

By First Class Mail & Email: JPaddock@franklincoks.org

June 28, 2017

The Honorable Janet Paddock
Franklin County Clerk
315 South Main
Ottawa, KS 66067

Re: Status of Citizens Registering to Vote using the Federal Form

Dear Ms. Paddock:

Earlier this week, the American Civil Liberties Union of Kansas (ACLU-KS) received a report that an employee in your office had advised a voter registration advocate that people who register to vote using the federal form will not be allowed to vote in local elections in Franklin County. I write to determine whether that is, in fact, your office's practice.

If, in fulfilling its election-related duties, your office is maintaining dual voter registration lists so that people who register to vote using either the federal form or the motor-voter procedure required by the National Voter Registration Act (NVRA) cannot vote in state or local elections, you are in violation of Kansas law as determined by two different judges sitting on the Shawnee County District Court. In the first case, Judge Franklin Theis held that there is no legal authority in Kansas that permits state or local election authorities to maintain two sets of voter registration lists, one for registrants who use state voter registration forms and another for voters who register using the federal form. *Belenky v. Kobach*, Case No. 2013CV1331, slip op. at 15-16 (Shawnee County Dist. Ct., Jan. 15, 2016). In the second case, Judge Larry D. Hendricks ruled that the Kansas Secretary of State had no legal authority to issue a temporary regulation requiring local election authorities to implement a bifurcated voter registration and election system under which citizens who registered to vote using either the federal form or the motor-voter process but who did not provide documentary proof of citizenship (DPOC) could vote in federal elections but could not vote in state and local elections. *Brown v. Kobach*, Case No. 2016CV550, slip op. at 17 (Shawnee County Dist. Ct., Nov. 4, 2016). In *Brown*, the district court entered a permanent injunction against the bifurcated election system imposed by the Secretary of State's temporary regulation.

Federal courts – including the United States Supreme Court – have consistently ruled that voters who use the federal form or the motor-voter process must be registered to vote without providing documentary proof of citizenship. *Arizona v. Inter Tribal Council of Arizona*, 133 S. Ct. 2247 (2013); *Fish v. Kobach*, 189 F. Supp.3d 1107 (D. Kan. 2016), *aff'd*, 840 F.3d 710 (10th

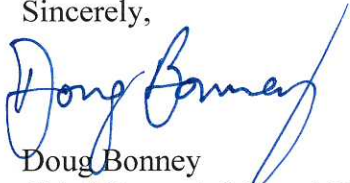
The Honorable Janet Paddock
Franklin County Clerk
June 28, 2017
Page 2

Cir. 2016). In *Fish*, the federal courts have enjoined the Kansas Secretary of State (and in effect all 105 local elections authorities) “to register to vote those applicants whose only infirmity was not having the opportunity to produce DPOC contemporaneously with their driver’s license applications, or later because of lack of consistent notice or reasonable opportunity to cure that infirmity.” 189 F. Supp.3d at 1152.

In combination, these judicial decisions mean that your office is violating the law if it is not placing citizens who register to vote using the federal form or the motor-voter process on the normal voter registration rolls and if it is refusing to allow such NVRA registrants to vote in state and local elections, including local elections that are scheduled for later in 2017.

Please contact me immediately to discuss the issues raised in this letter. If I do not hear from you by Friday, July 7, 2017, our voting rights litigation team will consider seeking additional judicial relief to ensure that citizens of Franklin County who register to vote using the federal form and the motor-voter process are fully registered to vote in all elections, including state and local elections.

Sincerely,



Doug Bonney
Chief Counsel & Legal Director
Direct: (913) 490-4102