

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

MAY 18 2018

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____
DEPUTY

JARROD STRINGER, *et. al*,

Plaintiffs,

v.

ROLANDO PABLOS, IN HIS OFFICIAL
CAPACITY AS THE TEXAS SECRETARY
OF STATE and STEVEN C. McCRAW, IN
HIS OFFICIAL CAPACITY AS THE
DIRECTOR OF THE TEXAS
DEPARTMENT OF PUBLIC SAFETY

Defendants.

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Civil Action No. 5:16-cv-00257-OLG

FINAL JUDGMENT

On May 10, 2018, the Court granted Plaintiffs' motion for summary judgment. *See* docket no. 105. In its order, the Court requested that the parties confer and submit a proposed form of judgment setting forth the necessary and appropriate declaratory and injunctive relief for the Court's consideration. Plaintiffs submitted a proposed judgment. Defendants submitted broad objections to the Court's prior rulings and Plaintiffs' proposed judgment but did not submit an alternative to Plaintiffs' proposed form of judgment. After reviewing same, and consistent with the Court's summary judgment findings, which are incorporated herein, the Court:

1. DECLARES, pursuant to 28 U.S.C. § 2201 and 52 U.S.C. § 20510(b)(2), that Defendants have violated the NVRA, 52 U.S.C. §§ 20503(a)(1), 20504(a), (c), (d), and (e), and 20507(a)(1)(A), and the Equal Protection Clause, U.S. Const. amend. XIV, § 1, by failing to permit simultaneous voter registration with online driver's license renewal and change-of-address transactions;

2. PERMANENTLY ENJOINS Defendants, their agents and successors in office, and all persons working in concert with them, from continuing to violate the NVRA and Equal Protection Clause by:

- (a) failing to establish procedures to register to vote in elections for Federal office for driver's license customers who renew or change their address online;
- (b) refusing to treat each online driver's license renewal or change-of-address application as a simultaneous application for voter registration with respect to elections for Federal office;
- (c) refusing to include a voter registration application form for elections for Federal office as part of each online driver's license renewal or change-of-address application;
- (d) requiring online driver's license renewal and change-of-address customers who wish to register to vote or update their voter registration to complete an entirely separate, duplicative voter registration application with the Secretary of State's office;
- (e) refusing to make the voter registration portion of each online driver's license renewal or change-of-address application available to the Secretary of State's office;
- (f) refusing to treat the customer's online driver's license change-of-address application as a notification of change of address for voter registration with respect to elections for Federal office, unless the customer indicates that the change of address is not for voter registration purposes;
- (g) refusing to transmit voter registration information submitted in connection with online driver's license renewal and change-of-address transactions to the appropriate State election official within the statutorily required timeframe, 52 U.S.C. § 20504(e);

- (h) refusing, in the case of registration with an online driver's license renewal or change-of-address application, to ensure that any eligible online driver's license customer is registered to vote in an election, if the valid voter registration form of the customer is submitted to the Department of Public Safety (DPS) not later than the lesser of 30 days, or the period provided by state law, before the date of the election;
- (i) refusing to accept and use online driver's license customers' previously-captured electronic signatures for voter registration purposes; and
- (j) failing to record and use an online driver's license renewal or change-of-address customer's response to the voter registration portion of the application.

3. PERMANENTLY ENJOINS Defendants, their agents and successors in office, and all persons working in concert with them, from implementing practices and procedures that violate §§ 20503, 20504, and/or 20507 of the NVRA;

4. DIRECTS Defendant DPS, no later than 45 days¹ from the date of this Judgment, to:

- (a) permit simultaneous voter registration with online driver's license renewal and change-of-address transactions so that in order to register to vote or update voter registration information, the online driver's license renewal or change-of-address customer only needs to respond to the following (or substantially similar) questions:

¹This timeline for compliance is justified because: there is a federal election in November 2018; the NVRA mandates have been in existence for 25 years; the violations in issue have persisted for several years; Defendants were served with statutory notice of the instant violations more than two years ago; and the record reflects that implementation of corrective measures is not only technologically feasible but Defendants are currently capable of instituting such measures. (*See* docket no. 105). Defendants seek 90 days for corrective measures, and do not want to begin implementation until September 1, 2018. Thus, despite admitting that they are currently capable of making changes, they are seeking six months to make the changes. This timeframe for compliance does not take the upcoming election deadlines into consideration. Moreover, Defendants fail to explain why their current vendor (who is presumably more familiar with Texas.gov) cannot achieve compliance prior to September 1, while their new vendor (who is presumably less familiar with Texas.gov) could achieve compliance within 90 days after September 1.

1. Would you like to register to vote? No additional information is required.

○ **Yes, Register Me to Vote**

○ **No, Do Not Register Me to Vote**

2. If you are already registered, this application will be used to update your voter registration address, unless you opt out. Would you like to opt out of updating your address for voter registration purposes?

