

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
GREENVILLE DIVISION**

<b>GREEN PARTY OF TENNESSEE,</b>	)	
	)	
<b>Plaintiffs</b>	)	
<b>Vs.</b>	)	
	)	
<b>TRE HARGETT in his official capacity</b>	)	<b>Case No.:</b>
<b>as Tennessee Secretary of State, and MARK</b>	)	
<b>GOINS, in his official capacity as Coordinator</b>	)	
<b>of Elections for the State of Tennessee,</b>	)	
<b><u>Defendants</u></b>	)	

**COMPLAINT**

COME NOW, Plaintiff(s), **GREEN PARTY OF TENNESSEE**, and sue Defendants **TRE HARGETT**, Tennessee Secretary of State, and **MARK GOINS**, Coordinator of Elections for the State of Tennessee, and say:

**Action and Jurisdiction:**

- 1 This is an action for legal and equitable relief pursuant to 42 U.S.C. §1983 for violation of Plaintiffs rights under the First and Fourteenth Amendments of the United States Constitution.
- 2 This Court has jurisdiction pursuant to 28 U.S.C. §1331 and §1367.

**Parties:**

- 3 The GREEN PARTY OF TENNESSEE is a political organization in Tennessee representing all citizens sharing the “progressive” political views associated with the Green Party.
- 4 Defendant TRE HARGETT is the Secretary of State of Tennessee.
- 5 Defendant MARK GOINS is the Coordinator of Elections in the office of the Tennessee Secretary of State.

**Relevant Laws**

- 6 Article 1, Section 4, of the United States Constitution, generally referred to as the “Elections Clause,” provides, in relevant part, that:

*“The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations”*

7 Article IV of the United States constitution provides, in relevant part:

“Section. 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.

Section. 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.”

8. The Twenty-Fourth Amendment to the United States Constitution provides:

“The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.”

9 The National Voter Registration Act of 1993 (NVRA), 42 U.S.C.S. § 1973gg provides in relevant part:

“4. Mail registration

(a) Form

(1) Each State shall accept and use the mail voter registration application form prescribed by the Federal Election Commission pursuant to section 1973gg–7(a)(2) of this title for the registration of voters in elections for Federal office.

(2) In addition to accepting and using the form described in paragraph (1), a State may develop and use a mail voter registration form that meets all of the criteria stated in section 1973gg–7(b) of this title for the registration of voters in elections for Federal office.

...

7(b) Contents of mail voter registration form:

The mail voter registration form developed under subsection (a)(2) of this section—

(1) may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(2) shall include a statement that—

(A) specifies each eligibility requirement (including citizenship);

(B) contains an attestation that the applicant meets each such requirement; and

(C) requires the signature of the applicant, under penalty of perjury;

(3) may not include any requirement for notarization or other formal authentication.

10 Section 301 of the Help America Vote Act of 2002, 42 U.S.C.S §15482, provides, in relevant part:

(a) If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot ...

...

(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is—

(A) a registered voter in the jurisdiction in which the individual desires to vote; and

(B) eligible to vote in that election.

(3) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law.

11 Article I, Sec. 5, of the Tennessee Constitution provides that:

“The elections shall be free and equal, and the right of suffrage, as hereinafter declared, shall never be denied to any person entitled thereto, except upon a conviction by a jury of some infamous crime, previously ascertained and declared by law, and judgment thereon by court of competent jurisdiction.”

12 Article IV, Sec. 1 of the Tennessee Constitution provides, in relevant part,

“Every person, being eighteen years of age, being a citizen of the United States, being a resident of the state for a period of time as prescribed by the General Assembly, and being duly registered in the county of residence for a period of time prior to the day of any election as prescribed by the General Assembly, shall be entitled to vote in all federal, state, and local elections held in the county or district in which such person resides. All such requirements shall be equal and uniform across the state, and there shall be no other qualification attached to the right of suffrage.

“The General Assembly shall have power to enact laws requiring voters to vote in the election precincts in which they may reside, and laws to secure the freedom of elections and the purity of the ballot box.”

