

FILED

AUG 14 2002

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION  
DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS

THE UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 BOARD OF ELECTION COMMISSIONERS )  
 FOR THE CITY OF ST. LOUIS, and )  
 each individual member of the )  
 Board of Election Commissioners )  
 for the City of St. Louis in )  
 his or her official capacity; )  
 CITY OF ST. LOUIS, MISSOURI, )  
 )  
 Defendants. )  
 )

Civil Action No.:

4:02CV001235 CEJ

COMPLAINT

The United States of America, plaintiff herein, alleges:

1. This action is brought by the United States pursuant to Section 8 of the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. 1973gg-6, and pursuant to Section 11(a) of the NVRA, 42 U.S.C. 1973gg-9(a).
2. This Court has jurisdiction over this action pursuant to 28 U.S.C. 1345.
3. Defendant City of St. Louis is a political and geographical subdivision of the State of Missouri.

4. Defendant City of St. Louis is the primary budget authority for Defendant Board of Election Commissioners and is responsible for determining the Board's total annual budget allocation and disbursing operating funds to the Board.
5. Defendant Board of Election Commissioners for the City of St. Louis serves as the chief election authority for the City of St. Louis, Missouri, and is responsible for the conduct and administration of elections in the City of St. Louis. Each of the Board's individual members has been sued in his or her official capacity. See Fed. R. Civ. P. 25(d)(2).
6. Defendant Board's responsibilities include, but are not limited to, the registration of voters in the City of St. Louis, the maintenance of the official list of registered voters in the city, and conducting the casting and counting of ballots.
7. Missouri law provides that the Board of Election Commissioners for the City of St. Louis "may make all rules and regulations, not inconsistent with statutory provisions, necessary for the registration of voters and the conduct of elections." RSMo. § 115.043.

8. Missouri law provides that the Board of Election Commissioners for the City of St. Louis "shall have the registration records of all precincts in its jurisdiction canvassed every four years and that it be completed no later than ninety days prior to the date of a primary or general election for federal office." RSMo. § 115.179.1.
9. Missouri law allows the Board of Election Commissioners for the City of St. Louis to select the type of voter registration canvass it will conduct pursuant to RSMo. § 115.179.1, whether it be a house-to-house or mail canvass. RSMo. § 115.181.1; 115.189.
10. Missouri law allows the Board of Election Commissioners for the City of St. Louis to decide the manner in which it will conduct a mail canvass of its voter registration records pursuant to RSMo. § 115.179.1.
11. Missouri law allows, but does not require, the Board of Election Commissioners for the City of St. Louis to designate certain voters as inactive voters. RSMo. § 115.193.5.

12. Between the date of the passage of the NVRA in 1993 and November 7, 2000, the Board of Election Commissioners for the City of St. Louis conducted four (4) mail canvasses in its effort to update the list of registered voters in the City of St. Louis. The first mail canvass took place in 1994, the second took place in 1996, the third in 1998, and the fourth in 2000.
13. As a result of the four mail canvasses from 1993 through 2000, the Board of Election Commissioners for the City of St. Louis has divided City voters into two categories: those voters who are on "active" status, and those voters who are on "inactive" status.
14. Prior to the 1994 mail canvass, there were less than 1,000 voters on inactive status in the City of St. Louis.
15. Prior to the 1996 mail canvass, there were less than 2,000 voters on inactive status in the City of St. Louis.
16. Prior to the 1998 mail canvass, there were less than 2,000 voters on inactive status in the City of St. Louis.

17. About one week prior to the November 1996 general election, the Board of Election Commissioners mailed an Election Notice card to registered voters in the City who were designated as active voters. The Election Notice card was sent by nonforwardable mail through the United States Postal Service.
18. After sending out the Election Notice cards prior to the November 1996 general election, the Board of Election Commissioners for the City of St. Louis received several returned Election Notice cards marked "Attempted-Not Known," "Not Deliverable as Addressed," or otherwise marked as undeliverable by the United States Postal Service.
19. In 1998, the Board of Election Commissioners for the City of St. Louis sent a first-class, forwardable mailing to individuals whose 1996 Election Notice cards (described in paragraph 17) were returned to the Board as undeliverable.
20. The 1998 forwardable mailing included a detachable, pre-addressed, postage pre-paid reply card that allowed the voter to verify and update his or her registration status.

