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11
12 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF WASHINGTON
13 **AT YAKIMA**

14 STATE OF WASHINGTON, et al.,

15 Plaintiffs,

16 v.

17 DONALD J. TRUMP, et al.,

18 Defendants.

NO. 20 CV 03127

DECLARATION OF KAREN
A. YARBROUGH IN
SUPPORT OF PLAINTIFF
STATES' MOTION FOR
TEMPORARY RESTRAINING
ORDER

1 I, Karen A. Yarbrough, declare as follows:

2 1. I am over the age of 18, am competent to testify as to the matters
3 herein, and make this declaration based on my personal knowledge.

4 2. I make this declaration from personal knowledge and based on
5 records from the Cook County Clerk's Office, located in Cook County, Illinois,
6 and would testify to the following facts if called as a witness at hearing or trial.

7 3. I am the Cook County Clerk, responsible for administration of
8 elections in suburban Cook County, Illinois (excluding the City of Chicago).

9 4. The Cook County Clerk's Office serves as the local election
10 authority for Illinois voters who reside in suburban Cook County. There are
11 approximately 1,570,127 Cook County residents currently registered to vote in
12 the area subject to our jurisdiction. Our office is one of 108 local election
13 authorities in Illinois. The local election authorities handle local voter
14 registration programs, arrange for the printing of ballots, and manage the vote
15 count at the local level. They are additionally responsible for accepting vote by
16 mail applications, mailing ballots to voters who have applied to vote by mail,
17 and accepting ballots returned by mail. *See* 10 ILCS 5/2B-15; 10 ILCS 5/2B-20.
18 The local election authorities function under the supervision of the Illinois State
19 Board of Elections ("ISBE"), which oversees the administration of registration
20 and election laws throughout the State of Illinois. *See* 10 ILCS 5/1A-1.

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Illinois' Statutory Vote by Mail Procedures

5. Illinois has successfully utilized vote by mail procedures for over a decade. In 2009, Illinois began allowing any qualified and registered voter in the state to choose to vote by mail in accordance with deadlines and procedures established in Illinois Election Code. *See* Pub. Act 96-0553 (eff. Aug. 17, 2009) (amending 10 ILCS 5/19-1).

6. This year, in response to the Covid-19 pandemic and to protect the health of Illinois residents, Illinois enacted new legislation to further enhance the availability of vote by mail for Illinois voters participating in the 2020 general election. On June 16, 2020, Public Act 101-0642 became law in Illinois. *See* Pub. Act 101-0642 (eff. June 16, 2020) (creating 10 ILCS 5/2B *et seq.*).

7. Public Act 101-0642 permits voters to request applications “for an official ballot for the 2020 general election to be sent to the elector through mail.” 10 ILCS 5/2B-15(a).

8. In addition, the new law requires election authorities to send applications for “an official vote by mail ballot for the 2020 general election” to any elector who voted, whether by mail or in person, in (1) the 2018 general election; (2) the 2019 consolidated election (in which various municipal elections occur in Illinois); or (3) the 2020 general primary election. *Id* § 5/2B-

1 15(b). Vote by mail applications must also be sent to voters who have registered
2 to vote or changed their registration address after March 17, 2020, the date of
3 the general primary election, and on or before July 31, 2020. *Id.* The vote by
4 mail applications sent to voters must also include a notice stating that “upon
5 completion of the application, the elector *will receive* an official ballot no more
6 than 40 days and no less than 30 days before the election[.]” *Id.* §5/2B-15(c)
7 (emphasis added). The notice also informs voters that they may return the
8 application by mail to their election authority. *Id.* Both the application and
9 notice are to be sent by mail “to the elector’s registered address and any other
10 mailing address the election authority may have on file, including a mailing
11 address to which a prior vote by mail ballot was mailed.” *Id.* § 5/2B-15(d).

