

ENTERED

March 17, 2020

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PUBLIC INTEREST LEGAL FOUNDATION,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Civil Action No. 4:18-cv-00981
)	
ANN HARRIS BENNETT, in her official capacity)	
as voter registrar for Harris County, Texas,)	
)	
<i>Defendant.</i>)	
_____)	

AGREED ORDER

Upon consideration of the Motion for Entry of Agreed Order filed by the parties to this action, it is hereby ORDERED, ADJUDGED, and DECREED as following:

I. BACKGROUND

1. On March 29, 2018, Plaintiff Public Interest Legal Foundation filed this action pursuant to the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. §§ 20501 *et seq.* for alleged violations of Section 8 of the NVRA, 52 U.S.C. § 20507.

2. Section 8(i) of the NVRA provides, in relevant part,

Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

52 U.S.C. § 20507(i)(1).

3. Plaintiff is seeking from Defendant the following records:

a. Documents regarding all registrants who were identified as potentially not satisfying the citizenship requirements for registration from any official information source,

including information obtained from the various agencies within the U.S. Department of Homeland Security, Texas Department of Public Safety, and from the Texas Secretary of State since January 1, 2006. This request extends to all documents that provide the name of the registrant, the voting history of such registrant, the nature and content of any notice sent to the registrant, including the date of the notice, the response (if any) of the registrant, and actions taken regarding the registrant's registration (if any) and the date of the action. This request extends to electronic records capable of compilation.

b. All documents and records of communication received by your office from registered voters, legal counsel, claimed relatives, or other agents since January 1, 2006 requesting a removal or cancellation from the voter roll for any reason related to non-U.S. citizenship/ineligibility. Please include any official records indicating maintenance actions undertaken thereafter.

c. All documents and records of communication received by your office from jury selection officials—state and federal—since January 1, 2006 referencing individuals who claimed to be non-U.S. citizens when attempting to avoid serving a duty call. This request seeks copies of the official referrals and documents indicating where your office matched a claim of noncitizenship to an existing registered voter and extends to the communications and maintenance actions taken as a result that were memorialized in any written form.

d. All communications regarding your list maintenance activities relating to #1 through 3 above to the District Attorney, Texas Attorney General, Texas State Troopers/DPS, any other state law enforcement agencies, the United States Attorney's office, or the Federal Bureau of Investigation.

4. The parties have negotiated in good faith and now jointly enter into this Agreed Order to resolve Plaintiff's claims without prolonged and costly litigation.

II. JURISDICTION

5. This Court has jurisdiction over this matter, pursuant to 28 U.S.C. § 1331 and 52 U.S.C. § 20510.

III. APPLICABILITY

6. The provisions of this Agreed Order shall apply to and bind the parties and their successors and assigns.

7. This Agreed Order is effective as of the date it is entered by this Court.

IV. TERMS AND CONDITIONS

Lists, Reports, and Catalogs of Registrants Cancelled Due to Non-U.S. Citizenship

8. Defendant shall provide to Plaintiff all lists, reports, and catalogs of occurrences showing registrants whose voter registrations were cancelled because the registrant did not satisfy the citizenship requirements for voter registration.

9. The lists, reports, and catalogs described in paragraph 9 shall include, but are not limited to:

- a. Registrants whose voter registration records contain the cancellation code (or other notation) used to indicate that the registration was cancelled due to non-U.S. citizenship; and
- b. Registrants who requested cancellation of their voter registrations due to non-U.S. citizenship.

Lists, Reports, and Catalogs of Registrants Who Were Sent a “Notice of Examination”

10. Defendant shall provide to Plaintiff all lists, reports, and catalogs of occurrences showing registrants who, for reasons relating to the citizenship of the registrant, received a “Notice of Examination,” the notice described by Texas Election Code § 16.033 or § 16.0332, or any other similar notice.

11. The lists, reports, and catalogs described in paragraph 11 shall include, but are not limited to, registrants whose voter registration records contain the notation “con-exam.”

Lists, Reports, and Catalogs of Applicants or Registrants Who Answered “No” to the Citizenship Question on the Voter Registration Form or Left the Question Blank

12. Defendant shall provide to Plaintiff all lists, reports, and catalogs of occurrences showing registrants who answered “No” to the citizenship question on the voter registration form or left the question blank.

List of Registrants Disqualified from Jury Service Due to Citizenship Defects

13. Separately and apart from the lists and reports described in paragraph 9, Defendants shall provide to Plaintiff all lists and reports showing registrants disqualified from jury service due to non-U.S. citizenship. These reports shall include the lists described in Texas Government Code § 62.113, Texas Election Code § 16.0332, and Texas Election Code § 18.068.

