



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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September 1, 2016

Gino J. Agnello
Clerk of the Court
U.S. Court of Appeals, Seventh Circuit
219 S. Dearborn Street, Room 2722
Chicago, IL 60604

Re: *Frank v. Walker*, Case Nos. 16-3003, 16-3052

Dear Mr. Agnello:

Defendants respond to Plaintiffs' letter, which effectively seeks reconsideration of this Court's order denying their Petition for Initial Hearing En Banc. Dkt.40. Nothing has changed since this Court issued its order.

In its order, this Court recognized that "[t]he district court in *One Wisconsin Institute* concluded . . . that an eligible voter *who submits materials sufficient to initiate the IDPP* is entitled to a credential valid for voting, unless readily available information shows that the petitioner is not a qualified elector." Dkt.40:3 (emphasis added). Similarly, in response to Plaintiffs' Petition, Defendants unambiguously explained that "[t]o obtain this automatically issued photo ID, the applicant needs only to present proof of residency (which a voter already needs to show to register to vote, Wis. Stat. § 6.34(2)), and proof of identity (including any 'supporting document identifying the person by name and bearing the person's signature, a reproduction of the person's signature, or a photograph of the person.' Wis. Admin. Code § Trans 102.15(4)(a))." Dkt.38:4-5. These documents are the ones needed to "initiate[] the free ID process." Dkt.40:4.

There is no record evidence that *any* eligible voter lacks these documents: Every voter needs proof of residency to register to vote, Wis. Stat. § 6.34(2), and Plaintiffs have not identified *any* voter who does not have a document with a name and signature (which includes W-2s, Medicaid/Medicare cards, food-assistance cards). Dkt.42:23-24, 26. Notably, ACLU's own plaintiffs have testified that they have these documents. Dkt.42:23-24. Plaintiffs' counsel understood that everyone has these documents, publicly stating, immediately after this Court issued its order,

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that he was upset that the State was “now saying they’ll give an ID to anyone who goes to DMV w/ a piece of paper w/ their signature,” clearly referring to the proof-of-identity requirement. <https://perma.cc/3HNZ-TSDF>.

As Defendants explained, “[n]o one must present documents that, for some, have proved challenging to acquire; no one must show a birth certificate, proof of citizenship, and the like.” Dkt.38:1. Or, in this Court’s words, no one needs to present any “particular document,” including “a birth certificate, proof of citizenship, Social Security card[.]” Dkt.40:4.

Sincerely,

/s/ Misha Tseytlin

MISHA TSEYTLIN
Solicitor General

cc: All counsel of record by ECF