

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA
CIVIL DIVISION

Election Protection Com.

In RE: Language Interference

vs.

Def:

Director of Elections County of York: Steve Ulrich:

NO: 2020-SU-002179

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**PLAINTIFF'S MOTION FOR AN
EMERGENCY RESTRAINING ORDER**

1. Plaintiffs are part of a group of voters attempting to vote at the 368 W. Princess Street York County polling location.
2. Plaintiffs are seeking the assistance of an interpreter and are filling out the proper documents (which are in English) but are being challenged regarding the use and access to the interpreter.
3. Here, Defendants have (1) imposed "tests" on limited English-proficient voters, including Plaintiff(s), including by speaking slowly, and using hand gestures and mimicry as a prerequisite to allowing voters to utilize an interpreter, (2) impeded interpreters' conversations with voters by looming over conversations and interjecting themselves and telling voters that they cannot use that interpreter and by (3) preventing interpreters from entering the barrier to actually assist voters with casting their ballot. When Defendants deny Spanish-speaking voters the right to bring their assistor of choice into the voting booth, voters feel uncomfortable with the process, do not understand the ballot, do not know how to operate the voting

machine, and cannot cast a meaningful vote, in violation of Section 208. *Berks County*, 277 F. Supp. 2d at 580.

4. The word “vote” is broadly defined in Section 208 as follows:

The terms “vote” or “voting” shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this chapter, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.

52 U.S.C. § 10310(c)(1) (formerly 42 U.S.C. § 19731).

5. “To vote,” therefore, plainly contemplates more than the mechanical act of filling out the ballot sheet. It includes steps in the voting process before entering the ballot box, “registration,” and it includes steps in the voting process after leaving the ballot box, “having such ballot counted properly.” *OCA-Greater Houston*, 867 F.3d at 615. Defendants have prevented Plaintiff(s) from effectively “casting a ballot” in direct violation of Section 208’s mandate. *Id.*
6. Section 208 of the VRA provides that: “Any voter who requires assistance to vote by reason of . . . inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.” 52 U.S.C. § 10508 (formerly 42 U.S.C. § 1973aa-6). This guarantee covers “more than the mechanical act of filing out the ballot sheet. It includes steps in the voting process before entering the ballot box, . . . and it includes steps in the voting process after leaving the ballot box” necessary for “having such ballot counted properly.” *OCA-Greater Houston v. Texas*, 867 F.3d 604, 614–15 (5th

Cir. 2017) (quoting 52 U.S.C. § 10310(c)(1) (formerly 42 U.S.C. § 1973l)); *United States v. Berks County, Pa.*, 277 F. Supp. 2d 570, 580 (E.D. Pa. 2003); *Democracy N.C. v. N.C. State Bd. of Elections*, 2020 WL 4485063, at *59 (M.D.N.C. Aug. 4, 2020). The voter may secure the assistance of *any* person of their choosing, except for the few exceptions enumerated in the statute. 52 U.S.C. § 10508 (barring assistance from “the voter’s employer or agent of that employer or officer or agent of the voter’s union”).

7. Here, Defendants have

(1) imposed “tests” on limited English-proficient voters, including Plaintiff(s), by speaking slowly, and using hand gestures and mimicry as a prerequisite to allowing voters to utilize an interpreter, and asking the person questions in English.

(2) impeded interpreters’ conversations with voters by looming over conversations and interjecting themselves and telling voters that they cannot use that interpreter and

(3) preventing interpreters from entering the barrier to assist voters with casting their ballot and

(4) interpreted the phrase “assistance by a person of the voter’s choice” to mean someone they bring with them as opposed to an agency offering a service.

8. When Defendants deny Spanish-speaking voters the right to bring any assistor of their choice into the voting booth, voters feel uncomfortable with the process, do not understand the ballot, do not know how to operate the voting machine, and cannot

cast a meaningful vote, in violation of Section 208. *Berks County*, 277 F. Supp. 2d at 580.

9. The word "vote" is broadly defined in Section 208 as follows:

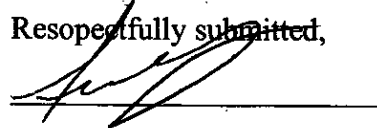
The terms "vote" or "voting" shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this chapter, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.

52 U.S.C. § 10310(c)(1) (formerly 42 U.S.C. § 19731).

10. "To vote," therefore, plainly contemplates more than the mechanical act of filling out the ballot sheet. It includes steps in the voting process before entering the ballot box, "registration," and it includes steps in the voting process after leaving the ballot box, "having such ballot counted properly." *OCA-Greater Houston*, 867 F.3d at 615.
11. Defendants have prevented Plaintiff(s) from effectively "casting a ballot" in direct violation of Section 208's mandate. *Id.*

Wherefore, plaintiffs are seeking an Emergency Restraining order.

Respectfully submitted,



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