- 13 TCA §2-7-112, which established Tennessee voting procedures, provides, in relevant part:

(a)(1) A voter shall complete and sign an application for ballot, indicate the primary in which the voter desires to vote, if any, and present it to a precinct registrar. In addition, the voter shall present to the precinct registrar one (1) form of identification that bears the name and photograph of the voter. The requirement to present one (1) form of identification that bears the name and photograph of the voter shall apply to persons voting pursuant to §2-6-109; provided, however, that a person voting in accordance with §2-6-401(a) and (b) or §2-6-601 shall not be required to show an identification with a photograph of the voter. ...

...  
(B) To verify the voter's identification, the voter shall supply evidence of identification specified in subsection (c).

(3)(A) A person shall be entitled to vote a provisional ballot under the procedures of this section if the voter claims to be properly registered in the county and eligible to vote at the precinct in the election, but whose eligibility cannot be determined by the computer signature list or by examination of the permanent registration records on file with the county election commission or an election official asserts that the individual is not eligible to vote. If a voter is unable to present evidence of identification, the voter shall be entitled to vote a provisional ballot pursuant to subsection (e) unless the voter is eligible to vote pursuant to subsection (f).

(B)

(iii) The central provisional ballot counting board shall examine the records of the county election commission and the records of the Tennessee departments of health, human services, mental health and substance abuse services, intellectual and developmental disabilities, safety and veterans affairs with respect to all provisional ballots. The central provisional ballot counting board shall then determine if the person voting that ballot was entitled to vote and met the statutory requirements for registration at the precinct where the person cast a vote in the election. The central provisional ballot counting board shall also determine that the person has not already cast a ballot in the election.

(v) If the central provisional ballot counting board determines that the person should not have been registered to vote in the precinct where the voter cast the ballot or that the voter has previously cast a ballot in the election in a different precinct, the provisional ballot envelope shall not be opened nor its provisional ballot affidavit removed, but it shall be marked "Rejected" across its face with the reason for rejection written on it and signed by at least two (2) members of the central provisional ballot counting board.

(c) For purposes of verifying the person's identification on the application for ballot, evidence of identification shall be:

- (1) A Tennessee driver license;
- (2)

(A) Except as provided in subdivision (c)(2)(B), a valid identification card issued by the state of Tennessee, or the United States where authorized by law to issue personal identification; provided, that such identification card contains a photograph of the voter;

(B) An identification card issued to a student by an institution of higher education containing a photograph of a student shall not be evidence of identification for purposes of verifying the person's identification on the application for ballot;

(3) A valid identification card issued pursuant to §55-50-336;

(4) A valid United States passport;

(5) A valid employee identification card issued by the state of Tennessee, or the United States where authorized by law to issue employee identification; provided, that such identification card contains a photograph of the voter;

(6) A valid United States military identification card; provided, that such identification card contains a photograph of the voter; or

(7) An employee identification card for retired state employees authorized pursuant to §8-50-118.

(d) For purposes of registering a person to vote pursuant to subdivision (a)(3), "verification of residential address" shall include, but is not limited to, a Tennessee driver license, a residential lease agreement, a utility bill or other document bearing the applicant's residential address. Such verification may be on the same or different document from those listed in subsection (c).

(e) A person whose name appears on the computerized voter signature list or the electronic poll book and is unable to present valid evidence of identification specified in subsection (c) shall be entitled to vote a provisional ballot ... The voter shall also be given a written statement that specifies the voter has until the second business day after the election to provide evidence of identification. The voter shall sign such statement and return it along with the application of ballot.

...

(2) Upon completion of the application for ballot and if applicable, the presentation of a failsafe affidavit in the voter's correct polling location, the voter shall be given a provisional ballot and provisional ballot

(5) Provisional ballots cast pursuant to this subsection (e) shall only be counted if the voter provides evidence of identification specified in subsection (c) to the administrator of elections or the administrator's designee by the close of business on the second business day after the election. Evidence of identification must be presented at the voter's county election commission office or another location designated by the county election commission.

(6) Upon the voter presenting valid evidence of identification, set forth in subsection (c), to the administrator of elections or the administrator's designee, the voter shall sign an affidavit, prescribed by the coordinator of elections, containing the voter's name, signature and any other information deemed necessary by the coordinator of

elections to satisfy the requirements of this section and to prevent fraudulent voting. The affidavit shall also contain a statement affirming under the penalty of perjury that the voter is the same individual that cast the provisional ballot. A photocopy of the evidence of identification shall be attached to the affidavit.

(8) If the voter does not provide valid evidence of identification in a timely manner, the provisional ballot envelope shall not be opened nor its provisional ballot affidavit removed, but shall be marked "Rejected" ...

(f) A voter who is indigent and unable to obtain proof of identification without payment of a fee or who has a religious objection to being photographed shall be required to execute an affidavit of identity on a form provided by the county election commission and then shall be allowed to vote. The affidavit shall state that:

(1) The person executing the affidavit is the same individual who is casting the ballot; and

(2) The affiant is indigent and unable to obtain proof of identification without paying a fee or has a religious objection to being photographed.

(g) An identification card issued by a county or municipality or entity thereof, including a public library, containing a photograph shall not be evidence of identification for purposes of verifying the person's identification on the application for ballot.

12. Prior to being amended in 2011, TCA §2-7-112 provided, in relevant part:

"(a) (1) A voter shall sign an application for ballot, indicate the primary in which the voter desires to vote, if any, and present it to a registrar. The application for ballot shall include thereon a space for the address of the voter's current residence, and the voter shall write or print such address on the application when the voter signs it. The registrar shall compare the signature and information on the application with the signature and information on the duplicate permanent registration record. The registrar shall make a determination whether the voter's address is different from the address on the voter's permanent registration record or if the registration is in inactive status. If the voter has changed residence, or the voter's registration is inactive, the registrar shall follow the procedures for voting pursuant to [§ 2-7-140](#). If, upon comparison of the signature and other identification, it is found that the applicant is entitled to vote, the registrar shall initial the application and shall note on the reverse side of the voter's duplicate permanent registration record the date of the election, the number of the voter's ballot application, and the elections in which the voter votes. If the applicant's signature is illegible, the registrar shall print the name on the application. The registrar shall give the voter the ballot application which is the voter's identification for a paper ballot or ballots or for admission to a voting machine. The voter shall then sign the duplicate poll lists without leaving any lines blank on any poll list sheet.

(2) In any computerized county, the county election commission shall have the option of using an application for a ballot as provided in this section, or using the computerized voter signature list. A computerized voter signature list shall include the voter's name, current address of residence, social security number or registration number, birth date and spaces for the voter's signature, elections voted, ballot number

and precinct registrar's initials. The following procedures shall be followed in the case of computerized voter signature lists:

...

(D) If a voter is unable to present any evidence of identification specified in subsection (c), the voter shall be required to execute an affidavit of identity on a form provided by the county election commission."

13. TCA §55-50-336 provides, in relevant part:

“(a)(1) Any person eighteen (18) years of age and older, upon submission of a satisfactory application and proof of identity, may be issued a photo identification license restricted in use to identification only. Proof of identity may be furnished by birth certificate or any other document as set forth in this chapter substantiating the identity of the applicant.”

14. TCA §2-6-201 provides in relevant part that:

A registered voter in any of the following circumstances may vote absentee by mail in the procedures outlined in this part:

(1) Persons Outside of County. If the voter will be outside the county where the voter is registered during the early voting period and on election day during all the hours the polls are open for any reason other than the fact that the voter will be imprisoned;

(2) Students and Spouses Outside of County. If a voter is enrolled as a full-time student in an accredited college, university or similar accredited institution of learning in this state which is outside the county where the voter is registered. This provision also applies to the spouse of the student who resides with the student;

15. TCA §2-2-141 provides, in relevant part:

“(a) The coordinator of elections shall compare the statewide voter registration database with the department of safety database to ensure non-United States citizens are not registered to vote in this state. The coordinator of elections is authorized to compare the statewide voter registration database with relevant federal and state agencies and county records for the same purpose. If evidence exists that a particular registered voter is not a citizen of the United States, the coordinator of elections shall notify the county election commission where the person registered to vote that the registered voter may not be a citizen of the United States.

