

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**OHIO A. PHILIP RANDOLPH
INSTITUTE,
NORTHEAST OHIO COALITION FOR
THE HOMELESS, and
LARRY HARMON,**

Plaintiffs,

v.

JON HUSTED,

*in his official capacity as Ohio Secretary of
State,*

Defendant.

Case No. 2:16-cv-303

JUDGE GEORGE C. SMITH
Magistrate Judge Elizabeth Preston Deavers

JOINT MOTION FOR FURTHER RELIEF

Plaintiffs Ohio A. Philip Randolph Institute (“APRI”), the Northeast Ohio Coalition for the Homeless (“NEOCH”), and Larry Harmon, and Defendant Jon Husted, in his official capacity as Ohio Secretary of State (the “Secretary”), through their undersigned counsel, jointly move this Court for an order authorizing the Secretary to issue the directive attached hereto as Exhibit A (the “Directive”). The Directive extends this Court’s Opinion and Order (Doc. 89), dated October 19, 2016, to permit certain voters affected by the Supplemental Process who are unable to vote in person at an early voting site or at the polls on Election Day to cast a provisional ballot. Specifically, the Directive requires county boards of elections to deliver provisional ballots to qualified voters who are entitled to cast such ballots under the Court’s Opinion and Order but who

are unable to appear in person due to personal illness, physical disability, or infirmity in accordance with O.R.C. § 3503.16(G). To the extent fees are awarded, Plaintiffs waive any entitlement to fees from October 20 to 24, 2016 that are associated with this Motion and the negotiations preceding this Motion.

Accordingly, the Parties respectfully request that this Court enter an order authorizing the Secretary to issue the Directive.

Dated this 24 day of October, 2016

Respectfully submitted,

s/ Naila Awan

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing JOINT MOTION FOR FURTHER RELIEF was filed this October 24, 2016 through the Court's Electronic Filing System. Parties will be served, and may obtain copies electronically, through the operation of the Electronic Filing System.

Dated: October 24, 2016

/s/ Naila Awan
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Issued Pursuant to Court Order

Directive 2016-41

October __, 2016

To: All County Boards of Elections
Directors, Deputy Directors and Board Members

Re: Pursuant to a Court Order – Rescinding Directive 2016-37 & Requiring the Delivery in Certain Circumstances of a Provisional Ballot to an Individual with a Personal Illness, Physical Disability, or Infirmary

SUMMARY

On October 14, 2016, Directive 2016-37 was issued pursuant to a Court Order in the case of *Ohio A. Philip Randolph Institute et al. v. Husted*, Case No. 2:16-cv-303, requiring that “the Secretary of State shall refrain from denying an absentee ballot application on the basis that the applicant is not currently registered to vote.” The Court Order stated that this requirement would be in effect until “an Order is issued on the [pending] motions.” On October 19, 2016, the Court resolved the pending motions and the Secretary issued Directive 2016-39. Therefore, Directive 2016-37 is hereby rescinded.

Additionally, on October __, 2016, the Court entered an Order for the issuance of this Directive, which governs the delivery in certain circumstances of a provisional ballot to an individual with a personal illness, physical disability, or infirmity. The instructions below detail this process.

INSTRUCTIONS

Boards of elections are required to have two board staff members—one Democrat, one Republican—deliver a provisional ballot to an individual who meets all of the following conditions:

- (1) The individual attests to the board that he or she has a personal illness, physical disability, or infirmity¹;
- (2) The individual attests to the board that he or she is unable to cast a ballot in-person during absentee voting or on Election Day;
- (3) The individual completes Form 11-I-2²;

¹ See Ohio Rev. Code § 3503.16(G).

² Form 11-I-2 will be prescribed by the Secretary of State’s Office no later than October 25, 2016.