12 9. Beginning on September 24, 2020, election authorities in Illinois
13 must mail official ballots to voters in Illinois who have requested them. *Id.* §
14 2B-20(a). Voters requesting a vote by mail ballot on or before October 1, 2020,
15 must receive one “no later than October 6, 2020.” *Id.* For requests received after
16 October 1, 2020, an election authority must mail an official ballot within two
17 business days after receiving the application. *Id.* Election authorities must
18 continue accepting vote by mail applications received by mail or electronically
19 through October 29, 2020—five days before election day, November 3, 2020.
20 *See* 10 ILCS 5/19-2. Voters may also submit a vote by mail application in
21 person as late as November 2, 2020, the day before election day. *Id.*

1 10. For voters returning their completed ballots by mail, their ballots
2 must be postmarked on or before election day and received within the fourteen-
3 day period following election day during which provisional ballots are counted.
4 *See* 10 ILCS 5/19-3, 19-8(c); 10 ILCS 5/20-2.3. Illinois law also permits
5 election authorities to create “secure collection sites for the postage-free return
6 of vote by mail ballots,” and specifically provides that “[e]lection authorities
7 shall accept any vote by mail ballot returned, including ballots returned with
8 insufficient or no postage[.]” 10 ILCS 5/2B-20(e). Voters who received vote by
9 mail ballots and wish to personally return them have until the close of the polls
10 on election day to submit them to collection sites for the issuing election
11 authority. 10 ILCS 5/2B-20(e). Illinois law specifically provides that “[e]lection
12 authorities shall accept any vote by mail ballot returned, including ballots
13 returned with insufficient or no postage[.]” *Id.* Critically, Illinois law permits
14 voters to select whether they will return their ballot by mail or in person using
15 the secure collection site.

16 **Vote By Mail Trends in Cook County, Illinois**

17 11. In previous General Elections, suburban Cook County voters relied
18 upon vote by mail to cast their ballots. In the 2016 General Election, 87,987
19 voters cast ballots by mail. In the 2018 General Election, 95,105 voters cast
20 ballots by mail.

1 12. Following the requirements of the new Illinois statute, on or about
2 August 1, 2020, the Cook County Clerk's Office mailed approximately 1.6
3 million vote by mail applications to suburban Cook County voters. I anticipate
4 that providing these applications will significantly increase the number of
5 voters who will opt to vote by mail.

6 13. In light of the recent change of laws in Illinois and the COVID-19
7 pandemic, I believe a larger number of people will opt to vote by mail. In fact,
8 as of August 18, 2020, the Cook County Clerk's Office has received 176,843
9 ballot applications from voters who wish to vote by mail. This number is
10 significantly higher than what we have observed in previous General Elections.
11 Already, the total number of mail ballot applications is more than double the
12 total number of mail ballots cast in the last Presidential General Election in
13 2016.

14 14. Based on the trends our office is observing, I believe it is highly
15 likely that the 107 other local election authorities in Illinois will witness similar
16 trends.

17 **Impacts of United States Postal Service's Recent Changes**

18 15. I am aware and have seen the letter that the United States Postal
19 Service ("USPS") mailed to ISBE on July 30, 2020. In that letter, USPS warned
20 ISBE that that "under our reading of Illinois' election laws, certain deadlines for
21 requesting and casting mail-in ballots are incongruous with the Postal Service's
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1 delivery standards. This mismatch creates a risk that ballots requested near the
2 deadline under state law will not be returned by mail in time to be counted under
3 your laws as we understand them.” The letter specifically flagged that Illinois
4 permits voters intending to vote by mail to apply for a vote by mail ballot “as late
5 as 5 days before the November general election.” It also asserted that “the Postal
6 Service cannot adjust its delivery standards to accommodate the requirements of
7 state election law.” A copy of the July 30, 2020 letter is attached to this
8 declaration as Exhibit A.

9 16. In addition to the July 30, 2020 letter from USPS, I am also aware
10 of recent media reports indicating that some members of the public have been
11 experiencing delays in mail delivery. I am also aware of media reports
12 indicating that operational changes have recently been occurring at USPS that
13 may have contributed to these delays.

