

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF RHODE ISLAND; A. RALPH MOLLIS, Rhode Island Secretary of State; RHODE ISLAND BOARD OF ELECTIONS; JOHN A. DALUZ, Chairman of the Rhode Island Board of Elections; ROBERT KANDO, Executive Director of the Rhode Island Board of Elections; RHODE ISLAND DEPARTMENT OF HUMAN SERVICES; SANDRA M. POWELL, Rhode Island Department of Human Services Director; RHODE ISLAND EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES; STEVEN M. COSTANTINO, Secretary of the Executive Office of Health and Human Services; RHODE ISLAND DEPARTMENT OF HEALTH; MICHAEL FINE, Rhode Island Interim Director of Health; RHODE ISLAND DEPARTMENT OF BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES, AND HOSPITALS; and CRAIG S. STENNING, Director of the Rhode Island Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals,

Defendants.

CIVIL ACTION NO.

CA 11 - 1135

COMPLAINT

The United State of America alleges:

1. The Attorney General of the United States brings this action for declaratory and injunctive relief pursuant to the National Voter Registration Act of 1993 (NVRA), 42 U.S.C. § 1973gg to 1973gg-10, and 28 U.S.C. § 2201.

**JURISDICTION AND VENUE**

2. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1345, and 2201, and 42 U.S.C. § 1973gg-9.

3. Venue is proper in this district pursuant to 28 U.S.C. §§ 120, 1391(c).

**PARTIES**

4. The NVRA authorizes the Attorney General of the United States to bring civil actions on behalf of the Plaintiff United States of America in an appropriate district court for such declaratory or injunctive relief as is necessary to carry out the NVRA. 42 U.S.C. § 1973gg-9(a).

5. Defendant State of Rhode Island is one of the states of United States of America and is subject to the requirements of the NVRA. 42 U.S.C. §§ 1973gg-1(4), 1973gg-2(a), 1973gg-5.

6. Defendant Rhode Island Secretary of State A. Ralph Mollis is sued in his official capacity as the chief state election official responsible for coordinating Rhode Island's responsibilities under the NVRA. *See* 42 U.S.C. § 1973gg-8; R.I. Gen. Laws § 17-6-1.3.

7. Defendant Rhode Island Board of Elections is the state body responsible for "arrang[ing] and mak[ing] provisions for the registration of voters pursuant to" the NVRA. R.I. Gen. Laws § 17-7-5(a)(13).

8. Defendant John A. Daluz is the Chairman of the Rhode Island Board of Elections and is sued in his official capacity.

9. Defendant Robert Kando is the Executive Director of the Rhode Island Board of Elections and is sued in his official capacity.

10. Defendant Rhode Island Department of Human Services ("DHS") is the state body responsible for administering public assistance programs in Rhode Island. R.I. Gen. Laws § 40-6-1.

11. Defendant Sandra M. Powell is the Director of the Rhode Island Department of Human Services and is sued in her official capacity.

12. Defendant Rhode Island Executive Office of Health and Human Services (“EOHHS”) is the state body responsible for managing the administration of food and nutritional services programs. R.I. Gen. Laws § 42-7.2-6.1(a)(9).

13. Defendant Steven M. Costantino is the Secretary of the Executive Office of Health and Human Services and is sued in his official capacity.

14. Defendant Rhode Island Department of Health (“DOH”) is the state body responsible for administering the Women, Infants, and Children (“WIC”) program. R.I. Gen. Laws § 23-13-17(a). DOH contracts with community health agencies to administer the WIC program locally.

15. Defendant Michael Fine is the Interim Director of Health in Rhode Island and is sued in his official capacity.

16. Defendant Rhode Island Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (“DBHDDH”) is the state body responsible for administering disability services relating to developmental disabilities, mental health, and substance abuse. *See* R.I. Gen. Laws §§ 40.1-1-13 (substance abuse), 40.1-5-4 and 40.1-5.4-1 (mental health), 40.1-22-4 (developmental disabilities). DBHDDH administers some services directly and contracts with community health agencies to administer some services locally.

17. Craig S. Stenning is the director of the DBHDDH and is sued in his official capacity.

18. Rhode Island requires its disability services agencies to provide clients with voter registration opportunities pursuant to the NVRA. *See* R.I. Admin. Code 46-1-8:0100 § 0100.15.