21. The 1998 forwardable mailing did not notify registered voters ("registrants") that if the registrant did not change his or her residence, or changed residence but remained in the City of St. Louis, that the registrant should return the reply card not later than the lesser of 30 days, or the period provided by Missouri law, before the date of the 1998 election. 42 U.S.C. 1973gg-6(d)(2).
22. The 1998 forwardable mailing did not notify registered voters ("registrants") that if the reply card was not returned, affirmation or confirmation of the registrant's address may be required before the registrant would be permitted to vote in a federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for federal office that occurs after the date of the notice. 42 U.S.C. 1973gg-6(d)(2).
23. The 1998 forwardable mailing did not notify registered voters ("registrants") that if the registrant did not vote in an election during the period referenced in paragraph 25 that the registrant's name would be removed from the list of eligible voters. 42 U.S.C. 1973gg-6(d)(2).

24. The 1998 forwardable mailing did not provide information concerning how a registered voter ("registrant") could continue to be eligible to vote if that registrant changed residence to a place outside the City of St. Louis. 42 U.S.C. 1973gg-6(d)(2).
25. After sending out the 1998 forwardable mailing, the Board of Election Commissioners for the City of St. Louis received several returned mailings marked "Attempted-Not Known," "Not Deliverable as Addressed," "Forwarding Order Expired," or otherwise not deliverable by the United States Postal Service.
26. As part of its 1998 mail canvass, the Board of Election Commissioners for the City of St. Louis placed on inactive status those voters whose 1998 forwardable mailing was returned by the United States Postal Service as "Attempted-Not Known," "Not Deliverable as Addressed," "Forwarding Order Expired," or otherwise not deliverable.
27. After the 1998 mail canvass but before the 2000 mail canvass, there were more than 25,000 voters on inactive status in the City of St. Louis.

28. In 2000, the Board of Election Commissioners for the City of St. Louis sent the same forwardable mailing that was sent in 1998 to registered voters in the City who were designated as active.
29. The 2000 forwardable mailing, being identical to the 1998 forwardable mailing, also did not contain the notices and information described in paragraphs 21-24.
30. After sending out the 2000 forwardable mailing, the Board of Election Commissioners for the City of St. Louis received several returned mailings marked "Attempted-Not Known," "Not Deliverable as Addressed," "Forwarding Order Expired," or otherwise marked as undeliverable by the United States Postal Service.
31. As part of its 2000 mail canvass, the Board of Election Commissioners for the City of St. Louis placed on inactive status those voters whose 2000 forwardable mailing was returned by the United States Postal Service as "Attempted-Not Known," "Not Deliverable as Addressed," "Forwarding Order Expired," or otherwise not deliverable.



32. As of November 7, 2000, the date of the federal general election, there were more than 50,000 voters on inactive status in the City of St. Louis.
33. More than 50,000 voters in the City of St. Louis were placed on inactive status between the November 1996 and November 2000 general elections.
34. As of November 7, 2000, the date of the federal general election, there were between 150,000 and 175,000 voters on active status in the City of St. Louis.
35. According to the 2000 Census, the total population of the City of St. Louis, Missouri is 348,189, and the voting age population is 258,532.
36. Prior to the November 2000 general election, the Board of Election Commissioners for the City of St. Louis did not notify inactive voters that their registration status had changed from active to inactive.
37. During the November 2000 general election, over 1,400 election judges served as poll workers, covering over 370 voting precincts in more than 250 polling places in the City of St. Louis.