○ **Update My Voter Registration**

○ **Opt Out: DO NOT Update My Voter Registration**
(Your new address will not be submitted to the Texas Secretary of State's office for voter registration purposes).

(hereinafter "the voter registration questions");

- (b) register to vote or update voter registration information for online driver's license customers who select "Yes" in response to the question, "Would you like to register to vote?"
- (c) register to vote or update voter registration information for online driver's license customers who select "Update My Voter Registration" in response to the question, "Would you like to opt out of updating your address for voter registration purposes?"
- (d) register to vote or update voter registration information for online driver's license customers who select both "No" in response to the question, "Would you like to register to vote?" and "Update My Voter Registration" in response to the question, "Would you like to opt out of updating your address for voter registration purposes?"
- (e) track, record, and retain each online driver's license renewal or change-of-address customer's response to the voter registration questions; and
- (f) transmit the voter registration information for each online driver's license renewal or change-of-address customer to the Secretary of State's office, including the

customer's response to the voter registration questions and the customer's electronic signature file collected during the customer's last in-person transaction;

5. DIRECTS Defendant the Secretary of State, upon receipt from DPS of each online driver's license renewal or change-of-address customer's voter registration information and signature file, to transmit this data in the normal course of business to local voter registrars who are responsible for completing the voter registration process, in a manner substantially similar to the process for transmitting voter registration information after an in-person transaction; and ensure that local voter registrars register to vote or update the voter registration information of these customers;

6. DIRECTS Defendants, within 14 days from the date of this Judgment, to submit to Plaintiffs' counsel a proposed public education plan that details the use of at least three media venues, including but not limited to television, radio, internet social media, Texas.gov, and/or the Secretary of State's website <https://www.sos.state.tx.us>, to inform and educate the public on how this Judgment changes the voter registration process for online driver's license renewal and change-of-address applications; include in this public education plan steps to incorporate for two years the promotion of voter registration through online driver's license renewal and change-of-address applications into the Texas.gov marketing program, the Texas.gov/driver marketing campaign, and all DPS, Secretary of State, and their vendors' marketing campaigns related to online driver's license renewal and change-of-address applications; and, once the public education plan is agreed to by all parties, implement such plan no later than 45 days from the date of this Judgment.²

² Should the Parties be incapable of agreeing on an appropriate public education plan, the Parties will submit their proposals to the Court no later than 25 days from the date of this Judgment, and the Court will order the implementation of a plan that takes reasonable steps to inform the public about this Judgment as described in Paragraph 6.

7. DIRECTS Defendants to:

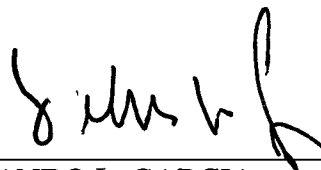
- (a) submit to this Court notice of compliance with this Judgment no later than 45 days from the date of this Judgment, with affidavits from the Director of DPS and the Secretary of State attached confirming compliance with this Judgment;
- (b) submit to Plaintiffs' counsel on or before January 15th of every year for the next three years through January 15, 2021, a report that includes, for the previous calendar year:
 - (i) a general summary of compliance efforts detailing all steps taken to implement each of the provisions and requirements of this Judgment, including any significant implementation problems, staff training needs, and recommendations for improvement;
 - (ii) the number of online driver's license renewal and change-of-address applications and the number of voter registrations arising from these applications;
 - (iii) copies of all NVRA procedures and educational and training materials related to online driver's license renewal or change-of-address transactions both used in the preceding year and expected to be used in the future;
 - (iv) any investigations or corrective actions at DPS or the Secretary of State's office related to voter registrations through online driver's license renewal or change-of-address applications;
 - (v) any implemented or revised policies or procedures at DPS or the Secretary of State's office related to voter registrations through online driver's license renewal or change-of-address applications; and

- (vi) all customer complaints related to voter registration through an online driver's license renewal or change-of-address application, and all subsequent correspondence and action taken related to each customer complaint; and
- (c) conduct monthly quality control tests until May 2019 to ensure that the online driver's license renewal and change-of-address process complies with this Judgment, and report to Plaintiffs' counsel every three months the results of completed quality control tests;

8. RETAINS jurisdiction over this action until two years after the date of this Judgment to ensure that Defendants continue to comply with their obligations under the NVRA, the Equal Protection Clause, and this Judgment, and, if Defendants fail to comply with this Judgment at any time after the two-year deadline, permits Plaintiffs to initiate an enforcement action against Defendants in this Court;

9. ORDERS that Defendants shall pay to Plaintiffs their reasonable attorney's fees, including litigation expenses, and costs as will be determined by the Court in a post-judgment Order upon submission by the Plaintiffs.

SIGNED this 18th day of May, 2018.



ORLANDO L. GARCIA
CHIEF U.S. DISTRICT JUDGE