

PUBLIC INTEREST

— LEGAL FOUNDATION —

LITIGATION MEMO: PA DEPARTMENT OF STATE

The Public Interest Legal Foundation (“PILF”) filed a lawsuit against the Commonwealth of Pennsylvania’s Department of State on February 26, 2018, for failure to comply with federal voter record inspection rights under the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. § 20507. Specifically at issue are denials of inspection regarding records belonging to ineligible noncitizen registrants and voters across the Commonwealth.

This suit follows late-2017 disclosures from Department of State (“DOS”) and various local officers describing the procedural breakdowns that improperly exposed reported six-figure sums (if not more) of noncitizens to official voter registration offers since the mid-1990s. After those public, yet limited admissions, the PILF launched an inspection campaign at Commonwealth and local levels to publicly clarify and substantiate the claims for the purpose of educating the electorate and policymakers on necessary reforms. As this memo and corresponding Complaint explains, the PILF encountered various bureaucratic hurdles and denials rising to a violation of the NVRA.

Factual Background

- In 2015, the PILF released a report detailing 86 cases where noncitizens reported their own unlawful voter registrations to City of Philadelphia officials, typically in advance of further naturalization challenges between 2013 and 2015. Roughly half voted at least once.¹
- In September 2017, Philadelphia city commissioner Al Schmidt affirmatively disclosed a “glitch” at “Pennsylvania Department of Motor Vehicle branch offices was enabling noncitizens to register to vote when they applied for or renewed their driver’s licenses.”²
- On October 11, 2017, then-Pennsylvania Secretary of the State Pedro Cortes resigned from office.³
- On October 25, 2017, PILF and Philadelphia voter registration officials testified before the PA State Government Committee of the House of Representatives regarding hundreds of cases uncovered, procedural failures inviting noncitizen registration in PennDOT offices. DOS substantiated previous revelations and disclosed that an effort to identify noncitizens not yet reporting on themselves within the voter registry was underway.⁴
- A Philadelphia official added before the Assembly that early figures of noncitizen PennDOT customers and registered voters revealed more than 100,000 current matches.⁵

¹ *PILF v. Torres et. al.* [Complaint](#) at 26-30

² *Id.* at 42 and 44-46

³ *Id.* at 41

⁴ *Id.* at 48-57

⁵ *Id.* at 58-66

PILF Efforts to Obtain Noncitizen Records

- In October 2017, the PILF submitted an NVRA inspection request for all records related to noncitizen self-reported cancellations to DOS.⁶ A subsequent site inspection failed to disclose any requested records.⁷ In December 2017, the PILF wrote again to DOS to expand its initial request and include records related to PennDOT matches.⁸

DOS Inspection Denial

- Following the expanded NVRA request, DOS notified PILF that documents would not be made available for inspection or reproduction.⁹
- DOS argues that PILF has no right to documents beyond registration cancellations involving death or relocation, PennDOT matching figures/documents included.¹⁰ The PILF informed DOS that it was in violation of the NVRA.¹¹

The NVRA Violation & Goals

- The DOS failed to grant full inspection of all records related to voter roll maintenance, particularly where noncitizen registrants were concerned under Section 8 of the NVRA.
- The PILF seeks a court order requiring that DOS allow unfettered inspection of originally requested documents.
- With the information finally in hand, the PILF will publish a report of findings better detailing Motor Voter weaknesses in Pennsylvania and offer policymakers better informed guidance on necessary reforms.

Aliens Registered and Voting

The complaint contains election records related to seven aliens who registered to vote and were voluntarily removed after self-reporting their status.¹² Some voted multiple times in federal and state elections. One alien was even registered three times at once, voted, was canceled for being a non-citizen, and amazingly was reregistered even after being caught. The complaint provides copies to the court of the election records in seven instances like this. The records were obtained because some counties complied with the same information requests that the state denied.

[Public Interest Legal Foundation](#) (PILF) is a 501(c)(3) public interest law firm dedicated to election integrity. The Foundation exists to assist states and others to aid the cause of election integrity and fight against lawlessness in American elections. Drawing on numerous experts in the field, PILF seeks to protect the right to vote and preserve the Constitutional framework of American elections.

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⁶ Id. at 67-70

⁷ Id. at 71-75

⁸ Id. at 80-81

⁹ Id. at 84-88

¹⁰ Id. at 89, 95

¹¹ Id. at 96

¹² Id. at 32-40