38. On November 7, 2000, the date of the federal general election, the Board of Election Commissioners for the City of St. Louis provided the election judges in each voting precinct with a list of registered voters who were designated as active in each precinct. This precinct-level list of active registered voters is known as the "precinct roster," or "signature roster."
39. The Board of Election Commissioners for the City of St. Louis removed or otherwise did not include the names of inactive voters from the precinct rosters prior to the November 2000 general election.
40. The Board of Election Commissioners for the City of St. Louis did not provide a list of inactive voters to election judges during the November 2000 election, or otherwise make that information reliably accessible to the judges for the election.
41. On November 7, 2000, the date of the federal general election, the Board of Election Commissioners for the City of St. Louis provided poster-sized signs to election judges that stated: "Attention Voters: If you are registered to vote at this voting location and your name does not appear in the signature roster please insist that the poll workers call the election

board for verification of your registration and authorization to allow you to vote." (Emphasis in original).

42. If a voter's name did not appear in the precinct roster during the November 2000 election, that voter was not permitted to vote until an election judge at the voting precinct obtained authorization from the Board of Election Commissioners for the City of St. Louis, either by telephone or in writing.
43. Election Judge Supervisors in at least 125 of the City's voting precincts reported the need to contact the Board of Election Commissioners for the City of St. Louis during the November 2000 general election to verify the registration status of voters whose names did not appear in the precinct rosters.
44. At least half of the Election Judge Supervisors who completed post-election reports complained that they were unable to reach the Board of Election Commissioners by telephone during the November 2000 general election due to busy signals.

45. At least 25 of the Election Judge Supervisors who completed post-election reports complained that they had either no access or poor access to telephones at their polling places during the November 2000 election.
46. Unable to reach the Board of Election Commissioners for the City of St. Louis by telephone during the November 2000 general election to verify the registration status of voters whose names were not in the precinct rosters, election judges throughout the City of St. Louis instructed voters to go to the Board's downtown headquarters at 300 North Tucker Boulevard.
47. Over 300 eligible, inactive voters went to the downtown headquarters of the Board of Election Commissioners for the City of St. Louis on November 7, 2000, the date of the federal general election, and obtained authorization to vote.
48. In addition to the individuals described in paragraph 47, on information and belief, a significant number of people were present at the downtown headquarters of the Board of Elections for the City of St. Louis during the November 2000 general election but were not served by election officials.

49. Defendant Board's downtown headquarters was filled to overflowing during the November 2000 general election.
50. As of 10:00 PM on election day, November 7, 2000, which was three hours after the polls were scheduled to close in the City of St. Louis, individuals were still standing in line at the downtown headquarters of the Board of Elections for the City of St. Louis.
51. On information and belief, a significant number of inactive voters in the City of St. Louis, who were eligible to vote in the November 2000 general election, were unable to vote as a result of the verification procedures employed by the Board of Election Commissioners on election day.
52. With respect to voter turnout during the November 2000 general election, there were 125,230 ballots cast for President of the United States, which was significantly lower than the 147,404 ballots cast for President during the November 1992 general election, and slightly higher than the 122,003 ballots cast for President during the November 1996 general election.

53. On March 6, 2001, the Board of Election Commissioners for the City of St. Louis administered the municipal primary election for the City of St. Louis. In this election, voters were selecting the general election candidates for mayor, comptroller, and odd-numbered seats on the Board of Aldermen. There were no referenda or other issues on the municipal primary ballot.
54. At the time of the March 2001 municipal primary, there remained more than 50,000 voters on inactive status in the City of St. Louis.
55. Prior to the March 2001 municipal primary election, the Board of Election Commissioners for the City of St. Louis did not notify inactive voters that their registration status had changed from active to inactive.
56. The Board of Election Commissioners for the City of St. Louis removed or otherwise did not include the names of inactive voters from the precinct rosters prior to providing the rosters to election judges on March 6, 2001, the date of the municipal primary election..

