

ORDER PREPARED AND ENTERED BY THE COURT

Barbara Ertel, Tricia Figgins, and Abigail Jones

Plaintiffs,

v.

ESSEX COUNTY BOARD OF ELECTIONS

Defendant.

SUPERIOR COURT OF NEW JERSEY
ESSEX COUNTY
LAW DIVISION

Docket No.

CIVIL ACTION

THIS MATTER having been opened to the Court on an emergent application by Alexander Shalom, Esq., counsel for the Plaintiffs, seeking an order:

1. Requiring Defendant to allow Plaintiffs and all similarly situated persons (“displaced voters”) to submit a Federal Write-In Absentee Ballot (FWAB);
2. Requiring that, as long as the voter is a qualified voter, eligible to vote by email/fax, and submits the FWAB as directed in paragraph D of Lt. Gov. Guadagno’s November 4, 2012 “Directive Regarding Email Voting and Mail-in Ballots for Displaced Voters.” (P-2), the vote be counted; and
3. Extending the time within which such FWAB votes may be submitted by email/fax to 11:59 on Tuesday, November 6, 2012 at 11:59 p.m.

And the court having considered the sworn telephonic testimony from Tricia Figgins, Abigail Jones, and Barbara Ertel.

In the presence of counsel including;

- Christopher Porrino, Esq., David Puteska, Esq., and Julian Borelli, Esq., Office of the Attorney General – Representing Lt. Gov. Kim Guadagno

- Angelo Genova, Esq. – Representing Menendez for US Senate, Obama for President
- Mark Sheridan, Esq. – Representing NJ GOP, Runyon for Congress
- Linda Cavanaugh, Esq. – Representing The Essex County Democratic Party
- Michael Cerone, Esq. – Representing Passaic County Democratic Party
- Bill Tambussi, Esq. – Representing Shelley Adler for Congress, Camden County Democratic Committee.
- Bill Northgrave, Esq. – Representing Hudson City Democratic Organization, Diaz for Mayor
- Bill Pascrell III, Esq. – Representing Pascrell for Congress
- Paul Kaufman, Esq. – Representing Democratic Committee of Bergen County

The court having considered the argument of counsel and good cause having been shown and the reasons for the decision having been placed on the record, and the court having considered the objection of Mr. Kaufman to the order submitted by Mr. Shalom and the order submitted by the office of the Attorney General,

IT IS ORDERED that:

1. Plaintiff's application is DENIED insofar as it allows for the use of the FWAB.
2. Plaintiff's application is DENIED insofar as it requires counting of votes cast by displaced voters using the FWAB.
3. Plaintiff's application is DENIED insofar as it requests an extension of the deadlines set forth in the Lt. Governor's November 4, 2012 "Directive Regarding Email Voting and Mail-in Ballots for Displaced Voters for the submission of FWAB votes" (P-2) FWAB votes.

4. The County Clerks shall accept and process Applications for Vote By Mail Ballot that were submitted in accordance with the Lieutenant Governor's directives, but were not received by the County Clerk due to capacity limitations or other technical limitations of the County Clerk, provided that the displaced voter supplies proof that he or she submitted a valid and timely application to the appropriate County Clerk via fax or email.
5. Any renewed Application for Vote By Mail Ballot and supporting proof of the earlier valid and timely submission must be received by the appropriate County Clerk as soon as possible and in all events prior to Friday, November 9, 2012 at 12:00 pm.

It is further ORDERED that a copy of this order has been served upon all counsel by e-mail by the court and a copy of this order be served upon the twenty-one county clerks by the office of the Attorney General, no later than 12:00pm on November 8, 2012.

Dated: 11-7-12



Walter Koprowski, Jr., J.S.C.