



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

LEAGUE OF WOMEN VOTERS)
OF DELAWARE, INC. and)
RACHEL GRIER-REYNOLDS,)
)
Plaintiffs,)
)
v.)
)
STATE OF DELAWARE)
DEPARTMENT OF ELECTIONS)
and ANTHONY J. ALBENCE, State)
Election Commissioner,)
)
Defendants.)

C.A. No. 2020-0761-SG

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Court of Chancery Rule 56(a), plaintiffs respectfully move for summary judgment that:

(1) The return deadline set forth in 15 Del. C. §§ 5508(b) and 5608(b), as applied under the current circumstances, violates Article I, § 3 and Article V, § 2 of the Delaware Constitution;

(2) Defendants and their agents should be enjoined from failing to count votes on ballots that are received by mail between 8:00 PM on November 3, 2020, and 8:00 PM on November 13, 2020, as long as the ballot bears a postmark, scan code, or other official USPS indicator that it was mailed on or before November 3, 2020; and

(3) Defendants and their agents should be enjoined from failing to count votes on ballots that are received by mail between 8:00 PM on November 3, 2020, and 8:00 PM on November 6, 2020, that lack a legible postmark or other proof of mailing, unless a preponderance of the evidence demonstrates that the ballot was mailed after November 3, 2020.

The grounds for this motion are set forth in the opening brief filed herewith.

WHEREFORE, plaintiffs respectfully request that the Court grant this motion and enter the enclosed order.

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**PROPOSED ORDER GRANTING PLAINTIFFS’
MOTION FOR SUMMARY JUDGMENT**

At Georgetown this ____ day of October, 2020, having considered Plaintiffs’ Motion for Summary Judgment and the argument presented on October 6, 2020, IT IS HEREBY ORDERED that the motion is GRANTED.

Specifically, the Court finds and orders as follows:

1. The return deadline set forth in 15 Del. C. §§ 5508(b) and 5608(b), as applied under the current circumstances, violates Article I, § 3 of the Delaware Constitution (the “Elections Clause”).
2. The return deadline set forth in 15 Del. C. §§ 5508(b) and 5608(b), as applied under the current circumstances, violates Article V, § 2 of the Delaware Constitution (the “Right to Vote Clause”).

3. Defendants are hereby enjoined from failing to count votes on ballots that are received by mail between 8:00 PM on November 3, 2020, and 8:00 PM on November 13, 2020, as long as the ballot bears a postmark, scan code, or other official United States Postal Service indicator that it was mailed on or before November 3, 2020.

4. Defendants are further enjoined from failing to count votes on ballots that are received by mail between 8:00 PM on November 3, 2020, and 8:00 PM on November 6, 2020, that lack a legible postmark or other proof of mailing, unless a preponderance of the evidence demonstrates that the ballot was mailed after November 3, 2020.

5. Pursuant to Court of Chancery Rule 65(d), this order shall be binding on defendants' officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with defendants who receive actual notice of this order.

The Honorable Sam Glasscock III

CERTIFICATE OF SERVICE

I, David M. Fry, hereby certify that on September 18, 2020 this document was served on the persons listed below in the manner indicated:

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