

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Tommy Ray Mays, II, et al.,

Plaintiffs,

v.

Jon Husted,

Defendant.

Case No. 2:18-cv-1376

Judge Michael H. Watson

Magistrate Judge Vascura

ORDER

On the day of the 2018 midterm elections, Tommy Ray Mays, II and Quinton Nelson, Sr. (together, "Named Plaintiffs") filed a Complaint and Motion for a Temporary Restraining Order ("TRO") on behalf of themselves and all others similarly situated requesting emergency access to absentee ballots. Named Plaintiffs were arrested after the deadline for submitting in-person requests for absentee ballots and will not be released prior to the close of the polls such that, under Ohio law, there is no mechanism by which Named Plaintiffs can exercise their right to vote. The Court held a hearing on the motion.

For the reasons addressed in Plaintiffs' motion and at the TRO hearing,¹ the Court finds that Named Plaintiffs have standing to bring this action, that there is evidence that Named Plaintiffs are eligible to and have the right to vote, and

¹ The Court notes that Defendant did not challenge the merits of the claim and instead argued solely that it would be unduly burdensome to grant the requested relief.

that there is evidence that Named Plaintiffs have no mechanism by which to cast their vote. Accordingly, the Court finds that Named Plaintiffs are likely to succeed on the merits of their claim. The risk of irreparable harm is great, as failure to grant the requested relief would amount to the denial of Named Plaintiffs' right to vote. Further, the burden on the State to provide ballots to these two individuals is minimal.

Accordingly, the Court **GRANTS** the requested relief as it relates to Named Plaintiffs. The Court **ORDERS** the following:

- Defendant shall immediately direct the Montgomery County Board of Elections ("BOE") to deliver an absentee ballot application and an absentee ballot, simultaneously, to each Named Plaintiff at the Montgomery County Jail prior to 5:30 p.m. on Tuesday, November 6, 2018;
- Defendant shall immediately direct the BOE representative(s) who deliver(s) the same to wait until both the applications and ballots are completed and to return the completed applications and ballots to the BOE before the close of the polls on Tuesday, November 6, 2018;
- Defendant shall present a copy of this Order to the Montgomery County Sheriff who shall coordinate with the BOE to effectuate this Court's Order;
- Defendant shall immediately direct the BOE to process the absentee ballot applications and absentee ballots identically to emergency absentee ballots supplied to voters under Ohio Revised Code § 3509.08(B).

The Court concludes that it would be impractical, if not logistically impossible, to grant any class-wide TRO relief this late on Election Day and **DENIES** Named Plaintiffs any class-wide TRO relief.

The Court waives any security for this TRO.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Michael H. Watson". The signature is written in a cursive style with a horizontal line underneath it.

**MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT**