavit of David Orr, Ex. 3, ¶ 6, ¶ 9, ¶ 10, ¶ 11, ¶ 13.)

IV.

Section 5 of the NVRA requires Illinois and other states to provide simultaneous application for motor vehicle driver's licenses and for registration of voters for elections for federal office. 42 U.S.C. 1973gg-3. Defendants do not provide simultaneous application for voter registration for federal elections and application for motor vehicle driver's licenses as required under the NVRA. (Answer, Ex. 1, ¶ 7; Affidavit of David Orr, Ex. 3, ¶ 13.)

V.

Section 7 of the NVRA requires that Illinois and other states establish procedures for registration of voters in elections for federal office at federal, state and nongovernmental agencies designated by the state. 42 U.S.C. 1973gg-5(a). The designated agencies must include agencies which provide public assistance and serve people with disabilities. Section 7(a)(2); 42 U.S.C. 1973gg-5(a)(2). The procedures utilized at these agencies must include asking applicants whether

they wish to register to vote, and providing assistance as needed. Section 7(a)(4)(A); 42 U.S.C. 1973gg-5(a)(4)(A). Defendants do not provide registration for voters in elections for federal office at federal, state and non-governmental agencies designated by the state as required under the NVRA. (Answer, Ex. 1 ¶ 8; Affidavit of David Orr, Ex. 3. ¶ 10.)

VI.

Section 6(a) of the NVRA requires states to accept and use the mail voter registration form prescribed by the Federal Election Commission (hereinafter the "FEC"). 42 U.S.C. 1973gg-4(a). Section 6(a) of the NVRA also allows states to develop their own forms, in addition to the FEC form, for registering voters in elections for federal office, provided, inter alia, that the state form requires only such identifying information and other information as is necessary to enable state election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process, and does not include any requirement for notarization. 42 U.S.C. 1973gg-4(a)(2). Defendants do not accept mail-in registration forms which comply with the NVRA. Defendants' state law does not permit acceptance of mail in registration forms as required by the NVRA. (Answer, Ex. 1, ¶ 17; Affidavit of David Orr, Ex. 3, ¶ 9.)

VII.

Section 8(b)(2) of the NVRA prohibits the removal of persons registered to vote in elections for federal office from voter registration lists for failure to vote. 42 U.S.C. 1973gg-6(b)(2). Defendants remove names of registered voters from the rolls for failure to vote. (ILL. REV. STAT. chapter 10, §5/4-17 and § 5/5-24, Ex. 4; Affidavit of David Orr, Ex. 3, ¶ 6.)

VIII.

Section 8(a)(3) of the NVRA provides that voters may be removed from the registration rolls only at their request, or due to criminal conviction, death, mental incapacity, or change of address. 42 U.S.C. 1973gg-6(a)(3). Defendants admit that registered voter's names may be removed in Illinois for additional reasons than those specified in the NVRA. (Answer, Ex. 1, ¶ 21; Affidavit of David Orr, Ex. 3, ¶ 6.)

IX.

Section 8(a)(3) further provides specific procedures which must be followed in order to cancel an individual's registration where it appears that the registrant has moved. 42 U.S.C. 1973gg-6(a)(3). States are prohibited from taking steps to cancel the registration of voters for federal elections under any method which is not in accordance with the NVRA. Section 13 of the NVRA, 42 U.S.C. 1973gg. Defendants admit that they do cancel registration for reasons other than those specified in the NVRA. (Answer, Ex. 1, ¶ 21; Affidavit of David Orr, Ex. 3, ¶ 6; ILL.

REV. STAT. chapter 10 §5\4-12, §5\5-15, §5\6-56, §5\6-38, 5\6-44, Ex. 5; State Board of Elections, Memorandum Ex. 6.)

X.

Section 10 of the NVRA requires states to designate a state officer or employee as the chief state election official to be responsible for coordination of state responsibilities under the NVRA. Defendants have not designated a state election official as the chief election official to be responsible for coordination of state responsibilities under the NVRA. (Answer, Ex. 1, ¶ 23, Affidavit of David Orr, Ex. 3, ¶ 11.)

XI.

Defendants admit in their Answer to Compliant, Affirmative Defenses and Counterclaim, that they will not allow Illinois citizens the opportunity to register to vote under the NVRA unless the state code presently permits such registration or unless the state legislature authorizes such a provision in their election code. (Answer, Ex. 1, ¶ 26.)

XII.

Defendants will allow counties to continue purging persons registered to vote until ordered by the Court. (Answer, Ex. 1, ¶ 26; Affidavit of David Orr, Ex. 3.)

XIII.

The State Board of Elections' [hereinafter "Board"] prepared to implement the NVRA in late 1994. For example the board sponsored a staff training workshop covering the implementation of the NVRA on November 30 through December 2, and the board

scheduled a NVRA workshop for state agencies and the secretary of state employees. (State Board of Elections' Memorandum and Drafted Rules, Ex. 7; and the State Board of Elections' transcripts of a December 12, 1994, Ex. 8.)

XIV.

On December 12, 1994, the Board declined to implement the administrative procedures which would effectuate compliance with the NVRA (State Board of Election's transcripts of December 12, 1994, Ex. 8.)

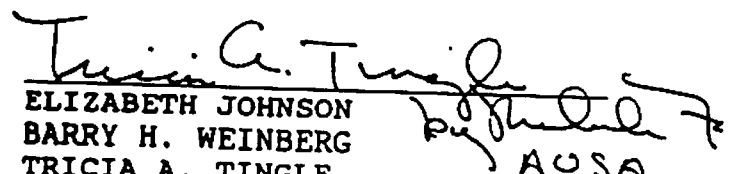
XV.

On December 30, 1994, the State of Illinois informed the United States that Illinois would not be in a position to implement the NVRA by January 1, 1995. (Ex. 9.)

Respectfully submitted,

JAMES B. BURNS
United States Attorney

DEVAL L. PATRICK
Assistant Attorney General
Civil Rights Division


ELIZABETH JOHNSON
BARRY H. WEINBERG
TRICIA A. TINGLE
Attorneys, Voting Section U.D.IU
Civil Rights Division
Department of Justice
P.O. Box 66128
Washington, D.C. 20035-6128
(202) 514-4838