57. The Board of Election Commissioners for the City of St. Louis did not provide a list of inactive voters to election judges during the March 2001 election, or otherwise make that information reliably accessible to the judges.
58. If a voter's name did not appear in the precinct roster during the March 2001 election, that voter was not permitted to vote until an election judge at the voting precinct obtained authorization from the Board of Election Commissioners for the City of St. Louis, either by telephone or in writing.
59. During the March 2001 election, the Board of Election Commissioners for the City of St. Louis provided additional cellular phones to election judges and opened additional phone lines to its downtown headquarters to handle phone calls from election judges who would be calling to verify the registration status of voters whose names did not appear in the precinct rosters.
60. Despite the efforts described in paragraph 59, election officials at the downtown headquarters of the Board of Elections for the City of St. Louis were unable to handle the volume of phone calls that were coming in throughout the day on March 6, 2001, the

date of the municipal primary election, from election judges who were calling to verify the registration status of voters whose names did not appear in the precinct rosters.

61. With respect to voter turnout during the March 2001 municipal primary election, there were 87,135 ballots cast for mayor, which was lower than the 102,376 ballots cast for mayor during the 1997 municipal primary election, and the 93,192 ballots cast for mayor in the 1993 municipal primary election.

62. The placement of eligible voters on inactive status, without notice, by the Board of Election Commissioners for the City of St. Louis, and the treatment of those eligible inactive voters by the Board both before and during the November 2000 and March 2001 elections, placed so high a burden upon those voters that, for all practical purposes, they were prevented from voting on election day, and so were effectively removed from the voter registration rolls in a manner prohibited by Section 8 of the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. 1973gg-6.



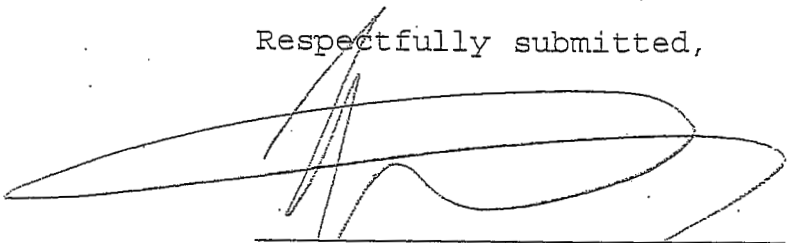
63. Unless enjoined by an order of this Court, the Board of Election Commissioners for the City of St. Louis, through its adopted procedures employed during the November 2000 and March 2001 elections, will continue to deny or significantly impair the voting rights of eligible, inactive voters in the City of St. Louis.

WHEREFORE, the United States prays that the Court enter a judgment:

- 1) Declaring that the actions taken by Defendants, described above, resulted in an impermissible removal of voters from the voter registration rolls in violation of Section 8 of the NVRA, 42 U.S.C. 1973gg-6; and
- 2) Requiring Defendants, their successors in office, their agents and all persons acting in concert with them, to employ pre-election, election-day, and post-election day measures that will remove the administrative impediments to voting of eligible, inactive voters described above.

Plaintiff further prays that this Court grant such additional relief as the interests of justice may require, together with the costs and disbursements of this action.

Respectfully submitted,

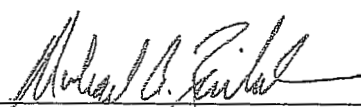


RAYMOND W. GRUENDER  
United States Attorney

RALPH F. BOYD, JR.  
Assistant Attorney  
General for Civil Rights



JOSEPH B. MOORE  
Assistant United States  
Attorney  
111 South 10th Street  
Suite 20.333  
St. Louis, Missouri 63102  
(314) 539-2200  
(314) 539-2777 FAX



JOSEPH D. RICH  
ROBERT A. KENGLE  
MICHAEL A. ZWIBELMAN  
Attorneys  
Voting Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Room 7254-NWB  
Washington, D.C. 20530  
(202) 514-6450  
(202) 307-3961