**CAUSE OF ACTION**

19. Among other things, Section 7 of the NVRA requires the State of Rhode Island to designate as voter registration agencies “all offices in the State” that provide “public assistance” and/or “State-funded programs primarily engaged in providing services to persons with disabilities.” 42 U.S.C. § 1973gg-5(a)(2)(A) and (B).

20. The Rhode Island DHS, DOH, and EOHHS are the State entities responsible for administering, or supervising the administration of, public assistance in Rhode Island.

21. The Rhode Island DHS and DBHDDH are the State entities responsible for administering, or supervising the administration of, State-funded programs primarily engaged in providing services to persons with disabilities.

22. All DHS, DOH, and EOHHS offices in the state that provide public assistance must be designated as “voter registration agencies” pursuant to Section 7 of the NVRA, 42 U.S.C. § 1973gg-5(a). Such offices include those providing WIC services in Rhode Island.

23. All DHS and DBHDDH offices in the state that provide State-funded programs primarily engaged in providing services to persons with disabilities must be designated as “voter registration agencies” pursuant to Section 7 of the NVRA, 42 U.S.C. § 1973gg-5(a).

24. Employees and agents of offices designated as “voter registration agencies” under Section 7 of the NVRA must (1) distribute voter registration forms along with each application for the office’s services, recertification, renewal, or change of address request relating to public assistance services; (2) provide each applicant with the same degree of assistance in completing the voter registration application forms that the office provides for the completion of its own forms, unless the applicant refuses such assistance; and (3) transmit completed voter registration forms to the appropriate election official, in accordance with procedures set forth in Sections

7(a)(4), 7(a)(5), 7(a)(6), and 7(d) of the NVRA, 42 U.S.C. §§ 1973gg-5(a)(4), (5), & (6) and 1973gg-5(d). Defendants, their employees, and agents at DHS, DOH, EOHHS, and DBHDDH offices that provide public assistance and/or State-funded programs primarily serving persons with disabilities have regularly failed to provide voter registration opportunities as required by Section 7 of the NVRA in the following respects:

- a. Defendants, their employees, and agents have regularly failed to distribute applications for voter registration for elections for Federal office with each application, recertification, renewal, or change of address form for benefits and services, as required by Section 7 of the NVRA.
- b. Defendants, their employees, and agents have regularly failed to provide their clients with a form that contains the information required by Section 7(a)(6)(B) of the NVRA with each application, recertification, renewal, or change of address form for benefits and services; and
- c. Defendants failed to supervise, train, and monitor their employees, agents, representatives, and/or subcontractors to ensure that they provide, assist with, process, collect, and transmit voter registration applications in compliance with Section 7 of the NVRA.

25. Defendants' failure to provide eligible public assistance and disability services clients with the opportunity to register to vote in the manner specified by Section 7 of the NVRA violates the NVRA.

26. Unless and until ordered to do so by this Court, Defendants will not offer eligible public assistance and disability services applicants the opportunity to register to vote as required by Section 7 of the NVRA.

WHEREFORE, the United States requests that the Court enter an ORDER that:

1. Declares that the Defendants have failed to ensure implementation of Section 7 of the NVRA;

2. Enjoins the Defendants, their agents and successors in office, and all persons acting in concert with them, from future non-compliance with the requirements of Section 7 of the NVRA; and

3. Requires Defendants, their agents and successors in office, and all persons acting in concert with them, to:

- a. Take all steps necessary—including adopting appropriate administrative policies or rules—to offer the voter registration opportunities specified by Section 7 of the NVRA;
- b. Effectively publicize these voter registration opportunities to all eligible public assistance and disability services clients;
- c. Within 30 days from the date of the Court's order, provide the Court with (1) a remedial plan or program—including appropriate reporting and monitoring requirements—designed to ensure that all eligible persons who apply for public assistance and/or disability services in Rhode Island are offered the opportunity to register to vote as required by Section 7 of the NVRA, and (2) a plan for effectively publicizing the State's remedial plan or program;
- d. Offer voter registration opportunities to all clients who applied for public assistance or disability benefits or services at covered offices in the four years prior to the date of any final order of this Court but who did not receive voter registration opportunities as required by the NVRA; and

- e. Take all steps necessary to ensure immediate and ongoing compliance with  
Section 7 of the NVRA.

The United States further requests that this Court order any additional relief required by the interests of justice.

Date: March 18, 2011

Respectfully submitted,

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Attorney General

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