

PUBLIC INTEREST

— LEGAL FOUNDATION —

October 18, 2018

The Hon. Ricardo Rodriguez, Jr.
Hidalgo County Criminal District Attorney
100 E. Cano
Edinburg, TX 78539

RE: Altered voter registration applications in the Rio Grande Valley

Dear Mr. Rodriguez, Jr.:

We write today to alert your office to evidence of campaign mail directed to residents throughout the Rio Grande Valley urging them to register to vote with applications which were apparently altered by the sender. The Public Interest Legal Foundation (PILF) is a nonprofit law firm dedicated to election integrity that also promotes common-sense reforms that preserve the Constitutional framework of American elections.

On October 3, 2018, the Foundation came into contact with registered voter David C. Kifuri, Jr., a former employee of the 229th Judicial District Attorney and the Texas Health & Human Services Commission, regarding campaign mail received by his relatives whom are legal permanent residents residing in the county. The mail, apparently sent by “the Texas Democratic Party, TXDemocrats.org” with a return address listed under the “State Democratic Executive Committee” contained language to include: “Your voter registration application is inside. Complete, sign and return it today!” “Mail IMMEDIATELY to be registered to vote in the November 2018 Election!”

The enclosed voter application form was apparently altered, given that the answers for “Are you a United States Citizen?” and “Will you be 18 years of age on or before election day?” were pre-printed “Yes” for each. The approved federal and state voter registration forms do not have prepopulated answers because the voter must answer the important citizenship question on their own. Mr. Kifuri, Jr. alerted the Foundation to the fact that these mailings were directed to relatives who are not citizens and were uncertain how to proceed without violating state or federal law. Mr. Kifuri, Jr. provided the Foundation with a signed affidavit, attached to this transmission letter, containing additional details on the matter.

This matter tracks with recent local news reporting¹ in Hidalgo County regarding mailers which generated confusion on the basis that recipients, who were already registered voters, believed they were being prompted to register again using mail appearing to originate from an official source.

The Foundation and Mr. Kifuri, Jr. are primarily concerned that other unsuspecting resident noncitizens have received similar mailings with pre-selected attestations of U.S. citizenship and

¹ KRGV; Valley Woman Concern about Voter Registration Form (10/12/2018), <http://www.krgv.com/story/39279371/valley-woman-concerned-about-voter-registration-form>

may have submitted applications per the “urgent” instructions in time for the 2018 General Election. These actions, regardless of whether a ballot is cast, can invite criminal charges under state and federal law in addition to immigration proceedings thereafter.

Most of all, when Congress passed the NVRA, it envisioned a registrant making two separate affirmations of citizenship – both the checkbox as well as the signature attestation. This enables prosecutors to easier establish intent and state of mind when noncitizens illegally register to vote.

We strongly urge your office to investigate if and how many returned applications arrived in your local county elections office(s). Our research indicates that ineligible noncitizen residents are most often revealed in voter rolls when they self-report their statuses during immigration proceedings. Should these applications ever resurface in that context, it must be noted that the full attestation of eligible U.S. citizenship and age was never provided in “wet” ink by the applicant at the time.

The Foundation yields to your office in addition to the state and local election officials on how best to protect ineligible registrants from casting ballots during the 2018 Election.

Copies of the Kifuri affidavit and digital images of the mailer are enclosed with this letter. Should your office require additional documentation or have other questions, the Foundation stands by to assist in any way possible.

Thank you very much for your attention on this matter. The Public Interest Legal Foundation looks forward to providing your office with additional help and information.

Sincerely,



Logan Churchwell
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Public Interest Legal Foundation
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Enclosure
Sworn Affidavit of David. C. Kifuri, Jr.
Images of mailer (4)

CC:
The Hon. Ken Paxton
Texas Attorney General
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ATTN: Elections Division
The Hon. Rolando Pablos
Texas Secretary of State
PO Box 12060
Austin, TX 78711-2060

ATTN: District Election Officer
The Hon. Ryan K. Patrick
U.S. Attorney for the Southern District of Texas
1000 Louisiana, Ste. 2300
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