

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

August 15, 2016

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL S. KANNE, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

Nos. 16-3003 & 16-3052

RUTHELLE FRANK, *et al.*,
Plaintiffs-Appellees, Cross-Appellants,

v.

SCOTT WALKER, in his official capacity as
Governor of the State of Wisconsin, *et al.*,
Defendants-Appellants, Cross-Appellees.

Appeals from the United
States District Court for
the Eastern District of
Wisconsin.

No. 11-C-1128
Lynn Adelman, *Judge.*

Order

The motion for reconsideration of our order staying the district court's injunction is denied.

Our stay order observed that permitting every voter to decide for himself or herself how much effort to obtain a qualifying photo ID is "reasonable" does not appear to implement our decision of last April, which contemplated that the court rather than individual voters would make this decision.

Meanwhile, in a parallel suit in the Western District of Wisconsin, a different district judge analyzed the procedures Wisconsin now has in place to deal with registered voters who lack photo IDs. Under that procedure, any applicant must receive a photo ID on request, unless the state shows that a given applicant is ineligible to vote, has committed fraud, or does not answer queries for six months. The judge in the Western District litigation concluded that this procedure, which Wisconsin calls the ID Petition Process or IDPP, is generally adequate to ensure that all qualified voters receive photo IDs but expressed concern that temporary documents issued early in the process may not have sufficient duration—though they will all be valid at least through this November’s election. The judge has directed the state to make some changes to this process but stayed that part of his injunction pending appellate review, explaining:

The court will stay the requirement that the state fundamentally reform the IDPP before the next election. To be clear: the state must reform the IDPP because the current process prevents some qualified electors from getting acceptable IDs, and even successful petitioners must often endure undue burdens before getting those IDs. But the state’s emergency measures already in place will allow anyone who enters the IDPP to get a receipt that will serve as a valid ID for the November 2016 election. This is not a permanent solution because the long-term status of the receipts is uncertain. But the required reform can wait until the parties complete their appeal.

One Wisconsin Institute, Inc. v. Thomsen, No. 15-cv-324-jdp (W.D. Wis. Aug. 11, 2016), slip op. 2. The fact that anyone who applies under the IDPP will receive a receipt entitling him or her to vote in November means that further temporary relief, such as the injunction issued by the Eastern District, is unnecessary. The relative merits of the three competing approaches—the state’s, the Eastern District’s, and the Western District’s—safely can be left to decision in the ordinary course, after full briefing and argument.