14 17. The Cook County Clerk’s Office works to ensure that elections in
15 suburban Cook County are fair and that residents who are eligible to vote can
16 do so in a safe and secure manner. Ensuring the safety of voters is especially
17 critical this year, given the ongoing Covid-19 pandemic. Vote by mail is a vital
18 tool in enabling Illinois voters to safely cast their ballots.

19 18. The deadlines required by Illinois law permit voters to apply to
20 vote by mail up until very close to election day. Having an efficient mail service
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1 through USPS is critical to ensuring that voters choosing to vote by mail are
2 able to receive and return their ballots by the deadlines required in Illinois law.

3 19. The need for an efficient mail service through USPS is particularly
4 critical in the final weeks leading up to election day on November 3, 2020.
5 Voters in Illinois can mail or electronically submit applications to vote by
6 through October 29, 2020. For voters submitting their applications on October
7 29 or the few days leading up to that date, having reliable and efficient USPS
8 mail delivery will be essential to ensure that the voters are able to receive,
9 complete, and return their ballots in time for them to be counted.

10 20. In addition, Illinois voters mailing their ballots need to have their
11 ballots postmarked no later than election day, November 3, 2020, in order for
12 them to be counted. Ballots submitted by mail must also be received by the
13 election authority within the fourteen days after election day in order to be
14 counted.

15 **Irreparable Harm**

16 21. An efficient and reliable mail service through USPS is critical to
17 ensuring that Cook County voters choosing to vote by mail are not
18 disenfranchised because of delays in processing or delivering the mail. The
19 anticipated increase in the number of Illinois citizens voting by mail in this year's
20 election also means that an efficient and reliable mail service through USPS has
21 never been more important to ensuring that Illinois citizens can exercise their
22 right to vote.

1 22. USPS's warnings about its inability to provide reliable services in
2 Illinois is occurring at a time when prompt mail delivery has never been more
3 essential for protecting the right to vote for Illinois citizens. Maintaining and
4 enhancing USPS capacity is an urgent priority for the Cook County Clerk's
5 Office in light of the expansion of vote by mail options Illinois has adopted in
6 response to the COVID-19 pandemic.

7 23. However, if USPS provides inadequate postal services so close to
8 an election, significant numbers of Cook County and Illinois voters would be at
9 risk of becoming disenfranchised in the upcoming election.

10 24. If mail services are impeded or delayed, voters who utilize vote by
11 mail risk not having their ballot counted. For example, the Cook County Clerk's
12 Office may receive vote by mail applications late due to mail delays, which will
13 delay our ability to send voters their ballots. Even if applications are timely
14 received, voters may still receive their ballots late or else be prevented from
15 casting their ballots in a timely way if the mail is delayed or voters are otherwise
16 unable to find an alternative method to deliver their ballot to a secure collection
17 site. In fact, USPS has essentially admitted the strong probability that irreparable
18 disruptions will occur in their July 30, 2020 letter.

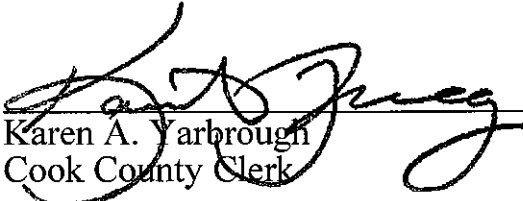
19 25. Further, if USPS's changes undercut public confidence in postal
20 services, voters who otherwise would have remained safely at home to vote might
21 opt to vote in person at a polling place instead, which heightens inherent risks of
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spreading COVID-19 during a dangerous pandemic. Otherwise, voters who feel that they cannot trust the postal service but have warranted concerns about congregating at a polling place simply might not vote at all.

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

DATED this 19th day of August 2020, at Chicago, Illinois.


Karen A. Yarbrough
Cook County Clerk