

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RUTHELLE FRANK, *et al.*,

Plaintiffs,

v.

Case No. 11-CV-1128

SCOTT WALKER, *et al.*,

Defendants.

DECLARATION OF KRISTINA H. BOARDMAN

I, Kristina H. Boardman, pursuant to 28 U.S.C. § 1746, hereby declare:

1. I make this declaration based upon my personal knowledge and my review of the Wisconsin Department of Transportation (“DOT”) records to which I have access that are kept in the regular course of business.

2. I am employed as the Deputy Administrator of the Division of Motor Vehicles (“DMV”) at the DOT. DMV is a division within DOT. I have held my current position since July 28, 2013. Prior to my current position, I served as the Bureau of Field Services Director for DMV from August 31, 2008, to July 28, 2013. I have been employed by the State of Wisconsin since 1995.

3. As Field Services Director, my primary duties included administering, directing, planning, and coordinating of programs, operations,

customer service delivery, personnel management, and other activities of the 91 DMV service centers throughout Wisconsin.

4. Under Wisconsin's voter ID law, there several forms of acceptable photo identification that an elector may present to vote in person or by absentee ballot. Two of those forms are a Wisconsin operator's license issued under Wis. Stat. ch. 343 (*i.e.*, a Wisconsin driver license) and a Wisconsin state identification card issued by DMV under Wis. Stat. § 343.50. Wis. Stat. § 5.02(6m)(a)1.

5. DOT is required by law to issue an identification card to an applicant free of charge if the applicant satisfies all other requirements for obtaining such a card, is a U.S. citizen who will be at least 18 years of age on the date of the next election, and requests that the card be provided without charge for purposes of voting. Wis. Stat. § 343.50(5)(a)3.

6. On July 31, 2014, the Wisconsin Supreme Court issued a decision in *Milwaukee Branch of the NAACP. v. Walker*, 851 N.W.2d 262 (Wis. 2014). Pursuant to the *NAACP* decision, DMV is required to issue free photo ID cards for voting "without requiring documents for which a fee continues to be charged by a government agency." *Id.* at 281.

7. To achieve compliance with the *NAACP* decision, in September 2014 DMV promulgated emergency administrative rules regarding the means by

which documentation verification can be achieved for Wisconsin voters who need a free photo ID card to vote (hereinafter, “the petition process”).

8. DMV started using the petition process on September 15, 2014.

9. Information regarding the petition process can be found on the DMV website at the following URL:

<http://www.dot.wisconsin.gov/drivers/drivers/apply/petition-process.htm>.

10. Individuals who would like to use the petition process to obtain a free Wisconsin state ID card for purposes of voting must apply at a DMV service center and complete a Wisconsin Identification Card (ID) Application, which is form MV3004. They must also complete a DMV Administrator Petition–Unavailable Documentation, which is form MV3012. Both of these forms are available in person at DMV service centers or online at the DMV website. A true and correct copy of the MV3012 form is attached hereto as **Exhibit A**.

11. DMV uses the information from completed MV3012 forms to communicate with government agencies to verify the existence of unavailable documentation, like birth certificates, at no charge to ID card applicants. Once DMV completes the verification process, the free Wisconsin ID card is processed and mailed to the customer.

12. DMV typically processes unavailable documentation petition requests in no more than seven business days. A petition may take longer

than seven business days to process if an out of state birth record is not verified in a timely manner, or if the customer needs to be contacted for additional information.

13. Between September 15, 2014, and April 18, 2015, there were 677 exception process petitions filed with the DMV. 545 of those petitions have been resolved, and the customer has obtained a qualifying ID. 36 petitions were cancelled at the customer's request. 47 petitions are currently in process, either waiting for additional information from a government agency in Wisconsin or another state or for additional information from the customer. And 49 petitions are in "suspended" status because the customer has neglected to respond with additional information.

14. DMV is in the process of promulgating permanent administrative rules that are the same as the emergency rules promulgated in September 2014. On January 20, 2015, DMV submitted proposed final draft rules to Governor Walker for his approval. Revised proposed final draft rules were submitted to Governor Walker on February 2, 2015. On February 10, 2015, Governor Walker issued his written approval of the revised proposed final draft rules.

15. On February 11, 2015, the Wisconsin State Legislature's Joint Committee for Review of Administrative Rules ("JCRAR") granted DMV's extension request for the September 2014 emergency rules. On March 12,

2015, DMV submitted a second written request for an extension of the emergency rules to JCRAR. That request was granted on April 9, 2015, and the emergency rules are extended until June 13, 2015.

16. JCRAR, the State Senate, and the State Assembly must review and consider the proposed permanent rules. On February 13, 2015, the rules were referred to the Senate Committee on Transportation and Veterans Affairs. On February 17, 2015, the rules were referred to the Assembly Committee on Transportation. The permanent rules are under review by each standing committee.

17. The permanent rules regarding the petition process are in the legislative review process. The State Senate referred the rule to JCRAR on March 16, 2015. In the State Assembly, however, the rule is still before the standing committee. The next step is that the Assembly will refer the rule to JCRAR. JCRAR then has 30 days to review. It is anticipated that, absent any objections, the JCRAR's jurisdiction will end before the end of May 2015. The rules will then be sent to the Legislative Reference Bureau for publication, and they will become effective the first day of the month following publication. The anticipated effective date of the permanent rules is June 1, 2015.

18. In the course of my duties, I reviewed the driver license and identification card status of Plaintiffs in the above-captioned case. In that

review, I learned that several Plaintiffs have obtained identification cards during or since the November 2013 trial in this case and that one of the Plaintiffs was even able to use the petition process to obtain qualifying identification.

a. Plaintiff Shirley Brown used the petition process and obtained her Wisconsin identification card from DMV on September 29, 2014.

b. Plaintiff Sam Bulmer obtained a Wisconsin identification card from DMV on November 14, 2013, the second-to-last day of trial.

c. Plaintiff Rickie Lamont Harmon obtained his Wisconsin identification card from DMV on February 13, 2014.

d. Plaintiff Edward Hogan obtained his Wisconsin driver license from the DMV on September 8, 2014.

e. Plaintiff Justin Luft obtained his Wisconsin identification card from DMV on October 9, 2014.

19. Certified driver record abstracts for Ms. Brown, Mr. Bulmer, Mr. Harmon, Mr. Hogan, and Mr. Luft are attached hereto as **Exhibit B**. These certified records are redacted to address privacy concerns.

20. In addition, DOT maintains its records to take account of any citizens who held DMV products who have passed away. Each month, DOT runs a file of information regarding deceased individuals received from the Wisconsin Vital Records Office at the Department of Health Services against

the records in DOT's computer files. DOT is also occasionally notified by an out-of-state contact or law enforcement agency of the death of a Wisconsin citizen. In that case, the DOT database records are manually updated to include this information.

21. DOT learned that Plaintiff Anthony Judd passed away on October 26, 2013, weeks before trial in this matter.

22. Upon review of the records in this case and based upon the documentation allegedly possessed by Plaintiff Ruthelle Frank, it is apparent that she could use the petition process to obtain a free Wisconsin identification card for purposes of voting if she fills out the relevant application forms.

23. Plaintiff Eddie Lee Holloway, Jr., also would be able to obtain a Wisconsin identification card through the petition process.

24. To my knowledge, neither Ms. Frank nor Mr. Holloway has applied for a free Wisconsin state identification card from the DMV since November 2013.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23rd day of April, 2015.

/s/ Kristina H. Boardman
Kristina H. Boardman