- (4) The individual's voter registration was cancelled in 2011, 2013, or 2015 under the "Supplemental Process"³;
- (5) The individual's most recent address of registration in the Statewide Voter File is in the same county as the individual's current address of registration as listed in the attestation;
- (6) The individual is requesting the delivery of the provisional ballot to an address in the same county as both the individual's recent address of registration in the Statewide Voter File and the individual's current address of registration as listed in the attestation; and,
- (7) The individual is submitting the request to the board no later than noon on the Saturday prior to Election Day.

Boards are required to provide Form 11-I-2 to each individual contacting the board stating that he or she satisfies the conditions above.

If the individual completes Form 11-I-2, submits it to the board, and satisfies all of the conditions above, the board shall send two staff members—one Democrat, one Republican—to deliver a provisional ballot to the individual. The board will determine whether to count the provisional ballot using the process described within Directive 2016-39.

If you have any questions concerning this Directive, please contact the Secretary of State's elections counsel assigned to your county.

Sincerely,

Jon Husted

³ Boards are to determine whether the individual was cancelled under the "Supplemental Process" using the process described within Directive 2016-39.

Application for Provisional Ballot by Voter With A Personal Illness, Physical Disability, or Infirmary

This form applies only to an individual who had his or her voter registration cancelled in 2011, 2013, or 2015 under the Supplemental Process, and who otherwise satisfies the requirements found in Directive 2016-39 and Directive 2016-41.

Current Full Name
Required

1

First _____ Middle _____
Last _____ Suffix _____

Date of Birth
Required

2

Date of Birth *Do not write today's date here.* | M | M | / | D | D | / | Y | Y | Y | Y |

Current Address of Residence
Required

3

Street Address *No P.O. Boxes* _____ County _____
City/Village _____ ZIP _____

Address at Which you Would Like the Provisional Ballot Delivered by Two Elections Officials
Required

4

Street Address *No P.O. Boxes* _____ County _____
City/Village _____ ZIP _____

Identification
Required

You must provide ONE of the following.

5

Your Ohio driver's license number _____ *(2 letters followed by 6 numbers)*
 Last four digits of your Social Security number _____ | # | # | # | # |
 Copy of a current and valid photo identification, military identification, or a current (within the last 12 months) utility bill, bank statement, government check, or other government document (other than a notice of voter registration mailed by a board of elections) that contains your name and current address.

Election
Required

You must complete a separate application for each election.

6

Date of Election *Do not write today's date here.* | M | M | / | D | D | / | Y | Y | Y | Y |
 General Election **Special Election**
 Primary Election For a PARTISAN primary election only, you must choose the type of ballot.
 Political party ballot _____ *name of political party* Issues only ballot

Affirmation
Required

7

- I wish to receive a provisional ballot delivered to me by two election officials at the address listed above.
- I understand that the county located in boxes three and four above must be the same, and further, that this county in boxes three and four must be the same county as listed in my most recent voter registration.
- I understand this request must be received by my board of elections no later than noon on the Saturday before Election Day.
- I understand that, if I do not provide the required information, my application cannot be processed.
- **I hereby declare, under penalty of election falsification, that I have a personal illness, physical disability, or infirmity and that I am unable to cast a ballot in-person during absentee voting or on Election Day.**

Signature X _____ *or mark if unable to sign*

Today's date _____ | M | M | / | D | D | / | Y | Y | Y | Y |

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Magistrate Judge Elizabeth Preston Deavers

[PROPOSED] ORDER GRANTING MOTION FOR FURTHER RELIEF

THIS CAUSE, having come before the Court on the Parties' Joint Motion for Further Relief ("Motion"). The Court, having considered the Motion and the directive attached thereto ("Directive"), is of the opinion that such Motion should be GRANTED.

IT IS THEREFORE ORDERED that the Motion is HEREBY GRANTED and Ohio Secretary of State Jon Husted is authorized to issue the Directive and to publish the associated Form 11-I-2.

SIGNED on _____, 2016.

UNITED STATES DISTRICT JUDGE