

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION**

**PROJECT VOTE/VOTING FOR  
AMERICA, INC.** )  
737 ½ 8th St SE )  
Washington, DC 20003 )

Plaintiff, )

v. )

**ELISA LONG,** )  
*In Her Official Capacity as General Registrar* )  
*of Norfolk, VA* )  
City Hall Building, Room 808 )  
810 Union Street )  
Norfolk, VA 23510 )

CIVIL ACTION NO.: 2:10cv75

**NANCY RODRIGUES,** )  
*In Her Official Capacity as Secretary, State* )  
*Board of Elections,* )  
Washington Building, First Floor )  
1100 Bank Street )  
Richmond, VA 23219 )

Defendants. )

**PLAINTIFF PROJECT VOTE’S RESPONSE TO THE  
AUGUST 2, 2010 SUBMISSION BY DEFENDANTS**

On August 2, 2010, counsel for Defendants submitted a list prepared by the State Board of Elections of names and addresses of voter registration applicants in the City of Norfolk whose applications were rejected between January 1, 2008, and January 9, 2009.<sup>1</sup> Defendants’ position is that this list satisfies the Commonwealth’s obligations to produce voter registration records

---

<sup>1</sup> Defendants state that this list has previously been “made available” to Project Vote. Project Vote was permitted by Defendants to inspect this list, but not to make copies of it. In its complaint, Project Vote seeks both inspection and copying of the voter registration applications and other requested records.

under Section 8(i) of the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg-6(i) (the “Public Disclosure Provision”) and Virginia public records disclosure law. This list, which purports to be a secondhand summary of information derived, in part, from original records (*i.e.*, completed voter registration applications) and information supplied by Defendant Elisa Long, is insufficient to fulfill the requirements of the NVRA’s Public Disclosure Provision. Under that provision, Plaintiff Project Vote is entitled to inspect and copy “**all records**” relating to voter registration activities, including the voter registration applications from which the determinations of the applicants’ ineligibility were made, along with the reasons for the ineligibility determination. Without those documents, it is impossible to tell why a particular voter was rejected, to verify whether the stated reasons for rejection were proper, or to determine whether or how that rejection can be remedied.

The disclosure of the limited information contained in this list produced by Defendants arises from an impermissibly narrow reading of the NVRA and the Defendants’ obligations under the Public Disclosure Provision. The Defendants are obligated to permit inspection and copying of the completed voter registration applications, because they are “records relating to the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters” under 42 U.S.C. § 1973gg-6(i). Patently, an official list of eligible voters is not accurate unless it includes all eligible voters who have properly applied to register. These records are critical to Project Vote’s mission of monitoring election officials’ compliance with the NVRA and working with community groups to ensure that eligible citizens who have timely registered to vote are not being mistakenly prevented from registering and voting in Virginia.

Respectfully submitted,

Ryan  
Jason  
Augustine  
David

700  
Washington  
TEL:  
FAX:

*Project*

/s/ Ryan M. Malone  
M. Malone (VA Bar # 48526)  
G. Idilbi (VA Bar #76869)  
M. Ripa (VA Bar #77244)  
O. Stewart (admitted *pro hac vice*)  
Douglas H. Hallward-Driemeier (admitted  
*pro hac vice*)  
ROPES & GRAY LLP  
12th Street NW, Suite 900 East  
D.C. 2005  
202-508-4669  
202-383-8322  
Ryan.Malone@ropesgray.com

*Counsel for Plaintiff*  
*Vote/Voting for America, Inc.*

OF COUNSEL:

Bradley E. Heard  
ADVANCEMENT PROJECT  
1220 L Street, NW  
Suite 850  
Washington, DC 20005  
TEL: 202-728-9557  
FAX: 202-728-9558  
bheard@advancementproject.org  
(admitted *pro hac vice*)

**CERTIFICATE OF SERVICE**

I hereby certify that on the 4th day of August, 2010, I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

/s/ Ryan M. Malone  
Ryan M. Malone