Records of Voter Registration Activities, Correspondence, and Applications

14. For each registrant included in the lists, reports, and catalogs described in paragraphs 8-13, Defendant shall provide the following:
- a. A summary of voter registration activities, including but not limited to a copy of the registrant's "Voter Update" page, or a similar record that shows a summary or history of the registrant's voter registration activities;
 - b. All documents associated with the registrant, including but not limited to a copy of the registrant's original voter registration application and any subsequent voter registration applications submitted by the registrant, and any correspondence sent to or received from the registrant.

Communications with Law Enforcement

15. Defendant shall provide to Plaintiff records of all correspondence between Defendant and any law enforcement body, including, but not limited to, the Harris County District Attorney, concerning registrants whose registrations were cancelled due to non-U.S. citizenship. These records shall include, to the extent they are still in Defendant's possession, the correspondence referenced by former Harris County Tax Assessor-Collector Mike Sullivan in his testimony before the Texas House Elections Committee on May 2, 2015.

Time Period for the Records

16. Defendant shall provide the records described in this Agreed Order for the time period starting on January 1, 2013 and ending on the date this Agreed Order is entered by this Court.

Time to Produce the Records

17. Defendant shall provide the records described in this Agreed Order to Plaintiff within 90 days of the date this Agreed Order is entered by this Court.

Permissible Redactions

18. Defendants may redact the following information on the records described in this Agreed Order:

- a. The registrant's driver's license number;
- b. The registrant's social security number;
- c. The registrant's telephone number; and,
- d. The registrant's response to the question regarding service as a poll worker.

V. RETENTION OF JURISDICTION AND DISPUTE RESOLUTION

19. This Court retains jurisdiction over this action for purposes of the following:

- a. Implementing and enforcing the terms and conditions of this Agreed Order;
- b. Resolving disputes involving this Agreed Order; and,
- c. Adjudicating any motion for attorney's fees, costs, and expenses filed pursuant to 52 U.S.C. § 20510(c).

20. This case may be reopened without a filing fee so that the parties may enforce this Agreed Order or resolve disputes regarding its terms and conditions.

21. In the event of a dispute regarding compliance with this Agreed Order, the parties must first attempt to resolve the dispute by meeting or by using other means of communication to discuss the dispute and the measures for resolving the dispute. If no resolution is reached within 30 days of the first communication regarding the dispute, either party may file a motion with this Court to resolve the dispute.

22. The provisions of 52 U.S.C. § 20510(c), regarding an award of attorney's fees, costs, and expenses to the prevailing party, if any, shall apply to any proceeding to enforce the terms and conditions of this Agreed Order.

23. This Agreed Order may be modified only upon motion and the approval of this Court.

24. If for any reason this Court should decline to approve this Agreed Order in the form presented, the parties shall continue negotiations in good faith in an attempt to cure any objection raised by this Court to entry of this Agreed Order.

VI. ATTORNEY'S FEES AND COSTS

25. Each of the parties consents to allow this Court to determine at a later time whether Plaintiff, Defendant, or neither party is a prevailing party in this action for purposes of 52 U.S.C. § 20510(c).

26. Upon entry of this Agreed Order by this Court, Plaintiff and/or Defendant may file a motion for attorney's fees, costs, and expenses.

VII. FUTURE REQUESTS FOR RECORDS UNDER NVRA

27. In the event Plaintiff makes additional requests under Section 8(i) of the NVRA for records described by this Agreed Order and covering time periods after the effective date of this Agreed Order, Defendant shall permit Plaintiff to inspect or receive the requested records in

the same categories as listed in Section IV, numbers 8-16, with redactions as listed in Section IV, number 18, subsections a-d.

VIII. RESOLUTION OF ALL CLAIMS

28. This Agreed Order constitutes a full settlement of and shall resolve all civil liability of Defendant for the alleged violations of the NVRA alleged in this action, with the exception of any party's claim for attorney's fees, costs, and expenses pursuant to 52 U.S.C. § 20510(c).

IX. CONSENT TO ENTRY OF AGREED ORDER

29. Each of the parties consents to entry of this Agreed Order, subject to the Court's approval of this Order. The undersigned representatives of each party certify that they are fully authorized by the party to enter into the terms and conditions of this Order and to execute and legally bind the represented parties to it. This Order can be signed in counterparts.

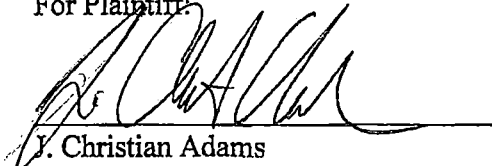
Judgment is hereby entered in accordance with this Agreed Order this 17th day of March, 2020.



Andrew S. Hanen
United States District Judge

AGREED AND CONSENTED TO:

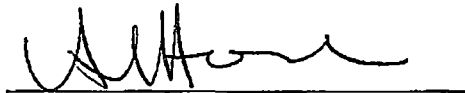
For Plaintiff:



J. Christian Adams
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Date: 3-3-2020

For Defendant:



Amy Magness VanHoose
Assistant County Attorney
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Date: 3-3-20