(b) After receiving such notice, the county election commission shall send a notice to the registered voter inquiring whether the individual is eligible to be registered to vote. Any registered voter who receives the notice shall, within thirty (30) days of the receipt of such notice, provide proof of citizenship to the county election commission. For purposes of this subsection (b), proof of citizenship includes:

- (1) The voter's birth certificate or a legible photocopy of the birth certificate;
  - (2) A United States passport, or a legible photocopy of the pertinent pages of the passport, identifying the voter and showing the passport number;
  - (3) The voter's United States naturalization documentation, a legible photocopy of the naturalization documentation, or the number of the voter's certificate of naturalization; except that any person who provides the number of the certificate of naturalization in lieu of the naturalization documentation shall not be deemed to have provided proof of citizenship until the coordinator of elections verifies the number with the United States citizenship and immigration services in the department of homeland security or its successor; or
  - (4) Any document or method of proof of citizenship established by the federal Immigration Reform and Control Act of 1986, P.L 99-603.
- (c) If the registered voter does not provide proof of citizenship within thirty (30) days of the receipt of the notification, the administrator of elections of the county where the person registered to vote shall purge the voter from the voter registration database.
- 16 TCA §2-6-601 provides for “individuals who are full-time residents of any licensed nursing home, home for the aged or similar licensed institution providing relatively permanent domiciliary care” to vote at facility where they are domiciled.

**Common Allegations:**

- 19 The right to vote is a fundamental right under the U.S. Constitution.
- 20 The right to associate for political purposes is a fundamental right under the U.S. Constitution.
- 21 Pursuant to the provisions of Article 1, Section 4, of the United States Constitution, only the legislature has authority to establish requirements relating to elections.
- 22 The issuance of a photo identification documents by any state is an official act of the state and constitutes a record of that state.
- 23 When the voter photo identification provisions of TCA §2-7-112 were enacted:
  - (A) The Tennessee House of Representatives was controlled by Republicans.
  - (B) The Tennessee Senate was controlled by Republicans.
  - (C) The Governor of the State of Tennessee House was a Republican.
23. TCA §2-7-112 is an integrated statute and all of its related parts must individually be constitutional for the statute as a whole to be held to be constitutional.

24. Plaintiffs have been required to engage an attorney to represent them in this matter and have agreed to compensate him for his services.

**COUNT I:**

25. Plaintiffs incorporate by reference the allegations contained in paragraphs 1. through 24 and say further that:
26. The legislative record of the General Assembly does not contain an express statement of purpose for the voter photo identification requirements of TCA §2-7-112.
27. The purpose of requiring voters to provide photo identification as a condition for in-person voting is to reduce/prevent in-person voter impersonation fraud.
28. The State of Tennessee has no empirical evidence of the existence of in-person voter impersonation in the state.
29. The State of Tennessee has no empirical evidence that the voter photo identification requirements of TCA §2-7-112 will reduce in-person voter impersonation fraud.
30. The State of Tennessee had not, prior to the enactment of the voter photo identification requirements of TCA §2-7-112, had any proven case of voter impersonation fraud.
31. The State of Tennessee cannot establish that the photo identification requirements of TCA §2-7-112 are necessary to achieve any of the objectives and purposes of the statute.
32. Photo identification cards are not required to register to vote.
33. Only an affidavit of identity is required to register to vote.
34. Voter signatures are required for voter registration.
35. Voter signatures are recorded by the State of Tennessee when a voter registers to vote.
36. Photo identification requirements have not been shown to be a more accurate form of verifying a person's identity than that a person's signature.
37. The voter photo identification requirements of TCA §2-7-112 only apply to in-person voting.
38. Persons voting by absentee ballot are not required to furnish photographic proof of identity.
39. Absentee voting is a documented source of voter fraud nationally.
40. The forms of photo identification identified in TCA §2-7-112(c) and (g) are the only forms of photo identification that may be used for voting purposes.

