

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

No. 12-15220-E

KARLA VANESSA ARCIA,
Individually,
MELANDE ANTOINE,
Individually,
FLORIDA IMMIGRANT COALITION, INC.,
Non-Profit Corporation,
NATIONAL CONGRESS FOR PUERTO RICAN RIGHTS,
Non-Profit Corporation,
199SEIU UNITED HEALTHCARE WORKERS EAST FLORIDA,
a labor union,

Plaintiffs-Appellants,

versus

FLORIDA SECRETARY OF STATE,
Ken Detzner, in his official capacity,

Defendant-Appellee.

Appeal from the United States District Court for the
Southern District of Florida

ORDER:

Plaintiffs-Appellants Karla Vanessa Arcia, et al. (“Plaintiffs”), appeal the denial of their motion for preliminary injunction to halt implementation by the Florida Secretary of State (the “Secretary”) of a program intended to identify and remove non-citizens from the voter rolls (the “Program”).

At issue in this appeal is the following provision of the National Voter Registration Act

of 1993, 42 U.S.C. §§ 1973gg et seq. (the “Act”):

A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.

42 U.S.C. § 1973gg-6(c)(2)(A). The purpose of this section appears to be to ensure that no mistakes that a State might make in implementing any such program will result in disenfranchisement of a lawfully- registered eligible voter.¹

Plaintiffs now move to expedite briefing and disposition. In opposing Plaintiffs’ motion, the Secretary makes the following representation:

...[E]ven if a citizen *has* been *misidentified* through the [Program], there is *no chance* that a citizen will be erroneously *removed* from the voter rolls before Election Day.

Secretary’s “Opposition to Appellant’ Motion to Expedite,” page 12 (emphasis in original).

Based on the Secretary’s representation that there is no chance that a citizen will be removed from the voter rolls under the Program before the November 6 election, Appellants’ motion to expedite this appeal is DENIED.

/s/ Rosemary Barkett
UNITED STATES CIRCUIT JUDGE

¹ In moving for a preliminary injunction, Plaintiffs contended that § 1973gg-6(c)(2)(A) prohibits the Secretary from implementing the Program within ninety days of the impending Presidential election. The Secretary argued that, reading § 1973gg-6(c)(2)(A) in conjunction with other pertinent sections of the Act, the ninety-day limitation does not apply to the Program because any non-citizens who are on the voter rolls were never properly registered in the first instance and are therefore not “registrants” under the Act. The Secretary’s position, however, appears to beg the question of whether the Act prohibits a State from determining whether someone is properly registered within ninety days of a federal election.

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

John Ley
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

October 16, 2012

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 12-15220-E
Case Style: Karla Arcia, et al v. Secretary of State
District Court Docket No: 1:12-cv-22282-WJZ

The following action has been taken in the referenced case:

The enclosed order has been ENTERED.

Sincerely,

JOHN LEY, Clerk of Court

Reply to: Gloria M. Powell, E
Phone #: (404) 335-6184

MOT-2 Notice of Court Action