

When the Voter-Registration Deadline Falls on a Holiday

Arizona Democratic Party v. Reagan
(*Steven P. Logan, D. Ariz. 2:16-cv-3618*)

The state’s voter-registration deadline fell on a holiday, and a political party sued the state’s secretary of state in federal court to have the deadline extended by one day, but the party did not sue until more than a week after the deadline passed. The district judge determined that the secretary’s not giving voters an extra day to register violated state law and the National Voter Registration Act, but the judge determined that the party filed the case too late to merit injunctive relief.

Subject: Registration procedures. *Topics:* Registration procedures; laches; National Voter Registration Act.

A political party and its national committee filed a federal complaint in the District of Arizona on October 19, 2016, against Arizona’s secretary of state seeking a one-day extension of the voter-registration deadline because the original deadline of October 10 fell on Columbus Day, a federal and state holiday.¹ With its complaint, the party filed a motion for a temporary restraining order and a preliminary injunction.²

“Having considered Plaintiffs’ filings, the Court will exercise its discretion to advance the trial on the merits in this action and consolidate a hearing on permanent injunction with a hearing on the pending requests for a temporary restraining order and preliminary injunction.”³ On October 20, Judge Steven P. Logan set the case for hearing on October 21 with briefing accepted until October 25.⁴ Later, Judge Logan agreed to receive additional briefing on a quoted remark by the secretary in news media: “We . . . hope to add an additional 2,069 potential voters if the court allows those who registered after the statutory deadline to be added to the rolls.”⁵

On November 3, five days before the election, Judge Logan decided, “the Court finds that the Committees prevail on the merits of their claims, in part, but concludes that they are not entitled to relief.”⁶

1. Complaint, *Ariz. Democratic Party v. Reagan*, No. 2:16-cv-3618 (D. Ariz. Oct. 19, 2016), D.E. 1; see *Democrats Sue Over Voter Deadline*, *Ariz. Republic*, Oct. 21, 2016, at A4; Howard Fischer, *AZ Dems Ask Court to Extend Voter Registration Deadline*, *Ariz. Daily Star*, Oct. 21, 2016, at A2; Howard Fischer, *AZ Dems Sue Over Voter Registration Deadline Issue*, *Ariz. Daily Star*, Oct. 22, 2016, at A9.

2. Motion, *Ariz. Democratic Party*, No. 2:16-cv-3618 (D. Ariz. Oct. 19, 2016), D.E. 2.

3. Order at 2, *id.* (Oct. 20, 2016), D.E. 8.

4. *Id.* at 3; see Transcript, *id.* (Oct. 21, 2016, filed Oct. 21, 2016), D.E. 30; Minutes, *id.* (Oct. 21, 2016), D.E. 17.

5. Order, *id.* (Oct. 31, 2016), D.E. 35.

6. Opinion at 2, *id.* (Nov. 3, 2016), D.E. 39, 2016 WL 6523427; see Howard Fischer, *Judge: 2,000 Late Registered Voters Are Out*, *Ariz. Daily Star*, Nov. 4, 2016, at A6.

The Committees did not file their complaint in this action until more than a week after the voter registration deadline had passed, and only a few weeks before the general election is to take place. This delay was unreasonable. . . .

. . . Instead, had the Committees filed suit promptly, a motion for preliminary, prohibitory injunction could have been briefed and decided without unreasonable burden on the Secretary, the Court, or the voters and the election process.⁷

A more promptly filed complaint would likely have yielded relief because Judge Logan determined that the voter-registration deadline's falling on a holiday in this case resulted in a violation of the National Voter Registration Act's requirement that voter registration applications be accepted until at most thirty days before the election.⁸

Here, the Secretary set the voter registration deadline on October 10, 2016, the twenty-ninth day before the November 8, 2016 general election. Post offices were closed on Sunday, October 9th and on Columbus Day, October 10th. [Motor Vehicle Division (MVD)] offices were also closed from Saturday, October 8th through Columbus Day. Therefore, in effect, the deadline to register by postmarked mail was Saturday, October 8, 2016—31 days before the election. The deadline to register in-person at the MVD was Friday, October 7, 2016—32 days before the election. The voter registration deadline therefore did not ensure that any applicant who registered to vote "not later" than 30 days before November 8, 2016 was eligible to vote in the general election.⁹

The National Voter Registration Act specifies the thirty-day rule for four different situations:

In the administration of voter registration for elections for Federal office, each State shall—

- (1) ensure that any eligible applicant is registered to vote in an election—
 - (A) in the case of registration with a motor vehicle application under section 20504 of this title, if the valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or the period provided by State law, before the date of the election;
 - (B) in the case of registration by mail under section 20505 of this title, if the valid voter registration form of the applicant is postmarked not later than the lesser of 30 days, or the period provided by State law, before the date of the election;
 - (C) in the case of registration at a voter registration agency, if the valid voter registration form of the applicant is accepted at the voter registration agency not later than the lesser of 30 days, or

7. Opinion, *supra* note 6, at 31.

8. *Id.* at 23–26; see Pub. L. No. 103-31, 107 Stat. 77 (1993), *as amended*, 52 U.S.C. §§ 20501–20511; see also Robert Timothy Reagan, *Motor Voter: The National Voter Registration Act* (Federal Judicial Center 2014).

9. Opinion, *supra* note 6, at 24.

the period provided by State law, before the date of the election;
and

- (D) in any other case, if the valid voter registration form of the applicant is received by the appropriate State election official not later than the lesser of 30 days, or the period provided by State law, before the date of the election¹⁰

Judge Logan also determined that the secretary’s decision not to accept voter registrations submitted the day after a deadline that fell on a holiday violated Arizona law.¹¹ As a constitutional matter, however, “the de minimus burden imposed by the deadline does not outweigh the State’s important regulatory and administrative interests.”¹² “The holiday deadline did not limit the methods of voter registration; it merely imposed a timeframe in which voters had to act in order to register to vote in the general election.”¹³

10. 52 U.S.C. § 20507(a).

11. Opinion, *supra* note 6, at 26–30.

12. *Id.* at 22.

13. *Id.* at 16.