41. The limitations on acceptable forms of voter photo identification established by TCA §2-7-112(c) and (g) are more restrictive than needed to achieve Tennessee's stated objective in enacting its voter photo identification.
42. Every state that requires photograph proof of identity as a precondition for voting accepts photo identification cards issued by its own state agencies.
43. The voter photo identification requirements of TCA §2-7-112 burden the voting rights on in excess of 250,000 eligible voters.
44. In excess of 100,000 Tennessee residents have a valid driver's license that does not contain a photograph.
45. **WHEREFORE**, Plaintiffs ask the Court to enter its Order and Judgment:
  - (A) Declaring that the voter photo identification requirements of TCA §2-7-112 are unconstitutional – under both the U.S. Constitution and the Tennessee Constitution -- on the grounds that:
    1. They do not address a real problem.
    2. They impose excessive burdens on voters.
    3. They are not necessary to achieve the State's asserted objective.
  - (B) Permanently enjoining Defendants from enforcing the voter photo identification requirements of TCA §2-7-112.
  - (C) Award Plaintiffs attorney's fees and costs.

**COUNT II:**

46. Plaintiffs incorporate by reference the allegations contained in paragraphs 1. through 24. and 38-40 and say further that:
47. The limitation on acceptable forms of voter photo identification enumerated by TCA §2-7-112(c) and (g) bears no relationship to Tennessee's stated objective in enacting its voter photo identification.
48. The statutory distinction between voters entitled to vote by absentee (and who are not required to provide photographic proof of identity) and voters who vote in-person (and produce photo identification) bears no relationship to the asserted purpose for the vote photo identification requirements of TCA §2-7-112.
49. TCA §2-7-112 does not define the term "valid" as used in sub-sections (c)(3)-(6).
50. The coordinator of elections has determined that expired photo identification cards satisfy the requirements of TCA §2-7-112

51. Prior to 2012, TCA §2-7-112(c)(2)(A) authorized the use of photo identification cards issued by “any state.”
52. The removal of the “any state” provision from TCA §2-7-112(c)(2)(A) increases the burden on voters.
53. Tennessee has no legitimate justification for removing the “any state” provision from TCA §2-7-112(c)(2)(A).
54. Any form of photo identification that contains a voter’s picture is sufficient to achieve the stated purposes of Tennessee’s voter photo identification requirement.
55. TCA §2-7-112 does not define what constitutes a religion for purposes of TCA §2-7-112(f)(2).
56. TCA §2-7-112 does not define what constitutes being “indigent” for purposes of TCA §2-7-112(f)(2).
57. TCA §2-7-112 does not define the term “affidavit” for purposes of TCA §2-7-112(f)(2).
58. TCA §2-7-112 does not provide an exemption from its voter photo identification requirements for voters whose objection to being photographed is based on a cultural belief.
59. Only students attending school outside the county where they reside are entitled to vote by absentee ballot.
60. Students who attend school in the county where they reside are required to vote in person and show a voter photo identification.
61. Pursuant to TCA §2-7-112(2)(B), a student identification card is not an acceptable form of voter photo identification.
62. Not all students have an acceptable form of voter photo identification.
63. There is no rational basis for imposing different burdens of student voter based on geography.
64. Pursuant to TCA §2-6-601, residents of licensed care facilities are not required to vote in-person at the polls and are not required to show photo identification.
65. Residents of care facilities that are not licensed are required to vote at the polls and show photo identification.

66. There is no rational justification for imposing different burdens of voters based on the licensure status of the care facility in which they reside.
67. **WHEREFORE**, Plaintiffs ask the Court to enter its Order and Judgment:
- (A) Declaring that TCA §§2-7-112(c)(3)-(7) and (f)(2) are unconstitutionally vague and its limitations of the class of acceptable forms voter photo identification is overly broad.
  - (B) Declaring that the unconstitutional vagueness of TCA §2-7-112(f) renders the voter photo identification requirements of TCA §2-7-112 unconstitutional in their entirety.
  - (C) Declaring that TCA §2-7-112 is unconstitutional because the limits on the classification of acceptable voter photo identification are unrelated to the stated objectives of the statute.
  - (D) Declaring that TCA §2-7-112 is unconstitutional because the disparate treatment of in-person and absentee voters creates classifications on voters that are unrelated to the stated objectives of the statute.
  - (E) Permanently enjoining Defendants from enforcing the voter photo identification provisions of TCA §2-7-112.
  - (F) Award Plaintiffs attorney's fees and costs.

**COUNT III:**

68. Plaintiffs incorporate by reference the allegations contained in paragraphs 1. through 24 and say further that:
- 
69. TCA §§2-7-112(c)(3) authorizes the use of photo identification cards issued pursuant to TCA §55-50-336.
70. Voters lacking one of the forms of photo identification enumerated in TCA §2-7-112(c)(1)-(2) or (4)-(7) or (g) must obtain and produce a photo identification card pursuant to TCA §55-50-336 in order to vote or have their vote counted.
71. For purposes of applying TCA §55-50-336(a)(1), the applicable "chapter" in Chapter 50 of Title 55 of the Tennessee Code.
72. No other provision of Chapter 50 of Title 55 of the Tennessee Code provides for substantiating identity by any means other than a birth certificate.

73. The Tennessee Department of Safety and Homeland Security requires applicants for a photo identification card pursuant to TCA §55-50-336 to produce a birth certificate and two proofs of Tennessee residency and their social security number.
74. The requirements established by the Tennessee Department of Safety and Homeland Security exceed the requirements of the statute..
75. A birth certificate does not establish the identity *of the person presenting it*.
76. A birth certificate cannot, without more, establish the identify of a voter whose name has been changed by virtue of marriage or for any other reason.
77. A foreign birth certificate has no relevance to the determination of the voting rights of a naturalized citizen.
78. Some registered voters in Tennessee do not have, *and never had*, a birth certificate.
79. Photo identification cards issued pursuant to TCA §55-50-336 are only issued at Driver Service Centers.
80. Three Counties in Tennessee have no Drivers Services Centers.
81. Driver Service Centers are only open during normal business hours on Monday through Friday.
82. Voters who are employed are burdened by having to obtain a photo identification pursuant to TCA §55-50-336.
83. Voters who do not have ready access to transportation during normal business hours are burdened by having to obtain a photo identification pursuant to TCA §55-50-336.
84. TCA §55-50-336 provides that photo identification cards will be issued free of charge to persons who seek them for the purpose of voting.
85. No provision of the Tennessee Code provides for the issuance of a *birth certificate* free of charge.
86. Voters required to obtain a photo identification card pursuant to the provisions of TCA §55-50-336 must incur some expenses including, but not limited to, lost wages, the expense of travel to a Driver Service Centers and the cost of obtaining a birth certificate.
87. The costs associated with obtaining a photo identification pursuant to the provisions of TCA §55-50-336 constitute a constructive poll tax.

88. TCA §2-7-112(e) requires voters who do not have a permitted form voter photo identification at the time they vote to produce a permitted form of photo identification within two days.
89. Voters requiring a photo identification issued pursuant to TCA §55-50-336 are heavily burdened if they are required to obtain such an identification card in the time allowed for production of a photo identification card pursuant to TCA §2-7-112(e).
90. TCA §2-7-112 contains two separate provisions relating to “provisional ballots”:
- (A) TCA §2-7-112(e) relating to provisional ballots cast by voters who do not produce an approved photo identification and the polls and
  - (B) TCA §2-7-112(a)(3) relating to provisional ballots cast by voters whose eligibility to vote in the precinct where they appear to vote cannot be immediately establish.
- 96 Pursuant to TCA §2-7-112(a)(3)(B)(v), the ballots of voters who have been found to have voted in the wrong precinct are rejected in their entirety.
- 97 TCA §2-7-112(a)(3)(B)(v) violates the requirements of §301 of the Help America Vote Act when applied to votes case in a federal election
- 98 Voters whose ballots have been rejected have no right to appeal the determination by the central provisional ballot counting board.
- 99 Pursuant to TCA §2-7-112(a)(3)(A), voters who do not have a permitted form of voter photo identification are entitled to cast a “provisional ballot” pursuant to the provisions of TCA §2-7-112(e).
- 100 Pursuant to TCA §2-7-112(e), voters casting a provisional ballot by virtue of not having a permitted form of photo identification must produce a permitted form of identification within two days or their ballot will not be counted.
- 101 The requirement to produce a proper form of photo identification within two days imposes an unconstitutional burden on voters packing a permitted form of voter photo identification.
- 102 Pursuant to TCA §2-7-112(e)(5) requires voters to produce their photo identification “at the voter’s county election commission office or another location designated by the county election commission.”
- 103 No provision of TCA §2-7-112 establishes when the place for producing a proper form of photo identification must be fixed.

- 104 No provision of TCA §2-7-112 establishes when or how the place for producing a proper form of photo identification must be announced.
- 105 Without knowledge of the location where a voter must produce a permitted form of photo identification, a voter cannot comply with the requirements of TCA §2-7-112(e).
- 106 **WHEREFORE**, Plaintiffs ask the Court to enter its Order and Judgment:
- (A) Declaring that the combined requirements of TCA §2-7-112(e) and TCA §§55-50-336 impose an unconstitutional burden on voters.
  - (B) Declaring that the requirements of TCA §55-50-336 impose an unconstitutional burden on voters requiring a state issued photo identification card.
  - (C) Declaring that the requirements of TCA §55-50-336 impose an unconstitutional poll tax.
  - (D) Declaring the “provisional ballot” provisions of TCA §2-7-112(a)(3) impermissibly conflict with the requirements of the Help America Vote Act.
  - (E) Declaring that the absence of any means for voters whose “provisional ballots” have been rejected to appeal the rejection of their ballots violates principles of due process.
  - (F) Declaring the “provisional ballot” provisions of TCA §2-7-112(e) impose unconstitutional burdens on voters.
  - (G) Declaring that the unconstitutionality of TCA §55-50-336, the invalidity of the “provisional ballot” provisions of TCA §2-7-112(a)(3) and the unconstitutionality of TCA §2-7-112(a) render the voter photo identification requirements of TCA §2-7-112 unconstitutional in their entirety.
  - (H) Permanently enjoining Defendants from enforcing the “provisional ballot” requirements of TCA §2-7-112.
  - (I) Award Plaintiffs attorney’s fees and costs.

**COUNT IV:**

107. Plaintiffs incorporate by reference the allegations contained in paragraphs 1. through 24 and say further that:
108. In Tennessee, voters do not identify their party affiliation or party preference on their voter registration forms.
109. In Tennessee, voters can only declare their party associational preference by their vote.

110. The value of the free association rights of individual voters is impaired if the votes of like-minded voters are suppressed.
111. Tennessee's voter photo identification requirement operates to suppress voting by minorities, students, persons or low income and persons living in poverty and the elderly.
112. Tennessee's voter photo identification requirement is intended to suppress voting by minorities, students, persons or low income and persons living in poverty and the elderly.
113. Voters most likely to be denied their voting rights pursuant to the voter photo identification provisions of TCA §2-7-112 predominantly identify with the "progressive" end of the political spectrum represented by the Green Party.
114. TCA §2-7-112 was enacted for the principle purpose of suppressing the votes of voters likely to support "progressive" candidates.
115. **WHEREFORE**, Plaintiffs ask the Court to enter its Order and Judgment:
- (A) Declaring that the voter photo identification provisions of TCA §2-7-112 are unconstitutional on the grounds that they excessively impair the freedom of association rights and voting rights of "progressive" voter.
  - (B) Permanently enjoining Defendants from enforcing the voter photo identification provisions of TCA §2-7-112.
  - (C) Award Plaintiffs attorney's fees and costs.

**COUNT V:**

116. Plaintiffs incorporate by reference the allegations contained in paragraphs 1. through 24 and say further that:
117. TCA §2-2-141 provides that if the coordinator of elections determined that there is "evidence" that a registered voter is not a U.S. citizen, The voter will be required to provide proof of citizenship to retain his/her voter registration.
118. The word "evidence" as used in TCA §2-2-141 is not defined.
119. In the absence of a definition of the term "evidence," the coordinator of elections has unfettered discretion to determine when a registered voter must provide proof of citizenship to retain his status as a registered voter.
120. A requirement that a person provide proof of citizenship as a condition of registering to vote, or retaining his/her status as a registered voter, violates the provisions of the National Voter Registration Act.
121. **WHEREFORE**, Plaintiffs ask the Court to enter its Order and Judgment:

- (A) Declaring that TCA §2-2-141 is unconstitutionally vague and violative of the provisions of the National Voter Registration Act.
- (B) Permanently enjoining Defendants from enforcing the provisions of TCA §2-2-141.
- (C) Award Plaintiffs attorney's fees and costs.

\_\_\_\_ s/s/ \_\_\_\_  
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